

31 October 2014

Our Ref: F09/566
Contact: 9562 1596



Acting Director, Local Plans, Codes and Development Guides
GPO Box 39
SYDNEY NSW 2001
via www.planning.nsw.gov.au/proposals

Dear Sir/Madam

Re: Review of SEPP 65 and Residential Flat Building Code

Thank you for the opportunity to comment on the review of *State Environmental Planning Policy No 65—Design Quality of Residential Flat Development* (SEPP 65) and the Residential Flat Design Code (RFDC). Council appreciates this opportunity to comment on the draft plans based on its own experience in developing and implementing residential flat building development policy and frameworks including managing design review panels.

Council's submission is structured as follows: Part A provides general comments on the draft instrument and draft Apartment Design Guidelines (ADG) whilst Part B provides comments on specific key elements that are likely to have a directly impact on the future high density communities in the Rockdale local government area.

This submission constitutes a draft submission. This submission is to be a scheduled item at a Council meeting on 19 November 2014. Once Council has considered the draft submission, a final submission will be forwarded to the Department of Planning and Environment on **20 November 2014**.

Should you have any queries in relation to this submission, please contact Irene Chan on 9562 1596.

Yours faithfully

David Dekel
Manager Urban and Environmental Strategy

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Important

This document contains important information about Rockdale City Council. If you do not understand, please visit Council's Customer Service Centre at 2 Bryant Street Rockdale, Monday – Friday from 8.30am – 4.30pm, Saturday 9am – 1pm. Council Staff will be happy to arrange interpreter services for you.

You may also contact Telephone Interpreter Services on 131 450 and ask them to ring Rockdale City Council on 9562 1666 on your behalf.

Arabic

هام:

تحتوي هذه الوثيقة على معلومات هامة عن بلدية روكدايل. إذا لم تكن قادراً على فهمها، يرجى زيارة مركز خدمة زبائن البلدية على العنوان التالي: 2 Bryant Street في روكدايل من الإثنين إلى الجمعة بين الساعة ٨.٣٠ صباحاً و ٤.٣٠ مساءً. والسبت بين الساعة ٩.٠٠ صباحاً و ١.٠٠ بعد الظهر حيث سيقوم موظفو البلدية بتأمين مترجم لك بكل سرور. كما يمكنك الاتصال بخدمة الترجمة الهاتفية على الرقم 131 450 والطلب منهم الاتصال ببلدية روكدايل على الرقم 9562 1666 نيابة عنك.

Italian

Importante:

Questo documento contiene importanti informazioni sul Comune di Rockdale City. Se avete difficoltà a comprenderne il contenuto, recatevi presso il Customer Service Centre del Comune a 2 Bryant Street, Rockdale dal lunedì al venerdì dalle ore 8.30 alle 16.30 e al sabato dalle 9.00 alle 13.00. Il personale del Comune sarà ben lieto di procurarvi un servizio interpreti.

Potete anche chiamare il Servizio telefonico interpreti (TIS) al numero 131 450 chiedendo che telefoni per vostro conto al Comune di Rockdale City al numero 9562 1666.

Chinese

重要消息

本文件載有關於 Rockdale 市政府的重要資訊。如果您有不明白之處，請於星期一至星期五，上午8時30分至下午4時30分，及星期六上午9時至下午1時，前來位於 2 Bryant Street, Rockdale，市政府的顧客服務中心。市政府的職員會很樂意為您安排傳譯員的服務。

您也可以聯絡電話傳譯服務處，電話 131 450，並請他們代您致電 9562 1666 給 Rockdale 市政府。

Macedonian

Важно:

Овој документ содржи важни информации за Rockdale City Council (Градската општина на Rockdale). Ако не го разбирате, ве молиме, посетете го општинскиот Customer Service Centre (Центар за услуги на клиенти), кој се наоѓа на 2 Bryant Street, Rockdale, од понеделник до петок, од 8.30 наутро до 4.30 попладне и во сабота од 9.00 наутро до 1.00 попладне. Вработените во општината со задоволство ќе ви организираат да користите преведувач.

