



# SUPPORTIVE ENVIRONMENTS:

utilising the NSW Planning  
system to enable active living

A Report to the Premier's Council  
for Active Living

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## Executive summary

This Report suggests that the promotion of supportive environments for active living is **an essential element of the “social welfare of the community”** (one of the objects of the Planning legislation), and that existing legal and policy mechanisms can be used to feature active living principles in State and local plan making and development assessment activities. It is a positive development to find the Planning system returning to its roots in a concern for the promotion of public health.

Active living is already a consideration in the Planning system – from actions listed in the State Plan to coverage in the Metropolitan and Regional Strategies, and as detailed design requirements for masterplanning and some major development applications. State agencies such as the Departments of Planning and Health, the Ministry of Transport and the Roads and Traffic Authority, coordinated by the Premier's Council for Active Living (PCAL), have introduced active living principles as objectives of the system, produced model urban design based guidelines, and recommended such matters as considerations for particular development applications.

Having said this, the Report concludes that more should be done to extend coverage, provide legal backing and formalise current good practice at the State and local levels.

A range of strategies, across levels, utilising existing (and currently proposed) mechanisms and authorised/coordinated by overarching documents is recommended. The overarching documents are the existing State Plan (with its suite of active living priorities) and, at the local level, the Department of Local Government's proposed Integrated Planning and Reporting Framework (and Community Strategic Plans).

In relation to the **statutory Planning system**, Regional and Sub-regional Strategies (empowered by Ministerial Direction) can make active living principles more explicit in their objects and directions and provide broad structure plans (tied to the State Infrastructure Strategy). This guidance should be accompanied by a specific Ministerial Direction to Councils on the preparation of Local Environmental Plans (LEP), requiring consideration of active living principles, Transport Management and Access Plans, Pedestrian Access and Mobility Plans and detailed local structure planning (to bridge the gap in detail between the Strategies and local level controls).

Underpinning such statutory action is the need to **break down the long-standing disciplinary divide** between public domain planning (Local Government Act; asset management) and planning for private use of land

(Environmental Planning and Assessment (EP&A) Act; development application (DA) process). Most physical activity takes place in the public domain – on streets, pathways and in parks. The Report recommends a change of mind-set **towards place-making** and promotes the current State initiative of including public domain plans in the suite of controls for major (and other) centres.

It is at **the DA stage** that much of the implementation of statutory plans and policies occurs. The guiding documents are the LEP and Development Control Plan (DCP) and the Report recommends that the Standard Instrument (“LEP Template”) be amended to include active living principles as matters for consideration in the assessment of DAs. This would provide the specific legal authority for detailed DCP(s) to elaborate, and for subsequent conditions of development consent. DCPs can be place specific (eg for centres or redevelopment areas) or issue based (ie “active living”).

As a intermediate measure, pending preparation of Council DCPs, and to feed their preparation, it is recommended that the wealth of existing detailed advice (including the PCAL web-based resource and the CPTED Guidelines) be consolidated into a **Guideline under Section 79C** of the EP and A Act: Safe and Healthy Communities.

It is **DAs for Major Projects** that, because of their nature and scale, offer the most promise. Because such applications are subject to a separate legal process to council-level DAs, the s.79C Guidelines should be applied (where relevant) as Director General’s Requirements. Similarly, they should be applied to assessments under the recent legal regime introduced by State Environmental Planning Policy (Infrastructure).

Finally, consideration should be given to the implications of the new-look development contributions system for requiring funding of public domain improvements.

More specifically, the report recommends seventeen actions that would strengthen the role of the Planning system in NSW, in providing supportive environments for active living.

The State Government could do the following:

- Issue a Policy Statement affirming the creation of supportive environments as an object of the NSW Planning system (Recommendation 1)
- Make active living considerations explicit in their metropolitan, sub-regional and regional strategies (Recommendations 2, 3, 4 and 6) and a criterion for certain local government funding (Recommendation 7)

- Issue an active living-specific section 117 Direction to councils, as a requirement for LEP research and preparation (Recommendation 5)
- Support the Department of Local Government's proposed Integrated Planning and Reporting Framework and Community Strategic Plans (Recommendations 9 and 10)
- Encourage place-making, by continuing to integrate private and public land-use planning (Recommendations 3, 8 and 12)
- Coordinate existing guidelines and best practice as formal section 79C Guidelines (for local development applications and major projects under the EP and A Act) (Recommendations 13, 14 and 15)
- Clarify the application of the new-look development contributions scheme (Recommendation 17)

At the local level, State requirements and Local Government action can do the following:

- Coordinate public and private domain planning (Recommendations 8 and 12)
- Include active living matters in the Standard Instrument (LEP Template): objectives and DA matters for consideration (Recommendation 11)
- Prepare place-based DCPs for centres and redevelopment areas (Recommendations 3, 8 and 12)
- Consider detailed guidelines at the development assessment stage: major projects, state significant sites and local development (Recommendation 13, 14, 15, and 16)

In its conclusion, the Report prioritises the following recommendations, on the basis of significance, coverage (of Council areas) and impact on resources required:

