
ORDINARY COUNCIL

ORD04

SUBJECT: REVIEW OF STATE ENVIRONMENTAL PLANNING POLICY - DESIGN QUALITY OF RESIDENTIAL FLAT DEVELOPMENT (SEPP 65) & RESIDENTIAL FLAT DESIGN CODE

FROM: Director Planning & Environmental Services

TRIM #: 14/180018

PURPOSE OF REPORT

The purpose of this report is to inform Council of the NSW Government's exhibition of proposed changes to the State Environmental Planning Policy – Design Quality of Residential Flat Development (SEPP 65). The proposed changes include a review of the Residential Flat Design Code, which details 'best practice' design guidelines for residential flat buildings. The proposed changes are aimed at ensuring design quality is maintained while promoting housing delivery in NSW.

The exhibition period ran from 23 September 2014 to 31 October 2014. However, Council obtained written approval from Department of Planning and Environment (DPE) to allow a submission to be forwarded by 27 November 2014.

The proposed changes were presented at a Councillor Workshop on 11 November 2014.

This report seeks Council's endorsement to submit comments to DPE in relation to the proposed amendments to SEPP 65 and the existing Residential Flat Design Code.

BACKGROUND

SEPP 65 was originally introduced in 2002 with the aim to improve design quality of residential flat development through improved urban design, environmental sustainability and higher residential amenity. The first main review of the policy occurred in November 2011 through the issue of a discussion paper (SEPP 65 and Residential Flat Design Code Review November 2011).

This review was exhibited between November 2011 and February 2012. Council made a submission on 24 February 2012 and provided comments on the following key issues:

- Inconsistencies between definition of 'Residential Flat Building' within SEPP and Standard Instrument LEP;
- Support for broadening SEPP 65 controls to include similar development types under Affordable Rental Housing SEPP (i.e. multi dwelling housing);
- Concern regarding lack of strong provisions for open space (i.e. limited scope to achieve quality, useable and innovative communal open space);
- Concern over 'one size fits all' approach for car parking. Strong desire to keep DCP parking controls to limit potential increase in on-street parking;
- Object to any reduction of balcony requirements in the SEPP and Residential Flat Design Code; and
- Protection of privacy of adjoining residents and delivery of solar and acoustic amenity.

MAIN REPORT

When does SEPP 65 apply?

SEPP 65 applies to Residential Flat Buildings that are three (3) or more storeys and include four (4) or more dwellings. The proposed changes are set to include both shop top housing and mixed use development as additional dwelling types applicable to SEPP 65 provisions.

Development Controls

Prevailing SEPP 65 Provisions

It is proposed to insert a new clause (6A) that makes certain sections of the Apartment Design Guide (ADG) prevail over a Council Development Control Plan (DCP). The sections of the ADG that would prevail are:

- Visual privacy;
- Solar and daylight access;
- Common circulation and spaces;
- Apartment layout;
- Ceiling Heights;
- Balconies and private open space;
- Natural Ventilation; and
- Storage.

Other development controls that are not listed above will automatically default back to the applicable Council DCP as the prevailing development standard.

Non-refusable Standards

The proposed changes to SEPP 65 include additional non-refusable standards, or reasons why consent authorities cannot refuse a DA if it complies with the design guide. Controls relating to car parking and ceiling heights are proposed to be added to the existing apartment size control.

Summary of Main Changes

The main changes to SEPP 65 and the Residential Flat Design Code are summarised as follows:

- Inclusion of shop top housing and mixed use development into the application of SEPP 65;
- Key parts of the ADG to prevail over council Development Control Plans;
- Inclusion of car parking and ceiling heights as additional reasons why a DA cannot be refused (apartment size is existing non-refusable standard);
- Increased focus on sustainability outcomes (i.e. residential flat buildings now required to comply with BASIX);
- Reduction of car parking requirements in specific Metropolitan and Regional areas in locations close to public transport (applies only to rail transport); and
- Introduction of and mandatory standards for studio apartments (i.e. minimum size of 35m²).

