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Josephine Wing  
A/ Director, Planning Frameworks  
Department of Planning & Environment  
GPO Box 39  
SYDNEY NSW 2001

SDW (CIS)

3 November 2014

Dear Sir/Madam,

**RE: Improving apartment design and affordability – State Environmental  
Planning Policy 65 and the Residential Flat Design Code**

I write in relation to the above review by the Department of Planning & Environment. North Sydney Council (Council) appreciates the opportunity to comment on the proposed changes to SEPP 65, of which it has a central role in implementing through the development assessment process.

The present policy has provided a valuable framework through which improvement in the design of residential flat buildings has been significant. Council supports the initiative of SEPP 65 reform, in effort to keep pace with international best practice in standards of residential apartment design and removing unnecessary burdens of the planning process.

Broadly, the proposed amendments to SEPP 65 and the re-branded ‘Apartment Design Guide’ will further improve its implementation, clearing up a number of ambiguities. Notwithstanding, the changes have some significant implications for the application of Council’s recently introduced planning controls, notably the standards within North Sydney DCP 2013 (NSDCP 2013).

Council would like to make a number of key suggestions in an effort to further improve the outcome of the policy. These suggestions are summarised as follows and discussed in further detail below:

**Summary of Council’s recommendations:**

**SEPP 65 and associated legislation**

- The SEPP should have broader application to affordable housing development, notably boarding house type development in light of the new aims of Clause 2;
- Requiring modification applications to be re-assessed via SEPP 65 where a change in designer has occurred is strongly supported;

- Issues with Certifiers making post-determination decisions that substantially reduce design quality continue to occur. Council encourages Planning and Environment to investigate means of mitigating this, to ensure the intended quality of SEPP 65 is carried out in construction.

### **Apartment Design Guide ('the guide')**

- Car parking provisions should discourage over-provision of car parking through a maximum rate, having regard to the apartments' proximity to public transport nodes and corridors, or reference to a maximum rate where this may be regulated in the controls of a consent authority;
- The bicycle parking provisions should provide additional criteria, including minimum rates and rates and bicycle parking typologies, as defined in AS2890.3. The proposed bicycle criteria appear lost among car parking provisions and should be separated for emphasis;
- The guide increases the percentage of units that may obtain no solar access to 15%. This increase is not supported, as it will encourage more substandard apartments. The present 10% is considered sufficient in promoting affordability;
- Apartments of four (4) metres or less in width should be restricted to a small percentage of an overall development, due to restrictive layout options and potential for compromised amenity;
- Mixed use ceiling height provisions should continue to ensure that commercial-residential flexibility is encouraged at first floor level.

### **1. Amendments to SEPP 65**

- **Part 1, Clauses 2 & 4:**

Council supports the addition of affordability related aims and objectives to Clause 2.

It is noted that despite these stated affordability intentions, the policy provides little integration with SEPP (Affordable Rental Housing) 2009. It is fundamental that any initiatives to encourage the provision of affordable housing types be supported with parallel measures to ensure high quality design.

In this respect, it is considered logical that a broader range of affordable housing development types be included in Clause 4 of SEPP 65, notably boarding house type development.

- **Part 1, Clause 6A:**

Council notes the prevailing of the Apartment Design Guide where conflict arises with Council's DCP. As a higher order planning instrument, this approach is logical and will remove ambiguity.

Notwithstanding, Council is concerned with maintaining the legal integrity of its recent DCP 2013, for future application.

The Apartment Design Guide contains a number of standards that conflict with Council's DCP, allowing less restrictive and poorer standards, leading to potentially reduced amenity outcomes. Council is of the view these standards are already sufficiently generous in balancing affordability and amenity objectives within its recent DCP 2013. These conflicts are described in further detail below and relate most significantly to parking, solar access, apartment dimensions and ceiling heights in mixed use development.

Should the Apartment Design Guide proceed in its present form, Council will need to amend NSDCP 2013 to reflect these new standards and to achieve the consistency in planning instruments sought by Planning and Environment.

- **Part 2:**

The consolidation and update of the ten (10) design principles associated with SEPP 65 is supported. The consolidation should have the effect of both removing repetition and updating provisions to align with international best practice in standards of residential apartment design.

- **Part 3:**

Additional operational parameters for the running of SEPP 65 Panels are supported. The inclusion of a 14 day timeframe within which advice should be provided to Council from the Design Review Panel will also assist Council in determining SEPP 65 related development in a timely manner.

- **Part 4:**

Council is supportive of Planning and Environment's commitment to review and update SEPP 65 every five (5) years. This mechanism will be constructive in allowing the policy to keep pace with innovations and best practice in the industry over time.

## **2. Amendments to the Environmental Planning & Assessment Regulation 2000**

The review also entails revision to the EP&A Regulation 2000, in order to accommodate operational changes to the SEPP.

