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31 October 2014



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Dear Sir/Madam

AMENDMENTS TO SEPP 65 AND THE RESIDENTIAL FLAT DESIGN CODE

I refer to the above matter and thank you for the opportunity to make a submission on the review. This submission represents the views of Council's strategic and development assessment officers. It does not include the view of the elected Council or Council's constituted SEPP 65 Panel. Information regarding the proposed amendments has been separately distributed to members of Council's SEPP 65 Panel.

The introduction of the SEPP and the Residential Flat Design Code (RFDC) in 2002 was welcomed by the City of Newcastle. The SEPP has been generally successful in Newcastle in achieving the aims and objectives of the policy to improve the overall design of residential flat development.

The following comments are based upon review of the proposed SEPP amendments and new Apartment Design Guidelines.

SEPP 65

Qualified Designer

The involvement of qualified designers in the design of residential flat development should be strengthened. Under Clause 50 of the *Environmental Planning and Assessment Regulations 2000* the qualified designer's statement needs to verify:

*that he or she designed, **or directed the design**, of the residential flat development,*

The words '*directed the design*' is too open to interpretation. It appears that there are proposals being submitted where a qualified designer has had very limited '*direction*' over the design but supplies a statement nevertheless. The result in these cases is often a sub-standard proposal that requires significant design refinement to achieve a satisfactory outcome. This has significant resource and time implications for both Council and the applicant and is undermining the overall intent of SEPP 65.

It is recommended that the words '*or directed the design*' be omitted from this clause to ensure that the qualified designer in fact actually '*designs*' the proposal. The revised wording would not preclude an unqualified designer assisting with drafting the plans.

Clause 2 – Aims, Objectives

The proposed three new aims are supported, relating to variety of dwelling types, contributing to affordable housing options and efficient development assessment. The suggested amendments above relating to qualified designers would certainly assist in achieving the last aim.

Clause 3 – Definitions

Updating definitions, consistent with the Standard Instrument is supported.

Clause 4 – Application of Policy

The proposed amendments to Clause 4 seeking to clarify that the SEPP applies to shop top housing and mixed use development with a residential component is supported. It is noted that Newcastle City Council has consistently applied the SEPP in this way already.

While SEPP 65 has been successful in improving the design of residential flat buildings, this is only part of the residential development picture.

- **Boarding Houses**

Newcastle has experienced strong demand for boarding house accommodation, particularly for the student market associated with the University of Newcastle. Many of these developments essentially take the form of residential flat buildings with rooms containing ensuite and often kitchenette facilities. Unfortunately the design of these developments is often sub-standard and can be attributed partly to the lack of adequate guidance under SEPP (Affordable Rental Housing) 2009.

It is recommended that Boarding House development that comprise 20 or more dwellings and/or are three storeys in height should be required to be considered against the SEPP 65 Design Quality Principles. While many aspects of the Residential Flat Design Code (and new Apartment Design Guidelines) would be relevant it is considered that specific design guidelines should be developed.

- **Medium Density Housing**

The City of Newcastle Council has identified the design quality of medium density housing as a significant issue to ensure urban consolidation can continue in a more sustainable fashion and obtain greater community support. Again the Design Quality Principles of the SEPP could be applied. A purpose set of design guidelines would need to be established for this form of housing.

Clause 6 – Relationship with other environmental planning instruments

Agree with clarification that proposals should comply with BASIX in addition to SEPP 65 requirements.

Agree with the inclusion of new Clause 6A to clarify the Apartment Design Guidelines will prevail over a Development Control Plan for the aspects of design specified.

Clause 30 – Standards that cannot be used as grounds to refuse development consent

Subclause 3 requires that a development application cannot be refused on the grounds of parking if it meets the requirements of Part 3 of the Apartment Design Guidelines. Under the Apartment Design Guidelines it is not clear the extent of what constitutes a '*regional centre*'. Would this apply to any B4 Mixed Use zoned land within the entire LGA or only the Newcastle City Centre. It is suggested that this provision apply only to the principal centre within the LGA.

The RMS guidelines are currently difficult to obtain. The guidelines need to be made readily available online, providing certainty about the currency of the version that is accessed.

Design Quality Principles

In general the existing design principles are concise and have proved to be generally sound. The proposed amended design principles have been expanded but may have become overly detailed. It is suggested that the design principles could be further refined with complementary detail within the Apartment Design Guidelines where necessary

- Principle 3: Density – The continued inclusion of density as a design quality principle is questioned. Density is a planning matter that should be determined by Council through relevant investigations and studies underpinning the Local Environmental Plan. If it is to remain then the existing design quality principle for density is considered more succinct and relevant than the proposed amendment.

In relation to the proposed amended principle, the first paragraph would more appropriately be placed under the new Principle 6: Amenity, to replace the first line of that principle. It is suggested that this could be reworded to

'Good design achieves a high level of amenity within the development and for neighbours, resulting in a density appropriate to the site and its context'.

By including this wording under the principle of amenity it would clarify the relationship between density and amenity and that amenity should not be compromised to maximise density.

- Principle 6: Amenity – The first sentence is unclear as it refers to internal amenity for residents, but not their external amenity. Likewise amenity for neighbours should relate to both internal and external areas. Refer to Principle 3: Density above for suggested rewording to replace this first sentence.
- Principle 9: Architectural Expression – The current naming 'aesthetics' is considered a more readily recognisable and tangible term for the range of stakeholders who use the SEPP and should therefore be retained.

- Design Review Panels

- A minimum of three members is supported. It is noted the SEPP removes a maximum number of members. An excessive number of panel members may become counterproductive and therefore removal of a maximum should be considered with caution.
- Mix - Council's should have the freedom to appoint within the range of disciplines specified and have flexibility to choose expertise most important to the circumstances of that LGA or particular project. To achieve this, a list of preferred panel members could be created.
- The development of standard operating procedures, meeting minutes and advice templates is supported.
- The requirement for the Design Review Panel to also consider the Apartment Design Guidelines in addition to the Design Quality Principles should be reconsidered. For a Design Review Panel to carry out this exercise in detail would require significantly more time and therefore cost to Councils. It could also lead to duplication of effort as Council itself is also required to consider the Guidelines in detail. It is suggested that this not be pursued as the panel already has the discretion to consider the Guidelines when seeking further clarity to the Design Quality Principles.
- Support the clarification that a Design Review Panel need not consider a proposal that has already been the subject of an Architectural Design Competition. However, it should remain an option for the relevant Council to obtain further advice if desired as a design may still require further refinement even after passing through a design competition.

Apartment Design Guidelines

Format - The use of performance criteria, acceptable solutions and alternative solutions is clear, legible and user friendly and the use of diagrams and photo imagery is also helpful. The success of this format will come down to the strength of the performance criteria where an acceptable solution cannot be achieved. In this regard the inclusion of the 'Alternative Solutions' to clarify exceptions is commended.

Building separation – The building separation guidelines (Section 2F) have now been supplemented by the visual privacy (Section 3F) which is considered positive. However, there still appears to be a need to clarify the setback to boundary above podium level for a wall devoid of openings. For a taller building it would generally be desirable to provide separation and in this regard and it is recommended that the minimum setback should be equivalent to a non-habitable room.

Thank you for the opportunity to comment on the review of this important State policy. The City of Newcastle Council would welcome the opportunity to work with the Department to expand the SEPP to cover boarding house and medium density development with specific design guidelines developed for each of these forms of residential accommodation. Should you have any questions regarding the above matters please contact Senior Urban Planner, Steven Masia on (02) 4974 2817 or smasia@ncc.nsw.gov.au.

Yours faithfully



Jill Gaynor

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