- 1. A position statement acknowledging active living as an objective of the Planning system.
- 8. Encouraging a change of attitude to public domain planning and its integration with private land-use planning
- 5. An active living-specific section 117 Direction (to councils, on LEP preparation)
- 2. Making active living directions more explicit in the Sub-regional and Regional Strategies
- 11. Amending the LEP Standard Instrument to cover active living objectives and matters for consideration
- 13 and 14. Producing detailed Guidelines (building upon existing resources) for consideration at the DA stage

## 1. Introduction

### 1.1 Aim of the Project

The built environment is one of a range of important variables which influence people's physical activity levels. Research noted by the **Premier's Council for Active Living** (PCAL) has shown that good associations have been demonstrated between physical environment characteristics and participation in physical activity. At the regional and sub-regional level factors such as medium to high residential densities, connectivity between home, work, shopping, recreation, and public transport and land use mix are supportive of physical activity. At the local level, the presence of pedestrian and bicycle facilities, pleasant street conditions, and perception of safe and enjoyable neighbourhoods, are important.

The aim of this PCAL consultancy was to prepare a list of recommendations on how we can better utilise existing mechanisms within the **New South Wales Planning system** to provide **supportive environments for active living**. It was expected that the recommendations would not require extra cost, time and/or resources, but would rather build further opportunities to consider health implications within the existing system.

Within the report it was expected that the consultancy provide comments on suggestions PCAL has provided to the Department of Local Government (DLG) in relation to potential active living indicators within DLG's proposed long-term Strategic Integrated Planning Guidelines. The consultancy was also to consider active transport opportunities within the relevant sections of the report.

### 1.2 Methodology

The methodology for this project consisted of a review of appropriate legislation and literature, interviews with key individuals and a formal round-table workshop.

#### (i) **Review of legislation, instruments and policies**

The review included the Environmental Planning and Assessment (EP&A) and Local Government (LG) Acts, Instruments and Guidelines under the EP&A Act and a range of Guidelines prepared under associated legislation.

In addition, the resources listed on the PCAL website and associated documents, including research undertaken by (and for) the New South Wales Department of Health, were considered.

A list of references is included at **Appendix 6.3**.

**(ii) Interviews**

Detailed discussions were held with senior staff in a number of relevant State and local agencies. The interviews provided detailed background on current projects and practices, and on key issues. A full list of interviews is included at **Appendix 6.2**.

**(c) Round table discussion**

On August 20<sup>th</sup> 2008 an invited list of representatives from State, Local Government and the private sector met to discuss a draft list of recommendations – with a focus on the scope (oversights, inaccuracies), and a “reality check” on and prioritisation of specific recommendations. A full list of those in attendance is provided at **Appendix 6.2**

## 1.3 Structure of Report

The Report is presented in 6 sections – this introduction and an overview of fundamental elements of the New South Wales Planning system and active living principles, followed by detailed actions by stage in the Planning process – at the strategic level (State and local) and the development assessment stage (major projects and local development). The Report concludes with a discussion of priorities, barriers and solutions (and detailed appendices).

## 2. Some fundamentals

### 2.1 Overview of the Planning system

There is a distinct split in responsibilities for Planning in New South Wales (and elsewhere) between **plan making/policy development and development assessment** (dealing with particular development proposals). In addition, Planning operates at a number of scales – state, regional, sub-regional and local, with responsibility to State and local government accordingly.

This Report addresses the potential for the system, at both stages and at all scales, to provide supportive environments for active living.



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While, at the **plan making stage**, the system is governed by statute, in particular the EP&A Act, “planning” principles and actions are contained in a growing number of “policy” mechanisms (such as the NSW State Plan, the State Infrastructure Strategy, State Transport Plan and the various regional strategies). There are also a suite of statutory and policy mechanisms at the Local Government level. In summary form, relevant New South Wales documents include:

NSW State Plan	Section 117 Directions
State Transport Plan	State Environmental Planning Policies (SEPP)
State Infrastructure Strategy	Regional Environmental Plans (REP)
Metropolitan Strategy	Local strategic/ structure plans
Sub-regional Strategies	Local Environmental Plans (LEP)
Regional Strategies	Development Control Plans (DCP)
Metropolitan Parking Policy	s.94 Contributions Plans
Planning Guidelines for Walking and Cycling	Community Strategic Plans
NSW BikePlan	Council Management Plans
Guidelines for Traffic Generating Development	Plans of Management (community land)
	Asset Management Plans
	Council Policies

Quite a list! In addition, there is the **development assessment process at both State and Local Government level**, where submission requirements, assessment criteria and conditions of approval provide opportunities for promoting active living.

It should also be noted that the NSW Planning system:

- nestles within the broader framework of the State Plan at the State Government level
- cross-relates to transport planning via the Urban Transport Statement and the State Infrastructure Strategy
- at the local level, should nestle within a broad whole-of-council framework (as proposed by the DLG's Community Strategic Plans)
- also at the local level, cross-relates to planning and action on community land (including streets, pathways and open space)



## 2.2 Active living principles

The **promotion of active living** is a State government priority, as evidenced by the priorities in the State Plan and the formation and activities of PCAL. Active living encompasses and extends beyond other State-level collaborative actions such as “active transport”.

