

17 November 2014

Ms Elizabeth Kinkade
A/Executive Director, Housing Delivery
Department of Planning and Environment
GPO Box 39
Sydney NSW 2001

By email: elizabeth.kinkade@planning.nsw.gov.au

Dear Ms Kinkade,

RE: Review – 2014 Draft Apartment Design Guide and Amending SEPP65

Thank you for providing the Property Council of Australia with the opportunity to comment on the 2014 Draft Apartment Design Guide and the amending SEPP65.

The Property Council is the nation's peak representative of the property industry. Our 2,200 members are Australia's major investors, developers and owners of commercial, residential, retail, industrial, retirement living and hotel assets worth over \$320 billion.

We have been long advocating for the review of the Residential Flat Design Code and SEPP65, and welcome the new Draft Apartment Design Guide package. The intention of the original Residential Flat Design Code (RFDC) and SEPP65 was to set a base for good design, and this has served merit.

We strongly support the new direction set in the Guide and welcome the introduction of a performance based approach. Changes in terminology from 'rules of thumb' to performance criteria reflect this positive direction.

However, we are concerned by areas of over regulation with unintended consequences in the Guide. The purpose of the Guide is that of an advisory document that is flexible and not to be applied as law. Yet, the risk of implementation of the Guide as a checklist is real.

The number of criteria significantly outweighs alternative solutions, without a holistic approach to amenity considered. This means that councils will continue to employ SEPP65 above and beyond the spirit in which it is intended.

As a result of building innovation over the past few years, industry has employed new standards that render the inherited prescription in the Guide from RFDC obsolete.

To keep pace with market changes and also allow for diverse product to be delivered, affordability is a key driver for all demographics. We support the savings that will be made through the proposed changes to car parking, and similar effective measures can be found in other sections.


Design is certified by architects with numerous and detailed consulting studies informing development applications, which are reviewed by design review panels and design excellence competitions. The level of protection in place in the planning system means that many of the prescriptive criteria in the Guide can – and should – be stripped.

We believe there is significant opportunity to introduce a BASIX-style system for apartment design — where proponents can trade solutions and demonstrate satisfaction in meeting principles to generate a better outcome. We believe that establishing a BASIX-type program should be a key priority over the next five years.

Please find attached our submission and we urge full adoption of our recommendations made. Once again, we welcome the premise of this review and look forward to working with the Government to drive a new system that is responsive to innovation.

If you would like to discuss this submission further, please contact me on (02) 9033 1906 or gbyres@propertyoz.com.au, or Amelia Jalland (Senior Policy Advisor) on (02) 9033 1951 or ajalland@propertyoz.com.au.

Yours sincerely,



Glenn Byres
NSW Executive Director
Property Council of Australia

PROPERTY COUNCIL OF AUSTRALIA

NSW DIVISION

2014 DRAFT APARTMENT DESIGN GUIDE & AMENDING SEPP65

SUBMISSION TO THE NSW DEPARTMENT OF PLANNING AND INFRASTRUCTURE

Monday 17 November 2014

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PART ONE: IMPACT

Performance criteria

The new draft Apartment Design Guide and amending SEPP65 seek to provide a performance based framework for new builds. The Property Council supports the intention to reform red-tape, reduce compliance and incentivise good urban environments.

In principle, the merit behind regulating apartment design is well understood. Over the years, it has assisted with communicating the importance of quality built form design.

The Guide presents a new lens for which apartment design is to be considered and the language adopted is a contemporary approach. We support the use of clear wording and visual diagrams to assist with the understanding of design metrics. However, we wish to see further flexibility be built in as:

- the majority of acceptable solutions are the same as those existing in the preceding Residential Flat Design Code, for example: solar access, cross ventilation and building separation
- greater flexibility is required as core constraints reduces compliance capacity for buildings nine storeys and above
- the number of criteria significantly outweighs alternative solutions and options, without a holistic approach to amenity considered.

For example, three percent of the criteria proposed are alternative (a total of nine) compared to 97 per cent being acceptable (at 311). For the most part, many of the 'acceptable and alternative solutions' pre-define design leading to undesirable results — as highlighted throughout this submission.

In other words, the performance criteria read as strict compliance requirements as the base standards, with alternative options only available for extenuating circumstances. There is little flexibility for individual site articulation and modulation constraints or for design excellence balanced with affordability. This means that councils will continue to employ SEPP65 above and beyond the spirit in which it is intended.

As a result, the proposed performance criteria perversely stymies preferred building outcomes to meet the Guide's objectives.