Исто така, можете да телефонираате во Telephone Interpreter Services (Служба за преведување по телефон) на 131 450, и да ги замолите во ваше име да се јават во Градската општина на Rockdale на 9562 1666.

Greek

Σημαντικό:

Αυτό το έγγραφο περιέχει σημαντικές πληροφορίες για τη Δημαρχία Rockdale City Council. Αν δεν τις καταλαβαίνετε, παρακαλείσθε να επισκεφτείτε το Κέντρο Εξυπηρέτησης Πελατών [Customer Service Centre] του Δήμου στο 2 Bryant Street, Rockdale, Δευτέρα - Παρασκευή από 8.30πμ - 4.30μμ και Σάββατο από 9.00πμ - 1.00μμ. Το Προσωπικό του Δήμου θα χαρεί να κανονίσει υπηρεσίες διερμηνέων για σας.

Μπορείτε επίσης να επικοινωνήσετε με τις Τηλεφωνικές Υπηρεσίες Διερμηνέων [Telephone Interpreter Services] στο 131 450 και να τους ζητήσετε να τηλεφωνήσουν στο Rockdale City Council στο 9562 1666 για λογαριασμό σας.

Spanish

Importante:

Este documento contiene información importante sobre el Rockdale City Council (Municipio de Rockdale). Si no la entiende, le rogamos concurrir al Centro de Servicio al Cliente del Municipio, ubicado en 2 Bryant Street, Rockdale, atención de lunes a viernes, de 8:30 am a 4:30 pm y el sábado de 9.00 am a 1.00 pm. El personal del municipio se complacerá en obtener los servicios de un intérprete para usted.

Puede asimismo llamar al Servicio Telefónico de Intérpretes al 131 450 y pedirles que llamen de su parte al Rockdale City Council, teléfono 9562 1666.

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ROCKDALE CITY COUNCIL SUBMISSION

SEPP 65 & RESIDENTIAL FLAT DESIGN CODE REVIEW

PART A - GENERAL COMMENTS

The current SEPP 65 and the current Residential Flat Design Code (RFDC) have been very successful in improving the design quality of residential flat buildings. Rockdale City Council has seen significant improvement in the design quality of residential flat buildings across the local government area since the introduction of this policy framework.

A number of the changes in the draft SEPP 65 and draft Apartment Design Guide (ADG) are supported in principle by Rockdale City Council. In general, the changes will provide greater flexibility and provide clarity and consistency in the way design issues are dealt with across the state.

However, in some cases the changes are likely to impose more complex assessment protocols and delay assessment times, whilst potentially reducing apartment design quality and amenity.

The table below summaries the key features of the proposed amendments and Rockdale Council's response.

Proposed Change	Council's response
Expansion of the draft SEPP to include shop top housing and mixed use development	Supported. Rockdale City Council already relies on the current SEPP 65 and RFDG to assess both shop top housing and mixed use development . The proposed change simply formalises Council's practice.
The ADG introduces three requirements that DAs must comply with which relate to: <ul style="list-style-type: none"> ▪ ceiling heights ▪ apartment size ▪ car parking, along with a requirement that Councils must justify the instances of any grounds for refusal.	Not supported. Giving statutory weight to elements can achieve good design outcomes but only if the standards ensure high quality design. The proposed minimum standards for the three elements are unlikely to achieve good design outcomes. This matter is further discussed in Part B.
Key parts of the ADG prevail over a council's DCP to remove conflicts. These include: <ul style="list-style-type: none"> ▪ visual privacy; ▪ solar and daylight access, ▪ common circulation and spaces, ▪ apartment layout, ▪ ceiling heights, ▪ balconies and private space, ▪ natural ventilation, ▪ storage. 	Supported. This proposal will clarify a number of inconsistencies between Council's DCP and the RFDC. The draft ADG generally provides more detailed design guidance and provides alternative solutions for the development which does not exist in Council's own DCP. There appears to be no major conflicts between the ADG and Council's DCP. Currently, most Rockdale DCP 2011 controls are consistent with the RFDC. Therefore, Council supports that the proposed design controls in the ADG take precedence.