The **Planning principles or qualities** that support active living have been derived from a variety of sources and can be presented in a number of ways. For instance:

- clean air
- density and mixed uses (convenience shopping) in centres (aligned with corridors)
- attractive and safe centres (with end-of-trip facilities)
- good connections between centres and neighbourhoods
- a network of readily accessible, safe and attractive open spaces (for all ages and ethnicities)
- efficient, attractive and safe pedestrian and cycleway system connections (to centres and key destinations)
- efficient and accessible public transport
- managed parking supply (appropriate to nature of centres and public transport links)
- coordination of government activities

In relation to the last point, it should be noted that “active living” includes the following existing State Government initiatives:

- “active transport” – those modes of movement that support more physical activity, such as walking, cycling and public transport.
- advice on “crime prevention through environmental design” (CPTED)

Active living, in relation to Planning, also covers the detailed urban design of centres and suburbs and the provision of open space and recreational facilities, often treated separately in administrative terms.

These principles can be restated, for instance, in relation to centres and living areas (suburbs and villages):

### Centres and suburbs promoting active living

- (i) Centres that:
- are attractive (magnets)
  - are safe, day and night
  - are aligned with corridors
  - have denser populations
  - have mixed use, convenience shopping
  - have end-of-trip facilities (for showering, bike storage)
  - have car parking levels appropriate to the nature of the centre and public transport links
  - are served by quality public transport
- (ii) Suburbs (and villages) that:
- are connected to centre and neighbouring suburbs
    - by public transport
    - with good cycle and pedestrian access along pleasant and safe streets
  - are readily accessible to safe and attractive public open spaces – with facilities for all ages and ethnicities

## 2.3 A starting point

A range of strategies, across levels, utilising existing (and currently proposed) mechanisms and authorised/ coordinated by overarching documents ( the State Plan and Community Strategic Plans) is the preferred approach. Where appropriate, with the legal force and the impromata of statutory instruments.

In relation to the NSW **statutory** Planning system, a starting point would be to acknowledge such principles as serious outcome targets in documents governing system operation, and also within the mechanics of statutory instruments and processes at all scales.

In a **strategic planning** sense, such principles should flow through the system via well-crafted and meaningful objectives, and should provide a spatial dimension, as most physical activity takes place at and between destinations.

### 3. At the strategic planning level

#### 3.1 General

As indicated in Section 2.1 (above), there have been major changes in recent times from the original strategic planning framework in the EP&A Act. The current combination of key policy documents and statutory instruments is shown in Figure 1.

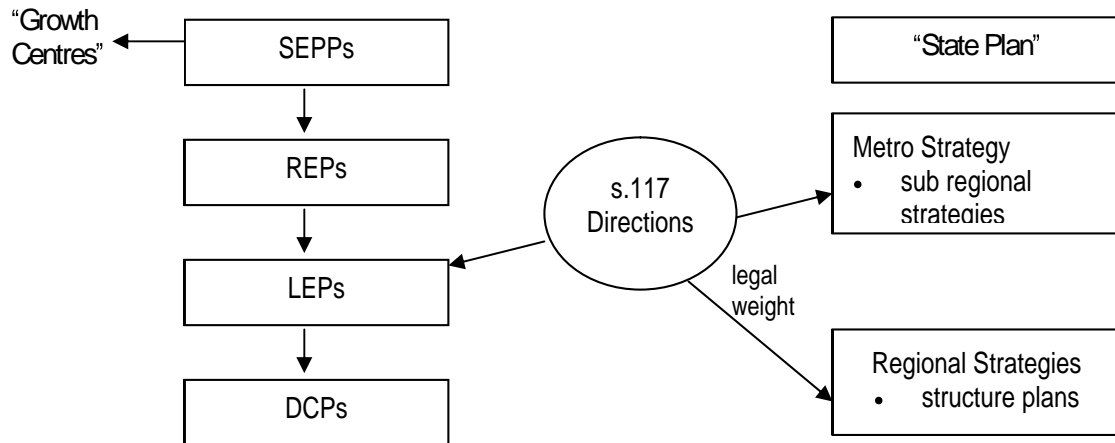


Figure 1. The EP&A Act and beyond

The left hand boxes are the traditional instruments and policies provided by the EP and A Act. Similarly, section 117 Ministerial Directions have required Council action at the LEP stage. The right hand side are the suite of key policy documents now operating in the system. The Metropolitan Strategy is the most recent in a long list of policies for Sydney. Section 117 is being used to empower these policy documents.

#### 3.2 State Government

##### (a) The State Plan, Strategies and s.117 directions

The **State Plan**, as the overarching document, speaks of active living in a range of priorities:

- R4: Increased participation and integration in community activities
- S3: Improved health through reduced obesity, smoking, illicit drug use and risk drinking

- S6: Increasing share of peak hour journeys on a safe and reliable public transport system
- F2: Increased employment and community participation for people with disabilities
- F4 Embedding prevention and early intervention into Government services
- E3 Clean air and progress on greenhouse gas reductions
- E7 Improved efficiency of the road network
- E8 More people using parks, sporting and recreational facilities

How can the Planning system, at the State level, assist in achieving such priorities. While the Planning system has a fundamental objective of “promoting the social welfare of the community” (s.5 object of the EP&A Act), a starting point would be to highlight the role of active living and to acknowledge the significance of public domain planning in the creation of supportive environments.

