

28th August 2020



Ms Abbie Galvin
NSW Government Architect
Department of Planning, Industry and Environment

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Dear Ms Galvin

RE: Draft Greener Places Design Guide

The Urban Development Institute of Australia (UDIA) NSW is the peak body representing the interests of the urban development industry in New South Wales. We represent over 500 member companies that are directly involved in the industry including developers, consultants (engineering, planning, legal, environmental, design) and local government, for the goal of Liveable, Affordable & Connected Cities.

The Department of Planning, Industry and Environment (the Department) is seeking input into the Draft Greener Places Design Guide, and its potential inclusion in the proposed Design and Places SEPP, planned for late 2020. This submission provides the UDIA's observations and suggestions on this important policy framework and guideline document.

Given the uncertainty for the NSW economy from COVID-19, UDIA suggests that this is not the time to change planning controls that threaten to affect project viability, reduce housing affordability and slowing approval times, when government is focussed on creating jobs and delivering a housing led economic recovery in NSW.

We consider that it is appropriate to note that:

1. UDIA members have successfully developed and nurtured dynamic and award-winning new communities in Sydney under the provisions in the existing Growth Centres DCP. Pursuant to these controls these communities now enjoy the presence of extensive street tree canopies (albeit in many instances emerging), best practice integrated water cycle management and high quality open space that collectively support the NSW Government's vision for a Western Parkland City.
2. Developers of masterplanned communities (in particular) focus heavily on engaging with local community, local councils, and federal and state environmental legislators to plan for and to deliver essential green infrastructure.
3. The industry recognises that contemporary communities are discerning of design and amenity provided and they value quality assets as important drivers to deciding where live and work. As such leading developers across the market will carefully analyse environmental and sustainability commitments to ensure that they meet the customers values and deliver industry best practice.

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4. Many local councils and government authorities also lead the way in delivering high quality valued open space as the community demands an improved focus on these important assets.

We raise these points because, while we appreciate that the draft Greener Places Design Guide highlights the importance of the “Green Grid” to the Greater Sydney Commission’s District Plans and subsequent Council LEPs, we do not consider the process for achieving these objectives is fundamentally broken at a local level.

For example, the image on the front page of the Draft Greener Places Design Guide and accompanying websites (Hollis Park, Newtown) is a high density terrace suburb that was once a treeless subdivision and it is only the passage of time and investment by the local Council (City of Sydney) that has made this public place an area of such high amenity.

Given this context our comments are presented below, using the same headings as the draft Guide:

Open Space For Recreation

“This guide provides a framework for improved public open space planning. It outlines the delivery of better quality, easily accessible open space for recreation that keeps pace with expected population growth and increased density in urban areas.”

1. Performance Based Standards of Provision.

Industry welcomes a framework to properly plan for adequate and accessible quality open space, recreation facilities and community amenities. There are a number of different guidelines currently referred to by local Councils and technical advisors as to how to adequately meet the community needs for active and passive recreation. The benchmark 2.83 ha per 1,000 residents has no proven scientific basis and industry experience shows that it is not the quantity of open space that provides the most meaningful measure of amenity and function, but rather the quality of that space (in terms of facilities, design, maintenance, accessibility, etc).

We support a state-wide agreed series of quantity, location, and open space performance criteria. It must be linked to the ability of Councils to support ongoing and recurrent maintenance and improvement funding that responds to developer delivered spaces and facilities. Fundamentally, the goal should be trying to secure best value from investment in an integrated manner, rather than treating each component (planning, works-in-kind, maintenance, etc) as isolated standalone components. This will minimise any potential conflict of required standards to arrive at an agreed planning framework which will support a streamlined rezoning application.

The Greener Places Design Guide metrics do require some further clarity as to what area or type of development they relate too, in respect to regional towns and fringe developments of Sydney. For example, does the 400m performance criteria apply to a new development of R2 Low Density & R5 Large Lot Residential that is technically within the urban Sydney area but really on or beyond the fringe? We believe that this would require many small parks, which provide limited amenity, compared to consolidated facilities.

The UDIA reiterates that flexibility and response to each individual site opportunity is key to meeting the stated performance criteria, highlighted by some excellent examples of local parks providing quality amenity to local communities that are well under the nominal area of 5000m² in the guide.