The ADG is outcome based and relies on performance criteria.	<p>Supported.</p> <p>Performance criteria as both a measuring and assessment tool can encourage innovative design and allow flexibility.</p> <p>The current "Rules of Thumb" in the RFDC are proposed to be replaced by Acceptable Solutions. The range of possible design responses under the Acceptable Solutions is likely to improve building design outcomes.</p>
Car parking requirements have been reduced in accessible locations to improve feasibility	<p>Not supported.</p> <p>Refer to the Car Parking section in Part B of this submission.</p>
Delegation to individual councils to set up design review panels.	<p>Supported.</p> <p>Rockdale City Council already has a well established and successfully joint-Council Design Review Panel.</p>
Introduce a minimum size for studio apartments of 35sqm.	<p>Not supported.</p> <p>The RFDC has a recommended studio apartment size of 38.5sqm and this should be maintained. Refer to Part B of this submission.</p>
Clearer alternative solutions to specific performance criteria	<p>Supported.</p> <p>The draft ADG provides alternatives for highly constrained sites to achieve an Acceptable Solution. This proposal should benefit developers, designers and assessment planners.</p>
Clearer and fairer guidance about assessing privacy and building separation	<p>Supported.</p> <p>The ADG provides more detailed controls than Council's Rockdale DCP 2011. For instance, the ADG provides diagrams illustrating privacy interface conditions which look to be useful. Also, the proposed guidance on separation from existing adjacent buildings with reduced setback is also supported.</p>
Clearer design advice for natural ventilation and daylight	<p>Supported.</p> <p>The guide provides additional illustrations to explain how apartment can receive good natural ventilation and daylight through appropriate floor to ceiling height and building depth.</p> <p>The guide also highlight the light well is not the primary ventilation source that is highly supported. This will prevent applicant to use light well to provide natural ventilation, especially to the bedroom area.</p>
Clarification that BASIX SEPP prevails in the event of any inconsistency	<p>Supported. The inclusion of sub clause 6(1) clarifies that in the event that there is any inconsistency in between the proposed SEPP 65 and the BASIX SEPP that the BASIX SEPP prevails.</p> <p>This clarification is supported.</p>

Revised SEPP 65

- The draft SEPP 65 should be amended to extend to **serviced apartments**. This development type is similar to **residential flat building** development and should be subject to the same design outcomes.
- Clause 6A proposes that the provisions of the ADG override the provisions of any NSW DCP on a suite of design matters. This will carry significant legal weight in the assessment process. This requirement is likely to expand the number of development controls that are considered during the assessment process increasing the complexity of the assessment and assessment times. More consideration needs to be given to this requirement, if streamlining development processes remains a core aim of any changes.
- The draft SEPP 65 should require the registered architect who is responsible for the design of a development to oversee the construction process so as to ensure design integrity. There are many councils in metropolitan Sydney which have examples of poor quality development because the architect was not involved throughout the construction phase. This often occurs when developers are more concerned with maximising profit than with good design outcomes.
- The draft SEPP 65 proposes to introduce a clause (proposed sub-clause 19 (2)) that enables the Minister to abolish Design Review Panels (DRPs) "at any time and for any reason". The decision to abolish a DRP should lie with Councils.

Apartment Design Guide

- Under section 4S Acoustic privacy, item 1(5) "*The number of party walls...are limited and appropriately insulation.*" Further explanation is required to define the word "appropriate" to avoid exploitation through varied interpretations. Examples may help interpret this requirement.
- Under section 4L Solar and daylight access, the proportion of total apartments in a development which do not have direct sunlight between 9am and 3pm in mid winter has increased from 10% to 15%. This will increase the number of units in a development with poor amenity and is not supported.
- Under section 4R Storage, the proposed storage areas for smaller apartments are less than Council's requirement in Rockdale DCP 2011. This is not supported. Whilst the proposed ADG proposes smaller apartment sizes, it is important that smaller sized apartments maintain sufficient storage spaces.
- The ADG does not provide any commentary or guidance to facilitate developments with a mix of apartment types or sizes. Rockdale City Council would like to see the revised SEPP 65 and ADG to provide controls and guidance over the mix of apartment types and sizes to cater for a variety of demographics and the diversity of contemporary households. This will also require the Department of Planning & Environment to invest more in their understanding of population, immigration and social trends.