**Recommendation 1:**

That the creation of supportive environments for active living (including public domain planning) be clearly articulated as an objective of the Planning system in NSW (and of the EP&A Act)

The potential also exists to utilise the Metropolitan Strategy, Regional Strategies, Sub-regional Strategies and s.117 directions (at the regional level), and the Standard (LEP) Instrument and detailed development control plans (DCP) at the local level to provide supportive environments

For instance, the ten draft **sub-regional strategies** contain a suite of **active living actions**, spread throughout the key directions (in response to the State Plan objectives). While this is a positive outcome, these actions should be made more explicit: the research for this project was specifically looking for them!

In addition, the Sub-regional Strategies should promote (and direct) councils to undertake local structure planning and produce urban design based DCPs, for centres and nominated key redevelopment areas, incorporating active living principles.

**Recommendation 2:**

That, in moving from draft to final Sub-regional Strategies, and during the early implementation phase, the State Government make explicit the active living based directions and actions, and that the spatial component provides sufficient guidance to enable detailed local structure planning and DCP/public domain plan preparation by Councils. Similar provisions should be included in any review of existing Regional Strategies.

One means of achieving this could be an insert which summaries how the various actions throughout the sub-regional strategy come together to promote active living.

**Recommendation 3:**

That the final sub-regional strategies include, as actions under appropriate key directions, encouragement for councils to address active living principles in detailed DCPs for centres and living areas.

While the Regional and Sub-regional Strategies provide State Government guidance and a framework for Councils, the proposed action of giving them **legal effect by way of a Section 117 direction is supported.**

**Recommendation 4:**

That the DOP proceed with the proposed Section 117 direction to give legal effect to the Sub-regional Strategies.

In the new-look Planning system such Ministerial Directions play a major role in directing councils on the preparation and content of their local controls. At present, a long-standing direction (No. 3.4) has required councils to consider the integration of land use and transport in developing their LEPs. A sub-set of this requirement is consideration of “active transport”, about which there has been considerable recent action, with PCAL as the driver (as indicated by the Active Transport Round Table, held on May 15 2008).

In addition, a draft SEPP (No.66) has also required councils to consider land-use and transport integration. The key difference between this and the 117 direction is that the draft SEPP also specifies matters for consideration at the development assessment stage. The Metropolitan Strategy proposes that the draft SEPP be revoked and replaced by a new-look suite of controls to cover this issue.

While Section 117 direction No. 3.4 is most relevant to active living, consideration by councils, at the LEP stage, should be more encompassing than this – to deal with other active living principles. An active living-specific Direction should be introduced requiring the inclusion, in Local Environmental Studies and/or research underpinning LEPs, of a “neighbourhood healthy environment audit”, active transport principles and the need for local structure planning to bridge the gap between the Regional and Sub-regional Strategies and the statutory LEP. Satisfying this Direction would be a criterion in passing through the proposed LEP Gateway.

In addition, the development assessment criteria in the draft SEPP should not be lost in the transition (see section 3.3(b) below).

**Recommendation 5:**

That a specific Section 117 Direction on “Active Living Principles” be introduced, and that the relationship with existing Direction 3.4, Integrating Land Use and Transport be clarified. Further, that the provisions of draft SEPP 66 be a consideration.

Another draft State policy document that will encourage active living, by discouraging car usage, is the Metropolitan Parking Policy – matching car parking requirements for development proposals to relative location (ie to

major public transport facilities). This policy would provide ammunition for Councils (and the Minister) in regulating supply.

**Recommendation 6:**

That the State Government proceed to finalise the Metropolitan Parking Strategy (as proposed in the Metropolitan Strategy)

Similarly, this Report supports the current review of the NSW BikePlan and the Planning Guidelines for Walking and Cycling, both of which would provide guidance to State agencies and Councils in the preparation and review of their Planning documents. Further, the reviewed documents should address the need for local structure planning, to move from the broad sub-regional to the more detailed local level.

The final matter relevant to State action at the strategic planning level is utilising **existing funding mechanisms** as an incentive for councils to address active living – not only in relation to “planning reform” but, more specifically, for the two major funds that cover open space provision and access.