2. Flexibility to Meet Evolving Demand.

Any new guideline should take into account the balance of the Green Grid, such as riparian corridors and bushland reserves, and how they contribute to and support the delivery of the local active and passive open space network through activation such as cycle paths, walking trails, picnic nodes, interpretive nodes and the like. In particular, these regional or existing (natural) assets should be considered as recreation assets for the purposes of meeting the performance criteria of 400m proximity of homes to open space, and their potential to flexibly contribute to local need over time. For example the activities noted above, play a much more meaningful role in delivering broader neighbourhood amenity and wellbeing over the long term than sports ovals and children's playgrounds that only serve a narrow demand in the community that often 'disappears' as communities evolve and age, (but may also return as areas experience urban renewal or revitalisation).

A clear policy will enable early physical green space planning, and the early establishment of funding arrangements to support the sustainable management of these community assets.

3. Flexible Approach to Distribution and Access.

The Greener Places Policy should articulate the best practice scenario for quantifying and distributing local passive and active open spaces for any new development precinct, while also recognising the benefit of riparian corridors and bushland areas.

It is important for the community to have an equitable distribution and access to these assets, including regional active sporting grounds, town squares and plazas, local and neighbourhood parks, and activated bushland and riparian corridors. The Policy should not seek to adopt a perfect "end state" vision for their distribution and access from the outset. Communities and neighbourhoods change, and new and abandoned land uses create new opportunities for community uses that may not have been foreseen at the time of the plan or this policy was created.

For example, Sydney Park at St Peters is one of the Inner West's most popular parks. Sydney Park is a youthful 30 years in age and located on one of Sydney's most toxic and contaminated sites. UDIA doubts that this type of asset could be realised in Western Sydney, due to restrictive land use and environmental standards that are applied, as well as a regulatory culture that avoids innovation. However, Sydney Park illustrates the changing uses and possibility that different uses could have in the future.

4. Ongoing Sustainable Maintenance of Quality Open Space and Landscape Amenity.

The development industry is frustrated in delivering a quality open space network. Many Councils state that a lack of an effective recurrent maintenance budget means their ability to deliver quality open space is restricted. The draft Greener Places Policy is at risk of ineffective implementation if local authorities are not empowered to commit to recurrent maintenance budgets that focus on retaining a quality open space system that improves the health and wellbeing of their communities, reduces heart disease, obesity and mental health issues.

SIC's and Section 7.11 Plans facilitate the embellishment and establishment management for all open space including riparian and protected bushland, prior to handover to local government. However, this is typically a 2 year process. UDIA does not support any attempts to increase this time period.

UDIA encourages a focus on securing increased recurrent maintenance funding for these open spaces post developer establishment maintenance. For example:

- Standard rates and time periods should be applied to embellishment and management of these areas based on best practice. Establishing these standard rates should be determined by an Independent Assessment Panel. SIC's and Section 7.11 plans should be capped to ensure that further pressure is not put on the cost of housing affordability.
- The opportunity to deliver open space embellishment as "works-in-kind" should be maintained within the framework of SIC and Section 7.11 plans. However, it should maintain the ability to negotiate a "better outcome" or site specific VPA with local authorities in lieu of a contributions payment. These processes enable greater flexibility to respond to community needs and provides for the timely delivery of open space amenity to support new communities. Both processes are well-established in the industry.

Urban Tree Canopy

"This guide provides recommendations for planning and improvement in urban tree canopy. It addresses all levels of government and encourages a collaborative interagency approach. The aim is to empower local government and State agencies to produce evidence-based approaches that preserve and enhance the urban tree canopy."

1. Adopting a Realistic and Achievable Target.

We note that the draft Urban Tree Canopy Design Guide adopts a 40% tree canopy as a target. While UDIA supports the intent of the Premier's Priority to plant 1 million trees, we maintain a concern that the 40% target is simply not achievable, and suggest that a 30% target would be more sustainable as:

- Few existing established urban areas in Sydney achieve this goal. The Draft Urban Tree Canopy Guide includes only two suburban low-density examples to demonstrate and establish the target of >40% Urban Tree canopy over time. One of these examples is Avalon, which is very low density, very unaffordable and has 100-year-old trees. The other example is Newington, which has a density of 68 people/ha and a mix of small lots and low-rise apartments. This compares to the density of 26 dwellings per hectare which are achieved with a 300m² lot. Newington Village is a more relevant example which achieves 37% Urban Tree canopy. These are predominantly located in publicly owned areas that benefit from about 15 years of growth.
- The DCP policies included in the recent draft Wilton Town DCP are focused on creating larger lots, with increased setbacks and larger planting zones that require smaller footprint 2 storey homes and simply make housing more unaffordable.
- More analysis is required, and other practical actions need to be explored to better understand whether these targets can be sustainably achieved, whilst not hindering housing affordability further.