Key Comments

Council officers have undertaken a review of the proposed changes to SEPP 65 and the Residential Flat Design Code. It is acknowledged that since the introduction of SEPP 65 there has been a marked improvement in the overall design and quality of residential flat buildings throughout NSW. Council officers also recognise the improvements proposed as part of this review and generally support the proposed changes, agreeing that they will lead to better development outcomes in terms of design quality of residential flat buildings.

However, there are some items that require further clarity regarding the proposed changes to SEPP 65 and the Residential Flat Design Guide (or Apartment Design Guide as per proposed changes). A summary of these items are provided below.

Application and Interpretation

Council officers have reservations regarding the application and interpretation of performance criteria in achieving desired development outcomes. Implementing a 'flexible' approach in applying and enforcing development controls using performance-based criteria may remove a level of clarity and consistency achieved through the use of prescriptive standards.

Also, a 'one size fits all' approach is not appropriate for all local government areas, particular those on the urban fringe such as Camden. One such example is the visitor parking requirements (discussed further below).

Car Parking

It is proposed to reduce the amount of car parking required in locations close to public transport (applies only to rail transport). It is important to note that the proposed changes apply only to Metropolitan and Regional areas as specified within the ADG (which does not include the Camden LGA).

For example, there are no minimum carparking requirements where a proposal is located within 400 metres of railway station in these specified areas. Further clarification is required as to what method is proposed to be used to measure the distance (i.e. walking or within set radius).

It is also unclear what parking requirements apply for areas outside of both Metropolitan and Regional areas as specified in the ADG. It is suggested that the Department clearly indicate in the ADG that parking controls outside of Metropolitan and Regional areas default back to the applicable Council DCP.

Council officers would also like clarification as to whether the Camden LGA will be considered a 'Metropolitan' area for the purposes of applying carparking rates at some point in the future. Whilst Camden does not currently have any rail transport options within the LGA, Leppington Station is due to become operational in early 2015. The opening of this facility is likely to stimulate medium density development within close proximity to the station in the future.

Visitor Parking

The ADG standard for visitor carparking (1 per 10 carparking spaces) is different to 1 per 5 spaces as per Camden's Growth Centre Precincts DCP 2011.

Camden LGA has one of the highest car ownership rates in NSW. Analysis of the car ownership survey data undertaken as part of the 2011 Census indicates that 68% of households in Camden Council area had access to two or more motor vehicles, compared to 44% in Greater Sydney.

Private Open Space

Council officers support changes proposed to the minimum balcony size requirements. However, there does not appear to be any minimum size requirements for studio apartments. Council officers would like to have this clarified and be informed as to what minimum standard will be applied to studio apartments.

Storage

Council officers support the changes to facilitate appropriate storage areas, particularly with the flexibility offered in terms of storage locations (i.e. underneath stairs, on balconies, etc.). However, there is some uncertainty in terms of whether storage areas on balconies will reduce the minimum size requirements as per the ADG. This matter requires further clarification as to how it will be applied.

Universal Design

Council officers support changes to the 'universal design' of Residential Flat Buildings, which is specifically designed to allow for the future adaptation of a dwelling to accommodate an occupant's changing needs. The ADG sets a benchmark of 20% of dwellings to incorporate universal design principles.

Resourcing

Council officers have concerns with regards to the future potential resourcing impacts involved with the implementation of the proposed changes to SEPP 65. For example, there could be an increasing need for professional involvement (i.e. engagement of registered architects) at the development assessment phase due to the highly technical nature of the ADG.

FINANCIAL IMPLICATIONS

There are no direct financial implications to Council as a result of this report at this time. However, there could be resourcing constraints in the future when higher density development is proposed in Camden (i.e. Leppington).

CONCLUSION

The DPE has released for discussion a number of changes to the State Planning Environment Policy – Design Quality of Residential Flat Development (SEPP 65) and Residential Flat Design Code (proposed to be renamed to Apartment Design Guide). The proposed changes are aimed at ensuring design quality is maintained while promoting housing delivery in NSW.

Whilst Council is supportive in principle of the proposed changes, additional consideration of some of the proposed changes is required to ensure consistency around the technical application of SEPP 65 and relationship to other associated planning controls (i.e. Council DCPs).

RECOMMENDED

That Council endorse the contents of this report to be forwarded as a submission to the Department of Planning and Environment.