**Recommendation 7:**

That planning for the implementation of active living principles be a criterion for assessment of funding under the:

- Planning Reform Fund
- Metropolitan Greenspace Program
- Sharing Sydney Harbour Access Program

**(b) Integration of public domain planning and land-use planning**

Most physical activity takes place in the public domain – in parks and reserves, along streets, cycle-ways and footpaths. Planning practice has long

suffered from a split in responsibilities for public and private space (in turn, reflected in the “guild mentality” associated with Government operations). For instance:

- between land use planning and transport planning (at all levels of Government). This is the spirit of PCAL’s active transport initiative.
- between public domain planning and regulation of private land use. Two separate Acts of Parliament – Local Government Act and EP&A Act, respectively

Planning should be **concerned with place-making** and clear connections between private and public spaces if we are to attract people out of doors. This requires an attitudinal shift and support from the State Government

**Recommendation 8:**

That the State Government promote a change of attitude and approach to public domain planning and works by:

- encouraging councils, in renewal and new release planning, to continue the Metropolitan Strategy approach of including civic improvement/public domain plans in the suite of Planning control documents
- providing advice on the coordination of place-based DCPs and public domain plans (e.g. for centres)
- promoting integration of public land planning (under the LG Act) with DCPs/public domain plans (under the EP&A Act)
- providing advice on the role of the DA process in implementing public domain plans
- including active living principles as matters for consideration in assessment of appropriate infrastructure proposals, and activities under Part 5 of the EP&A Act

This list of actions pre-empts the discussion to follow, as the Report turns to the role of Local Government at the strategic planning level and to the development assessment process.

### 3.3 Local Government

#### (a) The proposed Integrated Planning and Reporting System

Concerns such as those described above – lack of coordination, the need for a whole of government approach – have prompted the New South Wales Department of Local Government (DLG) to propose a new integrated planning and reporting system. The proposed framework and the key elements are shown in Figure 2.



**Figure 2: Integrated Planning and Reporting at the local government level. Source: DLG**

Such a framework has the potential to affect the planning system in a number of ways:

- to link through to the State Plan and the Regional Strategies and the Metro-strategy's sub-regional strategies
- to provide community generated strategic directions

It is also possible, in the spirit of integration, to tie works programs (and asset management generally) to planning strategies, structure plans and LEP/DCP/public domain plans. The integration of sub-regional strategies with the State Infrastructure Strategy at the State-level could be a model for this.

#### **Recommendation 9:**

That the DLG's proposed Integrated Planning and Reporting system encourage Councils to relate asset management and works programs to any local structure plans and DCP/public domain plans, in a similar way to the integration at the State level, between the Sub-regional Strategies and the State Infrastructure Strategy

While the DLG emphasises that the content of **Community Strategy Plans** is to be generated by local communities, the Guidelines to accompany the legislation could promote (or at least suggest that consideration be given to) active living objectives and strategies, and suggest a place-focus in the proposed community engagement strategies.

**Recommendation 10:**

That the guidelines for the proposed Community Strategic Plans (under the LG Act):

- include, as an example, objectives and strategies on active living. This could, in turn, feed social planning, LEPs, DCPs and other local initiatives.
- include a suggestion that councils, in developing their community engagement strategy, include consultation with their communities based on their geographic location (utilising local map-based resources)

One key issue that is not addressed in the proposed system is the **regulatory regime for public land** in the Local Government Act. As indicated in section 3.2(b) (and Recommendation 8), the lack of coordination of private and public domain planning is a problem. Local structure planning, to underpin LEP preparation, would assist in such coordination – the proposed s.117 direction could encourage such groundwork.

Councils should also be encouraged to utilise/leverage local government land assets where their positive use may enable the application of active living principles (such as through block connections or open space provision) rather than re-classification and disposal. Further, a criterion in determining whether to proceed with re-classification of public land should be the potential for achieving active living/urban design principles.

## (b) The Standard Instrument (LEP) Template

Local Environmental Plans have always been the principle mechanism for land use regulation in New South Wales, with their combination of zoning, development standards and specific matters for consideration. The introduction of a requirement for all New South Wales councils to prepare a standard instrument provides **a unique opportunity** for the inclusion of active living principles. The form, structure and basic content of the standard instrument is dictated by the State Government.

The significance of the LEP in the local planning system is its legal weight (as a statutory “environmental planning instrument”). Inclusion of active living measures in the Standard Instrument will have the following effects:

- Requiring councils to include active living measures in their LEPs
- Acting as legal authority for the preparation of DCPs that address active living – as place-based “masterplans” and/or general “active living criteria” based guidelines.

In detail, the provision of supportive environments for active living should be incorporated as a general objective of the LEP, specific zonal objectives and as matters for consideration for specified DAs. Matters for consideration at the DA stage is the place for provisions currently included to serve this purpose in draft SEPP 66 (Integrating Land-use and Transport). This list should be extended to cover active living matters beyond “active transport”.

Similar provisions should also be incorporated in planning for the Growth Centres covered by SEPP (Growth Centres).

Finally, current Department of Planning (DOP) advice on the **zoning of roads** should be extended to cover the potential of this approach to promote the integration of public domain planning/works with private land use/development, particularly in centres.

### Recommendation 11:

That the Standard Instrument ("LEP Template") be amended as follows:

- To require achievement of active living principles as an objective of the LEP.
- To extend the active transport objective in the business zones to other relevant standard zones in order, among other things, to authorise detailed DCPs/ civic improvement plans.
- To include a list of active living criteria (similar to those in draft SEPP 66) as a special provision (for consideration with specified DAs)
- To include "cycling" with "pedestrian access" in 5.5 coastal zone provisions, and add "potential for linking to the NSW coastal cycleway" as a matter for consideration.

