

7 April 2017

Ms Carolyn McNally  
Secretary  
Department of Planning & Environment  
Level 22  
320 Pitt Street  
SYDNEYNSW 2000



**Australian Institute of Architects**

Dear Ms McNally

#### AMENDMENTS TO THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979

The Institute's vision is design – communities – public good. This is why design is critical in the way the planning legislation delivers a high quality built environment.

The Institute welcomes the opportunity to comment on proposed changes to the Environmental Planning & Assessment Act 1979. We note that the broad aim of the amendments is to build community confidence in a planning system that is both transparent and fair to all parties.

Some of the changes, such as the protocols for councils' engagement with communities, were included in the unsuccessful new legislation defeated in the Legislative Council in 2013, and were strongly supported by the Institute at that time.

Strategic planning instruments at the local level are required to bridge the gap between the Greater Sydney Commission's district plans and statutory LEPs. They need to provide indications of the future character of areas requiring significant change.

We also note that there is considerable support within local government for greater standardization of DCPs. Our members could apply their expertise in converting these plans from word-based to more visually-based documents.

#### GOOD DESIGN OBJECT

The most far-reaching change affecting architects is the proposal to include 'good design in the built environment' as a new object of the Act. The Institute applauds this very welcome innovation, as it places good design alongside other economic and social objectives.

There is one caveat, however: the objective wording should be changed to 'good design of the built environment'. Encompassing the whole of the built environment, including residential and commercial development, infrastructure, streets, parks, street trees, etc. will encourage proponents and consent authorities to look beyond the individual proposal and to also consider its potential design impact on the existing and planned precinct as a whole. Design of the spaces between individual buildings is particularly important.

In September 2016 the Office of the NSW Government Architect released *Better Placed*, the draft NSW Government policy on the design of the urban environment. The Government intends that this policy will inform future design guidance and design-led strategy for NSW. The document describes 'good design' as being a 'key aspect of sustainable development, indivisible from good planning, which should

contribute to making places better for people'. Design excellence is also emphasised in the document to support good design processes and outcomes.

While the new design object reflects emerging Government policy on design, its inclusion as an object of the Act is aspirational. If 'good design' is to be realised through the planning system and have some practical effect, it is essential that it be included in more operative sections of the Act, for example as a matter for consideration in the determination of development applications under section 79C.

Section 79C addresses the evaluation of a development application and requires a consent authority to take into consideration the provisions of a LEP and DCP, regulations, impacts of that development, site suitability, any submissions and the public interest. It relies on the consideration of design policy in a LEP or DCP, but does not include explicit reference to design. A reference in section 79C would implement the intent of Government's policy on good design and provide legislative weight to the consideration of good design, improving outcomes particularly for councils with limited LEP or DCP design policies.

The requirement to consider 'good design' should also be applied to large developments, which are not subject to assessment under section 79C of the Act. The absence of design consideration in the assessment of large scale developments can result in significant adverse impacts. This consideration should be translated into Part 5, section 111(1) 'Duty to consider environmental impact' of the Act to ensure that 'good design' is a matter for consideration in large-scale projects subject to Environmental Impact Assessment and Review of Environmental Factors (REF) Assessments.

In addition, guideline documents associated with the amended Act or its regulation need to clearly define 'built environment' and 'good design', from a visual, precinct-based perspective. There may be value in producing a document similar to the *Apartment Design Guide* and the way in which it informs the application of SEPP 65 in the design of apartment buildings.

Good design generates value for proponents, the community and government. It is not always driven solely by the market, as it requires expertise to implement and share the benefits widely among neighbours, occupants and future owners, who are not involved in design decisions. Good design can solve development problems and engender community trust and acceptance of both specific development and the planning system generally by delivering good outcomes. The holistic process of design also reduces risks as it considers all aspects of a space; the buildings, streetscapes, open spaces, and how people interact with those components.

This submission was prepared by the NSW Chapter Built Environment Committee for Chapter Council.

Thank you for this opportunity to comment on the draft amendments.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Andrew Nimmo', followed by a period.

Andrew Nimmo  
**NSW President**