Camden Council

Minutes

Ordinary Council Meeting
25 November 2014

Camden Civic Centre
Oxley Street
Camden



ORDINARY COUNCIL

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PRESENT

Cr Symkowiak (Mayor/Chairperson), Cr Bligh, Cr Campbell, Cr Copeland, Cr Dewbery, Cr Fedeli, Cr Fischer, Cr Sidgreaves, Cr Warren.

STAFF

General Manager, Acting Director Customer & Corporate Services, Director Planning & Environmental Services, Director Community Infrastructure, Manager Finance & Corporate Planning, Acting Manager Employee Service and Community Engagement, Acting Manager Technology Solutions, Manager Community Services, Acting Manager Customer Service & Governance, Acting Manager Development, Manager Environment & Health, Manager Strategic Planning, Manager Infrastructure Services, Manager Capital Works, Manager Recreation & Sustainability, Manager Infrastructure Planning, Acting Senior Governance Officer, Governance Administration Officer.

APOLOGIES

There was no leave of absence to be granted.

DECLARATIONS OF INTEREST

Councillor Campbell declared a pecuniary interest in ORD01 as she is an owner of a business within Argyle Street, Camden.

Resolution: Moved Councillor Fedeli, Seconded Councillor Dewbery, that the declaration be noted.

ORD248/14 THE MOTION ON BEING PUT WAS **CARRIED**

PUBLIC ADDRESSES

Mr Mario Carbone addressed Council in relation to ORD02 Subdivision to Create 4 Residential Lots and Associated Site Works at 25 Elizabeth Macarthur Avenue, Camden South.

Resolution: Moved Councillor Copeland, Seconded Councillor Bligh, that the public addresses be noted.

ORD249/14 THE MOTION ON BEING PUT WAS **CARRIED**

CONFIRMATION OF MINUTES

Resolution: Moved Councillor Dewbery, Seconded Councillor Copeland, that the Minutes of the Ordinary Council Meeting held 11 November 2014, copies of which have been circulated, be confirmed and adopted.

ORD250/14 THE MOTION ON BEING PUT WAS **CARRIED**

ORD01 Camden Town Centre Infrastructure Improvements - Community Consultation Update

Resolution: Moved Councillor Sidgreaves, Seconded Councillor Copeland, that Council:

- i. endorse the key initiatives as recommended (Items 1 - 5 of this report) including:
 - traffic lights at the intersection of Argyle Street and Oxley Street and pedestrian lights on Argyle Street, between John Street and Hill Street;
 - a decked car park located in Oxley Street (Site 2a);
 - increased footpath width of one metre along Argyle Street;
 - footpath paving material as detailed in this report; and
 - upgraded street furniture as detailed in this report;
- ii. endorse the proposed staging plan for the completion of the works noted as Stage 1 (comprising Options 1 and 2), as shown on Attachment 3;
- iii. transfer \$1.0M from the Asset Renewal Reserve and \$746K from the Capital Works Reserve being the balance of funds required for Stage 1 of the Camden Town Centre works;
- iv. transfer a further \$200k from the Capital Works Reserve to fund the design phase, with the \$200K to be reimbursed from Section 94 upon amendment of the Camden Contributions Plan.
- v. progress further investigation and design of Stage 1 (comprising Options 1 and 2) of the Argyle Street improvements with delivery of the works as indicated in the report;
- vi. progress further investigation and design of the decked car park in Oxley Street (Site 2a);
- vii. undertake an amendment to the Camden Contributions Plan 2011; and
- viii. write and thank those who made submissions, and advise them of Council's decision.

ORD251/14 THE MOTION ON BEING PUT WAS **CARRIED**

(Councillors Sidgreaves, Copeland, Symkowiak, Fischer, Dewbery and Fedeli voted in favour of the Motion. Councillors Warren, Campbell and Bligh voted against the Motion.)

ORD02 Subdivision to Create 4 Residential Lots and Associated Site Works at 25 Elizabeth Macarthur Avenue, Camden South

Resolution: Moved Councillor Copeland, Seconded Councillor Bligh, that Council approve DA 487/2014 for a subdivision to create 4 residential lots and associated site works at 25 Elizabeth Macarthur Avenue, Camden South subject to the conditions listed above.