Such provisions (except the last) should also apply to plan making for the Growth Centres. Further, that the implications of zoning of "roads" be investigated as a means of authorising civic improvement/ public domain plans and integrating public and private activities (eg in centres).

Coverage in the LEP Template does not negate the need for a specific s.117 Direction (Recommendation 5). The direction would advise Councils on relevant considerations and approaches during **LEP preparation**, including map-based/spatial components and detailed structure planning. This will differ council by council. Standard provisions in the LEP Template are the legal requirements in **moving to the DA stage**.

### (c) Using detailed DCPs at the local level

In the NSW Planning system (from its introduction in 1980) statutory LEPs have been accompanied by detailed Development Control Plans. These have taken a number of forms – by land use type (eg residential, car parking) and by place (eg master planning of new estates, covering urban centres). With the legal authorisation of its "parent" LEP, such DCPs can introduce detailed standards/requirements and/or lay out urban design frameworks. The latter is most promising, particularly if they cover the public domain (or are linked with

separate public domain plans), for detailing the fine-grained connection and networks that would support active living.

In administrative terms, DCPs are Council initiated and approved, in accordance with legal requirements. Despite this, advice can and should be given by the State Government to Councils on how such plans can be used to provide supportive environments.

**Recommendation 12:**

That advice and encouragement be provided by the State Government for local Councils to incorporate active living (and CPTED) principles and/or precinct level spatial plans in the preparation of DCPs to accompany the LEP Standard Instrument.

This is not new ground, and a range of existing resource material and DCP models are raised in section 4.2 below (as DA considerations).

## **4. At the development assessment level**

### **4.1 General**

There is also considerable potential for contributing to supportive environments at the development application stage. This is the stage at which:

- application is made, usually to the Council, for specific development proposals
- provisions in many of the plans discussed above are implemented
- location-specific environmental impacts are assessed, including social impacts
- development contributions are levied
- the direct interface between private developments and public domain works are addressed (by consent conditions)
- cumulative impacts can be considered and monitored

In New South Wales, a clear distinction is drawn between “Major Projects”, those state significant developments where the Minister for Planning receives and determines proposals (including rezonings), and local development (which is a local council responsibility):

- (i) Of particular significance are applications for “**major projects**” and **state significant sites** (under Part 3A of the EP&A Act and the Major Projects SEPP). The extent, nature, location and scale of such projects – including large-scale subdivisions and major employment generating land uses – justifies DA requirements for significant infrastructure (including off-site works and connections) and use-based requirements such as Workplace Travel Plans. In other circumstances, failure at concept plan stage to satisfy active living principles could result in the rejection of strategic development proposals.
- (ii) **Local development** proposals are usually not of the same scale as major projects, but still provide the potential to pick-up site specific requirements (as conditions of development consent), such as on-site, destination-based facilities, and to attract development contributions for funding local infrastructure. In addition, the following points should not be underestimated:
  - the potential for proposals on specific sites (by good fortune or negotiation) to pick up missing pieces in local structure plans (such as through-site connections or local open space)
  - the cumulative effect of “minor” proposals in contributing to supportive environments

To further complicate matters, a new approvals regime has recently been introduced for “infrastructure” by SEPP (Infrastructure) 2007 – overruling local planning provisions on categorisation and permissibility. This is also significant as it covers key elements of the public domain. One implication of the SEPP is the possibility that infrastructure that does not need Planning consent will require environmental assessment under Part 5 of the EP and A Act. As a result, active living principles should be a consideration in **Part 5 Reviews of Environmental Factors** (and possible Environmental Impact Statements). Similarly, they should be considered in preparing and assessing **site compatibility certification**, required where proposals are prohibited by local controls (see below).

## 4.2 Local development

The **statutory matters for consideration in assessing local development applications** are listed in the EP and A Act (at section 79C(1)) and specifically cover:

- provisions in LEPs (and other instruments, SEPPs and REPs)

- DCPs, both issue specific (eg on active living) and place-based (eg for centres and/or redevelopment areas and including what were previously referred to as “masterplans”).

In addition, section 79C also requires consideration, in more general terms, of “social impacts in the locality”. The current section 79C Guidelines on CPTED matters elaborate on this.

Responding to these requirements, this Report proposes a multi-option approach to the inclusion of active living as a consideration for local development:

- LEP Template provisions (see section 3.3(b))
- Safe and Healthy Communities Guidelines elaborating on “social impacts in the locality” (and on the LEP requirements), incorporating current CPTED Guidelines and dovetailing with other documents under review (ie Planning Guidelines for Walking and Cycling and the RTA’s Guidelines for Traffic Generating Development)
- Encouragement for Councils to build the abovementioned Guidelines into their own place-based and/or issue specific DCPs

#### **Recommendation 13:**

That a Guideline under Section 79C of the EP&A Act, referring to a web-based resource on “Safe and Healthy Communities”, centralise and coordinate the following current advice:

- CPTED guidelines
- The Heart Foundation’s “Healthy by Design” document
- PCAL’s web-based resources

The guidelines should be applied to appropriate development proposals under Part 4 of the EP&A Act. For example, to new subdivisions, retro-fitting older (poorly designed), subdivisions, the location and siting/design of employment generating development and town centre plans and redevelopment.

