

# Proposed amendments to SEPP 65 and the Residential Flat Design Code

Submission to the Department of Planning & Environment 31 October 2014

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*city of villages*



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## Appendices

Appendix A	SEPP 65 – Comments and Recommendations
Appendix B	The Apartment Design Guide – Comments and Recommendations





Top: 'Maddison Mews' – northern half of the former Tooth & Co site, Redfern – design by Meriton Apartments Pty Ltd.  
Pre-SEPP 65 south facing apartments exhibiting little design quality

Bottom: 'Moore Park Gardens' – southern half of the former Tooth & Co site, Redfern – design by Allen Jack & Cottier  
Pre-SEPP 65 north facing apartments which began the cultural shift towards the acceptability of denser living by choice.

## 1.0 Introduction

The City of Sydney Council (the City) strongly supports the design quality outcomes that result from the application of *State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development* (SEPP 65) and the Residential Flat Design Code (RFDC). The City believes that design quality and consequent high residential amenity are essential to support Sydney's successful transformation into a more compact, liveable and economically and environmentally sustainable city.

The exhibited SEPP 65 and revised RFDC include some very welcome changes and clarifications but the documents are flawed and propose a structure that will increase uncertainty. This is because the documents do not clearly define numerical standards and sit within a very loose performance based framework. This combination of factors will undermine the realisation of quality design and amenity outcomes and lead to significant levels of planning uncertainty resulting in a "lawyers' picnic".

The City recommends that SEPP 65 and the RFDC (renamed the Apartment Design Guide (ADG)) should minimise discretion and increase appropriate checks and balances and we trust our constructive comments on this issue are helpful and welcome.

This submission proposes clear and simple solutions to the problems in the exhibited documents.

If implemented, the City's recommendations will reinforce the design quality outcomes that the exhibited documents seek to deliver and will provide certainty, in relation to standards, and a strong merit based framework for varying the standards consistent with the State's Government's standard instrument.

This submission has been prepared by the City in response to exhibition of SEPP 65 and the RFDC (or ADG) by the Department of Planning & Environment (the Department).

The Department's summary of the key features of the exhibited draft documents are:

- amendment so that SEPP 65 will apply to residential flat buildings, shop top housing and mixed use developments that include apartments
- three clear reasons why consent authorities cannot refuse a DA if it complies with the design guide for ceiling heights, apartment size and car parking
- renaming the Residential Flat Design Code the 'Apartment Design Guide'
- **the Apartment Design Guide is a guideline to be applied flexibly**
- **key parts of the Apartment Design Guide will prevail over council Development Control Plans to remove conflicts**
- **the Apartment Design Guide is outcome based and focuses on performance criteria**
- **car parking requirements have been reduced in accessible locations to improve feasibility**

- confirm that residential flat building applications need to comply with BASIX
- delegation to councils to set up design review panels and amended fees that councils can collect
- introduce a minimum size for studio apartments
- **clearer alternative solutions to specific performance criteria**
- clearer and fairer guidance about assessing privacy and building separation
- clearer design advice for natural ventilation and daylight
- proposed education and support program to ensure that the SEPP and guideline are used consistently.

*Overview Proposed amendments to SEPP 65 and the Residential Flat Design Code, p7*  
(emphasis added)

### **SEPP 65 Relevancy**

State Environmental Planning Policy 65 (SEPP 65) has been in force since 2002 and it is appropriate to review the operation of the policy and the accompanying *Residential Flat Design Code* (RFDC) as they have now passed a decade of use.

The City of Sydney has a strong interest in the sustainable and quality design of apartment buildings. As of June 2014 the City has almost 75,500 apartments in the Local Government Area (LGA), of which 30% have been approved since the introduction of SEPP 65 and the RFDC. In the eight years since 2006, 283 apartment building projects have been approved in the LGA with a combined value of \$7,390 million (\$7.4 billion) excluding non-residential components. A further 3,898 units are currently under consideration at various stages of the development application process. (*2012 Floor Space and Employment Survey* and *City of Sydney Development Statistics 2006-2014*)

Looking to the future, the City expects that almost all the growth in residential dwellings in the LGA will be in the form of apartments. The City's strategic plan, *Sustainable Sydney 2030*, sets a target to provide an additional 48,000 dwellings by 2030 from 2006 levels or approximately an additional 40,000 dwellings from the present.