ORD252/14 THE MOTION ON BEING PUT WAS **LOST**

(Councillors Copeland and Bligh voted in favour of the Motion. Councillors Sidgreaves, Warren, Symkowiak, Fischer, Dewbery, Campbell and Fedeli voted against the Motion.)

MOTION

Resolution: Moved Councillor Fischer, Seconded Councillor Warren, that Council refuse the application on the following grounds:

- i. non-compliance with Council's DCP in relation to the lot depth and setbacks;
- ii. not keeping with the character of the area due to the proposed lot size;
- iii. the site is the gateway to two major heritage items, namely Camden Park and Belgenny Farm; and
- iv. the proposed development is not part of the Growth Centres.

ORD253/14 THE MOTION ON BEING PUT WAS **CARRIED**

(Councillors Sidgreaves, Copeland, Warren, Symkowiak, Fischer, Dewbery, Campbell, Fedeli and Bligh voted in favour of the Motion. No Councillors against for the Motion.)

ORD03 Section 96 Modification Application – Modification to Amend the Type of Waste to be Imported on to the Site at 769 The Northern Road, Bringelly

Resolution: Moved Councillor Dewbery, Seconded Councillor Sidgreaves, that Council approve Section 96(1A) Modification Application 1726(2)/2000 for the modification of a previously approved worm farm at 769 The Northern Road, Bringelly subject to the modified conditions listed above.

ORD254/14 THE MOTION ON BEING PUT WAS **CARRIED**

(Councillors Sidgreaves, Copeland, Warren, Symkowiak, Fischer, Dewbery, Campbell, Fedeli and Bligh voted in favour of the Motion. No Councillors against for the Motion.)

ORD04 Review of State Environmental Planning Policy - Design Quality of Residential Flat Development (SEPP 65) & Residential Flat Design Code

Resolution: Moved Councillor Fedeli, Seconded Councillor Dewbery, that Council endorse the contents of this report to be forwarded as a submission to the Department of Planning and Environment.

ORD255/14 THE MOTION ON BEING PUT WAS **CARRIED**

(Councillors Sidgreaves, Copeland, Warren, Symkowiak, Fischer, Dewbery, Campbell, Fedeli and Bligh voted in favour of the Motion. No Councillors against for the Motion.)

ORD05 Cornish Spring Farm VPA

Resolution: Moved Councillor Sidgreaves, Seconded Councillor Copeland, that Council:

- i. support the draft VPA for the Cornish Spring Farm development;
- ii. proceed to public exhibition of the draft VPA in accordance with the provisions of the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment Regulation 2000*, for an extended period of six (6) weeks due to the Christmas holidays;
- iii. execute the VPA using Council's Power of Attorney granted on 27 August 2013, Minute Number ORD215/13, where no objections are received or where objections are received but are subsequently withdrawn as a result of being resolved; and
- iv. receive a further report where objections cannot be resolved.

ORD256/14 THE MOTION ON BEING PUT WAS **CARRIED**

(Councillors Sidgreaves, Copeland, Warren, Symkowiak, Fischer, Dewbery, Campbell, Fedeli and Bligh voted in favour of the Motion. No Councillors against for the Motion.)

ORD06 Use of General Power of Attorney

Resolution: Moved Councillor Fedeli, Seconded Councillor Dewbery, that Council:

- i. revoke the appointment of Mr Steven Scott Kludass to act as an attorney on Council's behalf under the terms of its Power of Attorney granted on 27 August 2013, Minute Number ORD215/1, in accordance with the Revocation of Appointment attached to this report;

- ii. authorise the Mayor and General Manager to execute the Revocation of Power of Attorney under the Seal of Council; and
- iii. agrees that a memorandum reporting on the signing of documents under Council's Power of Attorney will be provided to Councillors at intervals of six (6) months.

ORD257/14 THE MOTION ON BEING PUT WAS **CARRIED**

ORD07 NSW Local Infrastructure Renewal Scheme (Round Three) Funding Agreement

Resolution: Moved Councillor Fischer, Seconded Councillor Dewbery, that Council execute the funding agreement between Council and Office of Local Government via Council's Power of Attorney, granted on 27 August 2013, Minute Number ORD215/13.