Requiring modification applications to be re-assessed via SEPP 65 where a change in designer has occurred is strongly supported. This mechanism will help resolve one avenue through which applicants commonly pursue incremental reductions in design quality. This will allow further qualitative assessment to ensure the integrity of an original approval can be upheld.

Notwithstanding this, there still exists considerable room for a Certifier to make discretionary decisions that also contribute to substantial reductions in material and finish quality, post determination. Council recommends that further mechanisms to

avoid this be accommodated such as an expanded certification process, similar to that in place for BASIX.

### **3. Draft Apartment Design Guide**

Council welcomes the review of standards within the present RFDC where labeled 'Rules of thumb', which have been frequently difficult to implement where not supported by a similar DCP control. The proposed performance based approach will allow the planning intent of each section is given appropriate weight.

As discussed above, Council is concerned primarily with maintaining the legal integrity of its recently adopted NSDCP 2013, for future application.

The Apartment Design Guide contains a number of standards that conflict with Council's DCP, in some instances allowing less restrictive and poorer standards leading to potentially reduced amenity outcomes. Council is of the view these standards are already sufficiently generous in balancing affordability and amenity objectives within DCP 2013.

Specifically, the following sections of the Apartment Design Guide will introduce conflict with NSDCP 2013 or are crucial attributes of the policy in Council's assessment experience:

- **2F (3) – Building separation**

The building separation measures being proposed to the Apartment Design Guide appear consistent with both the existing Residential Flat Design Code and NSDCP 2013. Based upon no reduction occurring in necessary separation distances, no issue is raised in respect of this section.

Council has successfully negotiated appropriate separation distances through use of the RFDC provisions in the past and considers this component of the SEPP to be of substantial benefit to the achievement of good design.

- **3J – Bicycle and car parking**

#### **Car parking**

It is understood the intent of this section is to remove parking barriers to enhanced affordability. It should be noted that Council's DCP is one of a limited number that stipulate maximum parking rates for residential and mixed use development. Council supports the omission of a minimum parking rate however does not support the omission of a maximum parking rate.

It is Council's experience that the market will determine demand for parking, which can often translate to an excessive amount of parking being provided where no maximum is stipulated.

Such an outcome would serve to undermine the enhanced affordability intention of this policy and the broad goal of discouraging private car use in areas of high density and accessibility.

It is Council's strong position that the maximum rates contained in DCP 2013 should continue to apply. As such, it is recommended this section of the Apartment Design Guide give precedence to any parking maximum that may be identified by the relevant consent authority. It is also noted that Council's adopted *Ecological Sustainable Development Best Practice Project – Transport Chapter* details a relationship between maximum parking rates and public transport nodes and corridors – linking transport with land-use. The apartment design guide should take the recommendations outlined in the ESD Best Practice into strong consideration when detailing bicycle and car parking rates.

### **Bicycle parking**

To make clear that bicycle parking requirements are not to be construed as an afterthought of car parking, it is considered the bicycle parking provisions would be most appropriate as a separate set of criteria that deals solely with promoting this objective.

Council strongly advocates increased viability of bicycle use in and around the local government area, actively seeking to implement this initiative both through its planning controls and the North Sydney Integrated Cycling Strategy, adopted by Council in August 2014.

The Apartment Design Guide presently allows only a single performance criterion as guidance in provision of bicycle parking. It is considered that this guidance could be improved to encourage reasonable parking rates being provided. Council's DCP 2013 identifies detailed minimum parking rates for bicycle parking and associated facilities in residential and mixed use developments. The DCP goes further to provide specific guidance on Class 1, 2 and 3 bicycle parking typologies, adopting AS2890.3.

It is strongly recommended the Apartment Design Guide provide additional guidance, in the form of further objectives, minimums or making reference to any bicycle parking standards of the consent authority. To ensure that bicycle parking is attractive, effective and safe, the need for Class 1, 2 and 3 type bicycle parking facilities should be made clear. Ancillary bicycle infrastructure, such as showers and lockers, should be encouraged.

Such inclusions would have substantial benefit to promoting alternate means of transport in new development to offset the new parking provisions of the Apartment Design Guide. It is noted this initiative would come at little cost to the enhanced affordability objective of this review.

- **4L-1 (5) – Solar access to habitable spaces**

The review proposes increasing the maximum allowable percentage of units obtaining no solar access from 10% under the Residential Flat Design Code to 15% under the Apartment Design Guide. To promote this amount of apartments with substandard amenity is considered excessive.

<b>Performance requirement</b>	<b>Residential Flat Design Code</b>	<b>Apartment Design Guide</b>
<b>Solar access and daylight access (max)</b>	Max 10% of apartments are single aspect & south facing.	Max 15% of apartments may achieve no direct sunlight.