By 2030, more than half the dwellings in the City of Sydney LGA will have been designed with regard to the objectives and standards set out in SEPP 65 and the RFDC.

### **Legacy Considerations – One Chance to get it Right**

Apartment buildings are regarded as legacy construction because strata titled apartment buildings are effectively permanent fixtures of a city, outliving many generations who reside in them and are difficult and expensive to repair and change. In the Sydney LGA, apartment developments are typically large developments. Since 2006 on average they have comprised 78 units with a median capital value of \$26.51 million. As the vast majority of apartment developments are strata titled,

redevelopment is uncommon because of the complexity of dealing with large numbers of individual owners who set their own price for their interest in a redevelopment being consolidated. The result is that the redevelopment of a poorly performing apartment building without provision of overwhelming incentives or compulsory acquisition is frustrated. Therefore it is essential that strata-titled buildings are well designed before construction begins and the concrete sets and some degree of strata reform is desirable.

### ***National Planning Context***

SEPP 65 and the RFDC give effect to the Council of Australian Governments' (COAG) urban design quality principles. The Council of Australian Governments (COAG) agreed in December 2009 on a national objective and set of reforms 'to ensure Australian cities are globally competitive, productive, sustainable, liveable and socially inclusive and are well placed to meet future challenges and growth.'

As a prerequisite to qualify for future infrastructure funding from the Federal Government for capital city projects the Government must adopt policy settings that meet Criterion 8: *'Encourage world-class urban design and architecture'*.

Anecdotally, the RFDC is being used as a de-facto national standard, including use in other states of Australia to provide appropriate urban and architectural design standards for apartment development. It is also referenced in recent English and New Zealand housing codes.

Recently Moreland City Council (VIC) produced a *Higher Density Design Code* based on the RFDC which, supported by the Victorian Coalition Government, won a Planning Institute of Australia award.

### ***The Social Case for SEPP 65 and the RFDC***

The State Plan target to "build liveable centres" requires the metropolitan plan to direct a significant proportion of Sydney's future growth to be delivered as infill development. This must largely be in the form of apartment buildings. The social acceptability of this housing stock, so very different from the traditional quarter acre block, will hinge on its design quality and amenity.

The poor quality outcomes and consequent poor acceptance of apartments for housing by the general public pre-SEPP 65 demonstrates how important higher design quality and amenity has been to increasing the social acceptance of higher density living. This acceptance will be critical to the successful transformation of Sydney over the coming decades.

SEPP 65 and the RFDC ensures that high density development results in liveable, high amenity environments that deliver community wellbeing and support Sydney's continuing economic growth, environmental sustainability and success as a global city.

***The Economic Case for SEPP 65 and the RFDC***

As Sydney grows the economic imperative to intensify around existing infrastructure is increasing. Sydney needs to increase the number of dense job hubs that have high productivity due to agglomeration effects, which benefit from being proximate to the dense residential areas needed to support them.

A dense city ensures that it is possible for workers to live near their workplaces, rather than being required to commute long distances with associated disadvantages in terms of time and environmental sustainability impacts. If jobs and housing are not proximate transport costs are high and road networks, already under pressure, will grind to a halt. Also, a high density city supports space and cost efficient active transport which increases population health and puts downward pressure on health related expenditure.

In a large and growing global city such as Sydney, where land supply is limited, maintaining the potential for workers to live close to their jobs necessitates high density residential development.

*The acceptability of high density residential neighbourhoods to a highly skilled and globally mobile workforce will depend on quality and liveability.*

For lower income groups, in a context of an undersupplied housing market and historically low interest rates, where price is determined by capacity to pay - only regulation assures minimum quality standards (see analysis by Greater London Authority).