NSW Police advise that they have recommended a review of the CPTED guidelines to the DOP, and that the idea of combining them with active living advice is appropriate. In addition, the preparation of the Guidelines should work with the current review of the NSW BikePlan, Planning Guidelines for Walking and Cycling and the RTA's Traffic Generating Development Guidelines.

As well as the existing Guidelines cited in the recommendation, a range of other innovative examples currently exist. For instance, the **New South Wales Landcom** guidelines and design matrix address public and private domains. Model Landcom developments, such as Renwick estate in south-western Sydney are based on "healthy planning" principles. PCAL is currently compiling additional case studies.

Such guidelines would cover all councils and would feed the "active living" and/or place-specific DCPs recommended above. They would also serve as the basis for a checklist format (Willana 2008).

### 4.3 Major projects and state significant sites

The application and assessment process for Major Projects is covered in Part 3A of the EP&A Act. As a result s.79C matters are not specifically required as considerations. Submission (and assessment) requirements are listed as Director General Requirements (DGR) on an application by application basis. To date, a requirement to provide a Health Impact Assessment and/or for consideration to be given to the documents contained on the PCAL web-based report has been included for a number of major projects. As a follow-up, the Guideline recommended above (for local development) should be applied as a DGR for appropriate major projects. Similarly, as indicated above, the proposed Guidelines should apply to Part 5 assessments and the site compatibility certification process resulting from SEPP (Infrastructure). Broader applicability to other Part 5 activities should be considered.

#### **Recommendation14:**

That consideration of the proposed Section 79C Guidelines on Safe and Healthy Communities be a Director-General Requirement for appropriate major projects and state significant sites, and a consideration for infrastructure-related Part 5 assessments. Further, that evidence of satisfying the Guidelines be a formal submission requirement.

A s.79C Safe and Healthy Community Guideline would be a companion document to the RTA's **Guidelines for Traffic Generating Development** (which is being reviewed to incorporate active transport considerations), and also to the proposed revision of the NSW BikePlan and "Planning Guidelines for Walking and Cycling".

**Recommendation 15:**

That the review of the RTA's Guidelines for Traffic Generating Development include "active transport" considerations. Further, that this document, the NSW BikePlan and "Planning Guidelines for Walking and Cycling" be promoted at local and state levels.

#### **4.4 Other elements of the DA process: submission requirements and conditions of consent**

As well as assessment criteria for DAs, attention should also be paid to circumstances where health impact assessment should be an applicant's **submission requirement** and to the creative use of **conditions of consent** to require (and pay for) on-site facilities and public domain improvements, and require Workplace Travel Plans.

In circumstances where it is clear that active living impacts of a development proposal should be considered, the onus should be on the applicant to address the implications up-front, as a submission requirement. In most cases, this would directly relate to matters in the LEP and Section 79C Guidelines (perhaps embodied in a Council-specific DCP).

In other, more specific cases, this could be a specific **Health Impact Assessment** (HIA). There is considerable work currently underway on this issue and the time is right to build such requirements into the DA process. The EP&A Regulation (at Schedule 1) currently requires local DAs to be accompanied by a **Statement of Environmental Effects (SEE)**. With input from DOH and Centre for Health Equity Training, Research and Evaluation (CHETRA), circumstances where a HIA should be included in the SEE could be listed (and perhaps prescribed).

**Recommendation 16:**

That the NSW Department of Health produce advice on the nature and location of development-types that require a Health Impact Assessment, and on the content and format of such an assessment. Further, that consideration be given to amending Schedule 1 of the EP & A Regulation accordingly.

It has also been suggested that HIA could be applied to the introduction of SEPPs (Willana 2008)

The final aspect of development assessment, and not the least significant, is the role of **conditions of consent** in achieving active living outcomes. It is by condition that proposals can be modified, on and off site facilities and infrastructure can be required and development contributions levied and industry based **Workplace Travel Plans** produced. The scope of the legislation should be discussed in the Guidelines recommended above.

Attention should also focus on the role of **development contributions**, through the DA process (by conditions of consent), in paying for public works. Funding infrastructure is a complex and specialised area, with a combination of governmental budgets, development contributions and agreements. At the local level, the DLGs proposed Integrated Planning and Reporting Framework (see section 3.3) provides the opportunity for improved consideration by Councils of tying public domain planning and implementation to budget/funding mechanisms. In addition, the proposed changes to the development contributions system are an opportunity to clarify "community infrastructure". Consideration should also be given to active living principles in DOP advice on the scope of voluntary planning agreements.

The development contributions regime is about to change and it is appropriate to clarify the nature of civic improvements that can be subject to a levy.

**Recommendation 17:**

That consideration be given to defining "key community infrastructure", in relation to development contributions, to include the implementation of civic improvement plans

## 5. Conclusion: summary and priorities

In summary, the Report recommends seventeen actions that would strengthen the role of the Planning system in NSW, in providing supportive environments for active living.