PART B – SPECIFIC COMMENTS AFFECTING THE CITY OF ROCKDALE

Car parking

The draft ADG proposes that sites which are located within a 400 metre radius of a railway station do not have to provide car parking within their DAs. This policy proposes to override Council's own DCP parking requirements and it cannot be used as grounds to refuse development consent or modify a development consent.

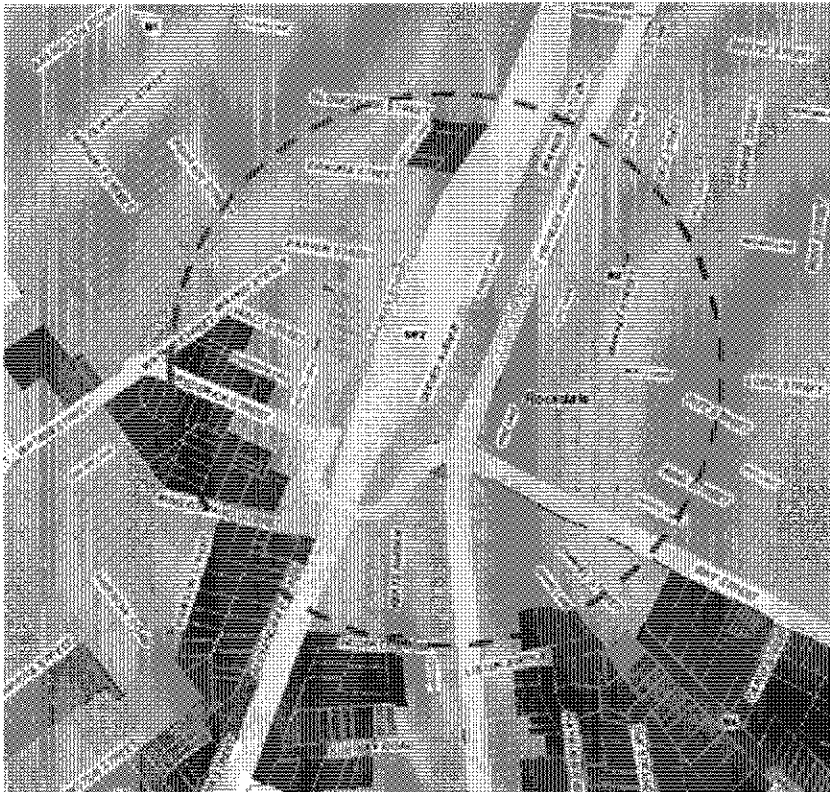
Rockdale City Council **DOES NOT SUPPORT** this proposal. The proposal policy will put significant parking pressure on the surrounding commercial and residential streets.

The major concerns Council has on this proposed provision are:

A blanket policy that ignores local context

The proposed 400 metre radius covers an extensive area at any rail station. In the case of the Rockdale Town Centre (see figure below) the proposed 400 metre covers a wide area and it includes a wide range of land uses.

A blanket 400 metre radius requirement ignores the unique attributes of a local centre, its urban pattern and street hierarchy and character as well as the current parking arrangements made by way of the State government.



The policy will put significant parking pressure on the centre, affecting the traffic flow and impact on the amenity to the local residents and shops.

The proposal infers that all people who choose to reside near train stations have no need for a private vehicle in their lives, which is not true. Share car provisions at a mass scale is not a practical solution.

