

Submission by the Newcastle City SEPP65 panel and Urban Design Consultative Group, in response to proposed changes to NSW SEPP65 and Draft Apartment Guide.

As the Department of Planning and Environment's extensive consultation with the industry, community and Local Government has consistently demonstrated throughout the protracted review period of SEPP65, the instrument has been remarkably successful in improving the standard of residential flat design in the state. It is notable how widely spread the support for the process has been across diverse and at times conflicting interest groups. While there is always room for improvement in any complex instrument, we regard it as crucial that any changes do not weaken the SEPP and its support document, the Residential Flat Design Code / proposed Apartment Design Guide.

The Newcastle City SEPP65 Panel, which is also constituted as the city's Urban Design Consultative Group, generally supports the proposed changes to the minimum requirements to the key elements covered by the controls – in particular, separation distances, hours of winter solar access, cross ventilation and ceiling heights, minimum landscape area and provisions for social interaction.

The Group considers much of the success of the existing SEPP65 and its RFDC has arisen from permitting a degree of flexibility to the panels and the consent authority in respect to the prescribed/numeric "rules of thumb". This therefore allows what is in practical terms a performance-based assessment in areas where strict compliance is not achieved. However, while the *intent* of adopting a proposed "performance based" approach as an alternative to the numeric and prescriptive aspects of the Guide is supported, it is questioned whether this further step is warranted, given the existing instrument in our experience, already functions in this way. The performance-based alternate solutions as exhibited are quite open ended and in our view invite a situation in which the measures are rigorously tested by litigation. It is our view that, for example, adequate visual and acoustic privacy is inevitably reliant upon achieving a minimum physical separation distance between dwellings. While various design techniques might be used to ameliorate some impacts that would arise, the nominated minimum separations largely anticipate some application of these techniques or technologies in any case. It is therefore not productive in our view to invite a process that attempts to achieve by alternate means, an outcome that is impossible in any practical sense to deliver. This is likely to lead to a "death by a thousand cuts" of the SEPP via legal precedent.

It is therefore recommended that for the crucial few "rules of thumb" involving separation distance, access to natural light and ventilation, and winter solar access be included in the SEPP such that a Section 4.6 objection would be required to apply a lesser standard based upon a specific site and proposed alternate means of achieving an acceptable performance level.

In respect to the proposed reduction to the minimum car parking provisions, the Group supports a reduced quantum in locations in which good public transport already exists as an alternative.

We strongly support the proposed provisions in the ADG that support and encourage social interaction between residents of apartment dwellings. We consider the issues of social isolation, particularly in an ageing population, to be very important, and have consistently encouraged applicants to look for opportunities to precipitate and enhance informal social interaction between residents. These physical measures can be as simple as a bench seat near the letter boxes or a common area located near a car washing bay.

One matter that the Group has regularly experienced in the past relates to a registered architect “signing off” on a design undertaken by a non-architect that he or she has evidently had little involvement in. Often these architects don’t attend Pre-DA and DA consultations with the panel, and provide non-complying design verification statements. We would encourage the tightening of the requirement for a registered architect to be actively involved in the design or leading the design of apartment buildings.

In respect to mixed-use developments and medium density residential buildings that currently do not fall entirely under the SEPP, the Group supports any initiative that can extend the demonstrated benefits arising from the RFDC/ADG to other residential types. Boarding houses in particular are a typology that collectively require an improvement in their design standard. While there are very occasional exceptions, most boarding house proposals that come before the Group in its UDCG guise fall far short of benchmark standards.

The Group thanks the Department for its invitation to comment.