The State Government could do the following:

- Issue a Policy Statement affirming the creation of supportive environments as an object of the NSW Planning system
- Make active living considerations explicit in their metropolitan, sub-regional and regional strategies (and a criterion for certain local government funding)
- Issue an active living-specific section 117 Direction to councils, as a requirement for LEP research and preparation
- Support the Department of Local Government's proposed Integrated Planning and Reporting Framework and Community Strategic Plans
- Encourage place-making, by continuing to integrate private and public land-use planning
- Coordinate existing guidelines and best practice as formal section 79C Guideline (for local development applications and major projects under the EP and A Act)
- Clarify the application of the new-look development contributions scheme

At the local level, State requirements and Local Government action can do the following:

- Coordinate public and private domain planning
- Include active living matters in the Standard Instrument (LEP Template): objectives and DA matters for consideration
- Prepare place-based DCPs for centres and redevelopment areas
- Consider detailed guidelines at the development assessment stage: major projects, state significant sites and local development

While each of the recommendations is considered relevant, they can be prioritised, on the basis of significance, coverage (of council areas) and impact on resources required. Opinions were canvassed on this from the participants at the Round Table.

**Recommendation 1** would be an appropriate starting point - for the State Government to issue a **position statement** acknowledging active living principles as a specific object of the Planning system. Similarly, underpinning a number of the actions suggested is **Recommendation 8**, encouraging a **change of attitude and approach to public domain planning and works**, and also detailing how this should follow through to “place making” activities at the local (and State) levels.

A priority should also be the preparation and adoption of an active living-specific s.117 Direction, requiring consideration of active living principles and **more detailed local structure planning** to underpin LEP provisions (**Recommendation 5**). Local research would map accessibility networks, linking trip generators and destinations, and provide a framework for private/public domain planning, identification of strategic DA sites and connections. Such action, underway at some councils, would help to bridge the gap between the broad-brush framework in the Sub-regional Strategies and local detail required to address accessibility (and set development contribution rates). This would also assist in overcoming a **significant barrier – the disciplinary divide**. In the longer term, such groundwork would become part of the DLG's proposed Integrated Planning and Reporting system (the subject of recommendations 9 and 10).

Thirdly, a priority would be strengthening **the legal onus on Councils** by making the active living requirements more explicit in the Sub-regional Strategies (**Recommendation 2**) and amending the LEP Standard Instrument (**Recommendation 11**). Provisions in the standard LEP would ensure that active living principles are also considerations at the DA stage (replacing the provisions of draft SEPP 66)

Finally, building upon and centralising the wealth of existing advice, the preparation of a formal guideline document at the DA stage, for both Major Projects and local development (**Recommendation 13 and 14**) completes coverage of active living matters throughout the planning process.

## Appendix 6.1

### List of abbreviations

CHETRE	Centre for Health Equity Training, Research and Evaluation
CPTED	Crime Prevention through Environmental Design
DA	Development Application
DCP	Development Control Plan
DGR	Director General Requirements
DIPNR	NSW Department of Infrastructure, Planning and Natural Resources
DLG	NSW Department of Local Government
DOH	NSW Department of Health
DOP	NSW Department of Planning
EP&A Act	Environmental Planning and Assessment Act 1979
HIA	Health Impact Assessment
LEP	Local Environmental Plan
LGAct	Local Government Act
PAMP	Pedestrian Access and Mobility Plan
PCAL	Premier's Council for Active Living
RTA	NSW Roads and Traffic Authority
SEE	Statement of Environmental Effects
SEPP	State Environmental Planning Policy
TMAP	Transport Management and Access Plan

## Appendix 6.2

### List of Interviews

25.6.08	Matt Faber	Traffic Management Branch, RTA
1.7.08	Peter Hamilton	Principal Policy Advisor, DOP
16.7.08	Peter McCue	Manager PCAL
24.7.08	Jenna Wilson	DLG
30.7.08	Juliet Grant	NSW Ministry of Transport
14.8.08	John Brunton	Director, Environmental Services, Sutherland Shire Council (telephone)
14.8.08	Greg New	Principal Newplan (telephone)
10.9.08	Michael Woodland Tina Xanthos Karen Paterson	DOP (telephone) NSW Police (telephone) DLG

### List of Round Table participants (20.8.08)

John Brunton	Director - Environmental Services, Sutherland Shire Council
Liz Develin	Director, Centre for Health Advancement, NSW Health
Matt Faber	Traffic Management Branch, RTA
Patrick Harris	UNSW Research Centre for Health Equity Training, Research and Evaluation (CHETRE)
John Hart	Network and Corridor Planning Manager, RTA
David Hartman	Senior Transport Planner, MoT



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Peter Hamilton	Principal Policy Adviser, DoP
Louise McKenzie	Senior Landscape Design Officer, Fairfield City Council
Chloe Mason	Divisional Manager Environmental Services, Waverley Council
Peter McCue	Manager, Premier's Council for Active Living (PCAL)
Greg New	Principal, Newplan
Andrew Whitehead	NSW Health
Danny Wiggins	Consultant

Another input was involvement at a Round Table held in relation to a companion PCAL project on "encouraging uptake of active transport in new workplace developments" held on October 1 2008.



## Appendix 6.3

### List of references

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**State Plan: a new direction for NSW.** Sydney, Premier's Department

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