- The UDIA recognises the need for continually improving focus on environmental performance of greenfield development to create a healthy and sustainable community, and the need to reduce the potential “heat island effect” and meet evolving environmental goals. Most of the industry operatives seek to deliver good outcomes and have established and conceived products and practices that, in good faith, respond to the established planning controls (SEPP maps, DCP and Greenfield Housing Code). Significant amendments, such as those proposed in the draft Wilton Town DCP, will reduce housing affordability.
 - It is impractical to demonstrate compliance at master planning, DA and subdivision stages.
 - Studies undertaken by UDIA members demonstrate that under current subdivision framework and typical street tree arrangements, and with (all) like-minded residents planting a single tree in both their front and back gardens, the urban tree canopy could get to 24%. The study then assumed 2 trees in front setback, and 2 in each rear garden at an average canopy of 6 metres, could potentially achieve 33% canopy cover.
 - To achieve 40% cover, 4 trees that would mature to 8 metres in diameter on each residential lot, in addition to the street trees, would be required.
 - Whilst it is recognised that this would reduce the heat island effect, these trees would present both structural and bushfire risks to private homes. Urban Tree canopy targets to reduce heat island effect need to be supported by lighter roofs and permeable and lighter road surfaces, both which have a much more significant impact on the health of our communities.
 - Requiring too much tree canopy on private land is problematic to enforce and maintain as homeowners are likely to remove trees. The deep soil zone requirements in the DCP put too much responsibility for the delivery of the canopy target on homeowners.
2. UDIA sees substantial potential for public land to provide a significant contribution to the achievement of the objectives is significant if DCP controls and Government Agency practices and approaches are amended, and new initiatives implemented. In this context we make the following suggestions of complementary strategies that can support the establishment of a more effective tree canopy in the Design and Place SEPP and subsequent DCP controls or equivalent:
- Include in DCP templates sustainable and practical typical street sections and plan designs that can facilitate street tree provision and protection.
 - Adopt development controls that seek a greater density of appropriate juvenile planting during construction in the public domain extending from road reserves to parks, drainage basins, recreation areas. It could also encompass land owned by infrastructure agencies (schools, RMS, Sydney Water, Endeavour Energy, TransGrid, Jemena etc).

- Identify a suite of trees suitable for urban and natural environments that is an appropriate balance of native trees that support and enhance the local habitat and climate, and exotic trees that provide variety, colour, a more urban character and allow for improved solar gain to residences.
- Increase tree canopy coverage and the density of planting in public domain areas, where the ability to retain trees is stronger. This is not unrealistic given that anywhere between 30 and 40% of urban land is publicly owned, or in the public domain (i.e. publicly accessible). This includes drainage basins, road reserves, parks and community spaces (including education and other facilities). A more realistic approach that has better potential to deliver greater density of tree canopy would be to focus development controls on these land uses.
- Require a tree in the front setback only (and not the rear setback) would assist in contributing to the urban tree canopy target in tandem with extensive street tree planting. Front setback planting requirements would also be easier to enforce and maintain and provide for a more varied and cooler streetscape and aligns with the Greenfield Housing Code. This should be accompanied by a strong community education program about the benefit of urban tree canopy, and demonstrations as to how the community can contribute on their own private lands.
- The 40% tree canopy target be applied to and assessed on public lands only, and a 30% overall target be considered when private lands are included in the overall canopy equation, in conjunction with appropriate solar absorption ratings for roads and roofs.

Connecting Bushland and Waterways

“This guide provides a framework for improving connectivity between bushland and waterways supporting habitat and biodiversity in urban areas. It promotes the connection of people to nature within a sustainable environment.”