ORD258/14 THE MOTION ON BEING PUT WAS **CARRIED**

ORD08 September Review of the 2014/15 Operational Plan (Budget)

Resolution: Moved Councillor Sidgreaves, Seconded Councillor Copeland, that Council:

- i. approve the necessary budget adjustments as identified in the categories of 'Proposed Variations', 'Contra Variations' and 'Expenditure Revotes' of this report.
- ii. approve the transfer of the projected surplus for 2014/15 of \$1,308,783 as follows; and

BUDGET SURPLUS ALLOCATION		
Budget Surplus Available for Allocation		\$1,308,783
Central Administration Building Reserve – Transfer to Reserve	\$600,000	
Working Funds Reserve - Transfer to Reserve	\$500,000	
Capital Works Reserve - Transfer to Reserve	\$158,783	
Work Health & Safety Reserve – Transfer to Reserve	\$50,000	
Total - Allocation of Budget Surplus		\$1,308,783
Budget Surplus Balance After Allocation		\$0

- iii. approve the creation of a Work Health and Safety reserve and that any annual savings realised within the WHS budget be used to top up the reserve to a maximum reserve balance of \$50,000.

ORD259/14 THE MOTION ON BEING PUT WAS **CARRIED**

ORD09 Small Business Friendly Councils Program - On-Time Payment Policy

Resolution: Moved Councillor Fischer, Seconded Councillor Sidgreaves, that Council:

- i. endorse the draft On-Time Payment Policy for the purpose of public exhibition as part of the Small Business Friendly Program;
- ii. be provided with a further report detailing the results of the 6 week exhibition period; and
- iii. write to Ms Robyn Hobbs OAM, NSW Small Business Commissioner and Mr Stephen Cartwright, Chief Executive Officer, NSW Business Chamber advising that Council has adopted for exhibition an on-time payment policy for small business.

ORD260/14 THE MOTION ON BEING PUT WAS **CARRIED**

ORD10 Investment Monies - October 2014

Resolution: Moved Councillor Fedeli, Seconded Councillor Dewbery, that Council:

- i. note that the Principal Accounting Officer has certified that all investments held by Council have been made in accordance with the *Local Government Act*, Regulations, and Council's Investment Policy;
- ii. note the list of investments for October 2014; and
- iii. note the weighted average interest rate return of 3.95% p.a. for the month of October 2014.

ORD261/14 THE MOTION ON BEING PUT WAS **CARRIED**

ORD11 2013/2014 Grants Allocated Under the Support for Special Achievers Program

Resolution: Moved Councillor Dewbery, Seconded Councillor Fischer, that Council receive and note the report.

ORD262/14 THE MOTION ON BEING PUT WAS **CARRIED**

ORD12 2013/2014 Grants Allocated Under the Donations for Charitable Purposes Program

Resolution: Moved Councillor Sidgreaves, Seconded Councillor Fedeli, that Council receive and note the report.

ORD263/14 THE MOTION ON BEING PUT WAS **CARRIED**

ORD13 Retail Supply of Electricity for Large Council Facilities and for Street Lighting

Resolution: Moved Councillor Fedeli, Seconded Councillor Dewbery, that Council note the information contained in the report.

ORD264/14 THE MOTION ON BEING PUT WAS **CARRIED**

ORD14 Tender T004/2015 Design of Mount Annan Leisure Centre Stage 2

Resolution: Moved Councillor Fischer, Seconded Councillor Fedeli, that Council:

- i. endorse the proposed project scope of alterations and additions at Mount Annan Leisure Centre as outlined in the body of this report;
- ii. authorise additional funding of \$1,096,000 and \$3,864,000 in the 2015/16 and 2016/17 Capital Works Delivery Program respectively, from uncommitted Section 94 funds for Stage 2 of Mount Annan Leisure Centre, bringing the total project budget to \$13,650,000;
- iii. accept the tender provided by Facility Design Group Pty Ltd for the lump sum of \$510,450 (excl. GST); and
- iv. authorise the relevant documentation to be completed under the Council's Power of Attorney, granted on the 27 August 2013, Minute Number ORD215/13.

ORD265/14 THE MOTION ON BEING PUT WAS **CARRIED**

THE MEETING CLOSED AT 8.20PM