Council has successfully negotiated a number of positive internal amenity and design outcomes through use of the 10% 'rule of thumb' and considers this component of the SEPP to be of substantial benefit when implementing the objectives of the policy. On this basis, Council strongly advocates that percentage not being raised.

It is acknowledged that this measure is proposed in order to increase housing affordability, however this guideline will insinuate to applicants that south facing single aspect apartments are an acceptable design outcome. A larger amount of these apartments is expected likely to eventuate, regardless of whether site constraints necessitate this approach.

- **4N-1 (1) – Apartment sizes**

The minimum apartment size provisions, proposed in a deemed to satisfy manner, will make the provisions of Council's DCP redundant in relation to studio, two (2) bedroom and three (3) bedroom apartment sizes.

<b>Performance requirement</b>	<b>North Sydney DCP 2013</b>	<b>Apartment Design Guide</b>
<b>Apartment size (min)</b>	Studios– 40sqm 1 beds- 50sqm 2 beds- 80sqm 3 beds– 100sqm	Studios– 35sqm 1 beds- 50sqm 2 beds- 70sqm 3 beds– 95sqm

While Council's controls favour a marginally more generous internal area being provided, it is acknowledged this initiative will contribute to enhanced affordability.

To avoid conflict in controls, Council would seek to amend it's DCP should this provision be implemented as a prevailing standard within SEPP 65.

- **4N-2 (1) – Ceiling height and room depth**

Council supports the sliding scale approach to establish a relationship between ceiling height and apartment depth. Apartment depth is a substantial ongoing issue in ensuring an appropriate level of internal amenity to occupants can be achieved, to which this measure is considered to improve.

- **4N-3 (5) – Apartment widths**

The proposed performance criterion of 3.6 metres in width for studio apartments and four (4) metres for two (2) and three (3) bedroom apartments is considered insufficient.

In the experience of Council, a four (4) metre apartment width in general is too restrictive in providing for practical and function apartment layouts.

Performance requirement	North Sydney DCP 2013	Residential Flat Design Code	Apartment Design Guide
<b>Apartment widths (min)</b>	Minimum 4m for all units, to increase with unit depth.	Minimum 4 metres in width where over 15m depth.	Studio & 1 bed– 3.6m; 2 & 3 beds– 4m.

By providing this standard it is understood the Apartment Design Guide is seeking to promote the use of smaller, more affordable accommodation options in spaces that may have previously been redundant spaces, however the provision of this performance requirement is likely to encourage this width as an accepted norm.

It is recommended that apartments with width of four (4) metres or less be restricted to a small percentage of an overall development. Apartments of the minimal width identified should be prevented from inclusion in the 15% single aspect, south-facing apartment quota of Section 4L-1(5), discussed above.

- **4O-1 (1) – Ceiling heights for mixed use development**

Council faces an ongoing challenge in enforcing commercial use minimums to new mixed use development, in order to achieve a balanced concentration of uses despite market fluctuation.

The Apartment Design Guide appears to have removed encouragement for flexible ceiling heights at first floor level within mixed use development. Further, this section will now prevail over the provisions of Council's DCP.

Specifically, the table in Section 4O-1(1) appears to indicate that in mixed use areas, ceiling height should be '*3.3m for ground floor to promote future flexibility of use*'. This provision omits any promotion of inbuilt flexibility for potential future commercial uses above ground floor.

Council does not support this component of the Guide. The measure will directly remove the potential for low cost conversion to additional commercial stock for the life of the building.

Figure 4O.1 appears to contradict the table of Section 4O-1(1), showing increased ceiling height of 3.3 metres at first floor for flexibility of use, as would be the preference of Council.

More clarity is required in this section to promote commercial development in mixed use zones, particularly in light of its present susceptibility to market pressure for residential uses.

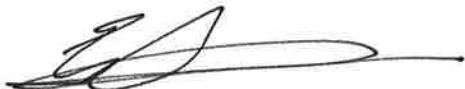
#### 4. Conclusion

Overall, Council supports the initiative of SEPP 65 reform, in effort to keep pace with international best practice in standards of residential apartment design and removing unnecessary burdens of the planning process.

Council would once again like to thank the Department of Planning & Environment for the opportunity to make a submission to the second stage of the SEPP 65 Review and trusts these comments are constructive in further developing the policy.

If you require any further information, please contact Scott Williamson in Council's Strategic Planning Department, on 9936 8100, or at any time via Council's email [council@northsydney.nsw.gov.au](mailto:council@northsydney.nsw.gov.au).

Yours faithfully,

A handwritten signature in black ink, appearing to be 'Emma Booth', with a long horizontal flourish extending to the right.

Emma Booth

**ACTING MANAGER STRATEGIC PLANNING**