High density housing lowers the land cost component of housing. When supply issues stabilise lower land cost per dwelling will enable higher density apartment dwellings to be delivered at a significantly lower price point than low density housing.

Amenity can also add to the global competitiveness of business and spatial economic output.

Increasingly skilled global talent (highly-qualified, experienced and multi-cultural) has become the key source of economic advantage for cities and regions.

As with other cities facing a similar high density future, the major challenge for Sydney is to ensure that intensified urban environments are shaped with a focus on achieving high standards of liveability and amenity; that they are characterised by high quality design and levels of environmental sustainability; and are well located and serviced by public transport and social infrastructure.

Supporting the continuing liveability of Sydney under these conditions requires strong commitment by government and the private sector to high quality architecture, urban design and environmental sustainability standards in housing development.

This is in order to maintain Sydney's desirability and competitive advantage with regard to the attractiveness of its inner city housing to a mobile global workforce, and also to support the wellbeing of the community.

Whilst employment opportunities and corporate culture are important determinants of work-happiness, and of a city's attraction, the desire for a good work-life balance emphasises the

importance of amenity and standards, including urban design standards, in attracting and retaining this critical talent-pool.

In a very recent study (released at 6th October 2014), Boston Consulting Group surveyed over 200,000 people world-wide in the 'global talent' work-pool. In this study Sydney was ranked as the 4<sup>th</sup> most preferred global workplace destination behind just London, New York and Paris. (Boston Consulting Group Global Talent Survey 2014)

Australian, generally, was ranked 7<sup>th</sup>, implying the significance of local factors.

This provides Sydney businesses with a significant global advantage to access this highly-skilled workforce to enhance global competitiveness.

Businesses are able to take advantage of local labour market size, rejuvenation, expertise and specialisation – both to recruit and attract globally-mobile labour but also to access knowledge flows for diffusion of innovation and other productivity gains.

With the ageing of the world population, a shortage of this global workforce is looming. Australia is expected to have a shortage by 2020 and a two million person shortage by 2030. Global talent is expected to become scarcer. This will make perceptions of city attractiveness even more significant for sustained economic success.

In this case, regulation that provides more certainty over amenity externalities can enhance global labour attractiveness. SEPP 65, in enhancing and guaranteeing a high standard of residential amenity in apartments not only reduces direct risk of poor amenity on relocation but also increases the certainty of the quality of other properties in a residential location.

*Put simply, higher (and sustained) amenity attracts skilled labour. Labour attracts business and job growth, which, in turn, can add further to location-specific amenity – leading to a 'virtuous' economic growth cycle. The opposite can also occur, if lowered amenity standards drive such global workers to other locations.*

Additionally, development guides, rules and standards contained in the current RFDC provide the private sector with certainty in relation to development costs/yields. Certainty has contributed to the stabilisation of land values over time. Land price escalation through uncertainty and speculation is the most significant affordability problem for housing in New South Wales. Clear and universally understood development standards reduce the likelihood of speculation on land because the relationship between cost and return is more reliable.

Good urban policy recognises that housing quality and design is inextricably linked with quality of life. A range of health and wellbeing benefits are directly associated with living in a well-designed home that provides a safe, well-ventilated, hygienic environment with sufficient household facilities.

***The Environmental Case for SEPP 65 and the RFDC***

A dense city is good for the environment. Land is more intensively used which allows growth to go hand in hand with preservation of environmentally sensitive and productive land that surrounds the city.

Resource use (including energy and water) and carbon emissions are lower in compact cities than in low density equivalents.

***Competition from Victoria***

The Victorian Government has identified that SEPP 65 and the RFDC have provided NSW with a competitive advantage in provision of quality housing that flows through to general economic productivity advantages. They have seen the very poor outcomes of unregulated high density residential development, have learnt from NSW's experience and will shortly introduce similar but stronger standards to those in the RFDC at the highest level of their planning system.

SEPP 65 and the RFDC, this critical policy that has delivered so much value to NSW, could imminently be relegated to second best.