The Design Manuals seek to encourage good community outcomes by establishing an open space network that supports equitable access to a wide variety of open space areas that includes riparian corridors and bushland areas. We support this objective and add the following suggestions:

- The community’s desire for quality open space systems to include protected and regenerated bushland areas and riparian corridors is recognised in the draft Policy and Design guides. However, currently it is not consistently managed across all Council jurisdictions. Ongoing liability and maintenance costs is nominated as the barrier to the Council acceptance of bushland areas and riparian corridors as assets that Councils should own and manage in perpetuity on behalf of the community. Therefore, the Design Manuals should also seek to establish Standard Performance Criteria, Management and Handover Metrics for riparian corridors and environmental reserves for Local Authorities.
- The EP&A Act, Design and Place SEPP, and Greener Places policy should clearly articulate that it is **mandatory** that riparian and bushland reserves in rezoned development lands are ultimately owned by the Crown, and managed on its behalf by the local Councils. This would be following the successful protection, weed removal, habitat enhancement and vegetation management, embellishment (walking trails, lookouts, etc.) which is then supported by an established regular bushcare program that delivers a sustainable and accessible green grid.

- The Bushland and Waterways Design Guide should specify regeneration and management **performance principles** to be achieved within a reasonable timeframe that Councils and developers can adopt to jointly unlock these important assets and ultimately deliver them into public care and responsibility. 2 years of on-maintenance by developers would be recommended, rather than an open-ended private ownership in perpetuity of these important assets, which is not in the public's best interest.
- Developers should not be responsible for excessive, uncapped and in perpetuity management requirements of riparian corridors or bushland reserves. Developers are not interested in holding this land for longer than is necessary. Of relevance, most developments are managed through a joint venture or special purpose vehicle for a particular project, and these entities incur substantial costs for every year that they operate. In perpetuity management of assets such as riparian corridors and bushland reserves do not allow for the legal entities to be wound up. Waterways and Bushland Reserves ultimately should be held by public entities such as local Councils for the benefit of the community.
- Stormwater management devices such as biofiltration and detention basins, wetlands and ponds typically have a well-established design, construction, management and handover regime, linked to performance criteria, catchment development maturity and procedural documentation. It is recommended that this established format be followed to also define a series of performance criteria for Riparian Corridors and Bushland Reserves focussed on weed removal and control, feral animal control, seed collection and revegetation, and infrastructure management.
- The requirement for Strategic Urban Biodiversity Frameworks to be developed by each local authority, and included into subsequent LEP amendments as nominated in the draft Design Guide, risks further confusion with the separate Federal and NSW State legislation for stewardship sites, biobanking and offsets. A Green Grid plan should already include these assets and potential for expansion under current District Plan frameworks.

Design and Place SEPP.

The form and content of the proposed State Planning Policy focused on Design and Place is unclear. The objectives outlined by the DPIE, NSW Government Architect and the Minister are certainly positive steps to ensure proper research and design input is provided to key developments in the state.

The UDIA look forward to ongoing consultation on this significant additional element to the NSW Planning Framework.

Consultation

UDIA members have noted that recently elements of these draft Greener Places policy statements and Design Guide targets have been proposed to be included in draft statutory planning frameworks such as the Wilton New Town DCP. It would be more appropriate for the draft Greener Places Design Guideline and Design and Places SEPP to be reviewed followed public notification and industry consultation, prior to key metrics being included in DCPs. It is not clear at this stage whether these metrics are required or are they "targets"?

UDIA NSW has previously provided an extensive submission to the Department on the draft Wilton New Town DCP, highlighting the development industries concerns on the impact of certain policies on the viability and affordability of homes in that region. The basic premise of that submission was that Greenfield Complying Code development framework should apply also to the Wilton Town DCP. In conjunction with BASIX, this is a well-established and consistent development approval process currently in place to address housing affordability and sustainable living. This has been well received by the housing and development industry.

Additionally, due to the ongoing impact and uncertainty on the NSW economy from COVID-19, UDIA suggests that this is not the time to change planning controls that threaten to affect project viability, reduce housing affordability and slowing approval times when government is focussed on creating jobs and delivering a housing led economic recovery in NSW.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Steve Mann', with a stylized flourish at the end.

Steve Mann
Chief Executive Officer
UDIA NSW