Council has little to no control over on-street parking near rail stations

The proposed policy encourages Councils to limit on-street resident parking to discourage new residents in developments with no parking spaces to rely on on-street parking. However, under the Roads and Maritime Service's (RMS) *"Delegation to Councils for the Regulation of Traffic"*, some Councils have limited parking management control on any 'public road' or 'road' or 'road related area' which fall within a 1 km radius of their rail stations.

Since the objective of the RMS policy is to encourage commuter parking around rail stations, this will add to existing parking pressures around rail stations. The draft ADG does not appear to have considered this RMS policy.

In addition, the removal of car parking in developments is inconsistent with Transport for NSW's approach to prioritising commuter car parks. Currently, there is no plan by the NSW Government to construct large scale commuter car parks at the heavily patronised rail stations at Wolli Creek and Rockdale.

The Rockdale Town Centre Master Plan highlights the need for a long stay car park in order to alleviate the existing pressures on the Rockdale Town Centre from traffic and parking. Traffic congestion around Wolli Creek station is already a serious issue. The introduction of a blanket policy to remove car parking requirements on developments will exacerbate the problem exponentially, without consideration to the local context.

The DP&E should discuss this proposal with Transport for NSW to form a more integrated approach to traffic and parking strategies in development precincts around train stations, prior to finalising any such policy.

No provision for commercial component in the SEPP

Areas around a railway station usually comprise a mix of commercial, residential and mixed used development. The draft SEPP 65 proposes to apply to ***shop top housing*** and ***mixed use development***, however further consideration needs to be given to commercial uses in relations to car parking.

Council's recommendations are:

- that Council does not support a blanket policy as it will lead to significant loss of private parking and put pressure on local streets and local businesses from a traffic and parking standpoint.
- to withdraw the requirement that it can be used as grounds to refuse development or modification of development consent until an appropriate parking policy is in place that is agreeable between Council and relevant state authorities. Council, as a consent authority, must have input in the decision making process on this matter.
- that funding should be provided to Councils to conduct the appropriate traffic and car parking studies.
- that parking concession is worth considering in some areas in the Rockdale Town Centre, although technical studies are required to inform any changes.
- that the APG provides guidance on car parking for commercial development.

Apartment size

The draft ADG proposes apartment sizes that are smaller than those provided for in Council's Rockdale DCP 2011 and the RFDC. The proposed policy:

- will override Council's DCP apartment size requirements; and
- cannot be used as grounds to refuse development consent or modification of development consent.

Council **does not support** this proposal. Apartment sizes should be greater than those standards required by the Building Code of Australia (BCA) to achieve better amenity. It is also proposed that this be one of three elements that cannot be grounds for a refusal to a DA or modification to a consent.

Council's should be able to maintain their own minimum areas for apartment sizes provided they are not inconsistent with the BCA.

Ceiling Heights

The proposed ceiling heights are generally consistent with Council's DCP, however it does not specify a 3.3m minimum floor to ceiling height for the 1st floor for ***mixed use development*** is Council's DCP requires.

There is a higher floor to ceiling height recommendation for commercial ground level to 4.2m (DCP 3.3m) in a drawing but not under performance criteria.

Council supports the proposed ceiling height in principle. However, because this standard cannot be used as grounds to refuse development consent or modification of development consent, it is important to include the 3.3m for the first floor of a mixed use building in the Performance Criteria table to allow adaptable uses in the future.

The proposal should include ground floor commercial use (4.2m) in the Performance Criteria table to provide higher visual exposure the street in commercial area. The proposal should also clarify the floor to floor height in this section and provide what is the recommendable width of a slab.

Noise and pollution

This proposal applies to properties near major roads, rail lines and beneath flight paths.

- Enclosed balconies to function as "winter gardens" often act as an effective means of reducing noise/air pollution.
- However, this will increase the bulkiness of the building, particularly when they are used for other purposes than that of a balcony use and they are not included in the GFA calculation.
- The Apartment Design Code should specify whether the winter garden should be included in the GFA calculation.

CONCLUSION

The proposed changes in the revised SEPP 65 and supporting ADG are generally supported, with the exception of the car parking and apartment size proposals. However, the potential increase in the complexity of the assessment process remains a concern.