To inject much needed flexibility, we recommend that each section of the Guide include a reference to the objective on page 11 which states 'applicants can use either use the listed acceptable solutions, the alternative solution (where available) or put forward different design feature or method that achieves the relevant criteria'.

We also recommend that this is also reflected in the SEPP (as per our recommendations outlined in our section on statutory weighting).

We believe that the Guide and the SEPP should focus predominantly on the principles of good design innovation with flexibility to demonstrate satisfaction in achieving overall amenity. This will enable innovation to continue, with the Guide and SEPP remaining relevant over the coming years.

Recommendations:

- Emphasise in the Guide that 'applicants can either use the listed acceptable solution, alternative solution (where available) or put forward a different design feature or method that achieves the relevant criteria'
- Increase flexibility for design innovation by placing 'or' against each performance criteria
- Remove duplicative requirements in different sections to ensure clarity should alternate solutions be used
- Present acceptable and alternative solutions in the same format for clearer understanding and to reinforce that they are equal options

Guidance for councils - interpretation

As discussed above, the language and direction of package is welcomed. The basis of framework is sound, however, the Guide must be reinforced as being guidance only.

The Guide's introduction (page 10) states its intention to provide consistent planning and design standards for residential apartments extending across context, site and individual building scale. We believe that this wording would permit councils to apply the Guide as a checklist.

This principle runs contrary to the overall objective of the Guide being a performance based framework. In practice, the majority of residential apartment development to date occurs in brownfield areas and the size and scale differs depending on local context. This means that development can be compatible with local character but not consistent due to new density being provided.

We recommend the Guide support 'compatibility' instead of consistency with planning and design standards for residential apartments. It is reasonable to be compatible with the character of an area especially to deliver diverse housing stock.

Part 2 of the Guide provides advice to councils on the preparation of local development controls and we recommend it be reviewed, as it contains outdated instructions.

The standard LEP template sets the density and scale of development, and building envelopes are usually developed as part of concept plan or stage one development applications. Envelopes that are included as part of an application are informed by an indicative design scheme which addresses residential amenity and scale.

As a result, we believe the requirement for a building envelope to be at least 25 to 30 percent greater than the achievable floor space for building design and articulation should be removed. Good articulation can be achieved through a number of ways including setbacks and façade design incorporating a range of features.

Building envelopes in stage one development applications also include desirable balcony design that is restricted by the Guide's performance criteria, and urge the recommendations made in this submission to facilitate improved balcony design are adopted.

Recommendation:

- Replace consistency with compatibility where land uses, height and scale differ

Typology affected

The Guide clearly identifies the building types of residential development to which it applies, but confusion exists as to which are exempt — especially for student accommodation and boarding houses.

To mitigate risk of misinterpretation, we recommend text be included that clearly states which typology is excluded.

We support the provision of housing that meets both present and future needs. Our increasing population means design solutions must consider ageing in place.

The inclusion of new design minimums for universal housing may overlap with local council requirements, and we recommend any duplicative local controls are removed. (See our recommendations under statutory weighting.)

We also welcome the Guide's support towards adaptive reuse. Change of use of existing buildings drives a number of benefits such as:

- a lower impact on the environment
- an affordable solution to upgrading old buildings
- promote sustainability
- promote conservation as these project often apply to heritage items.

We believe that this should be reinforced by increasing flexibility via the SEPP. (See our section on statutory weighting for our recommendations.)

Recommendation:

- State the building typology to which the Guide does not apply

PART TWO: PERFORMANCE CRITERIA AND DESIGN

Building measurements

Depth

Limiting building depth to 18 metres including balconies would lead to poor amenity (i.e. small living rooms) and is ultimately unviable.

The proposed limit would:

- Restrict existing apartment design practice by reducing the ability to plan for a unit either side of a corridor
- Reduce the number of lots that could be built despite the capacity available and impact housing supply
- Drive a perverse outcome where more buildings would be needed per lot to compensate for lower apartment numbers — but for the most part this would render smaller sites unfeasible for development and reduce housing diversity
- Affect the ability to meet ventilation requirements (see our section on ventilation for more detail).

The proposed building depth measurement is too restrictive and we recommend it be removed.

Separation

The proposed building separation requirements run contrary to current industry practices.

We support the sharing of building separation by neighbouring sites. However, building separation for six storeys and above should be 20 metres instead of 24 metres between habitable rooms/balconies. This metric is world-wide practice and a common standard that should be adopted in the Guide.

We are also concerned by the impact of residential requirements for distances on mixed use development. The proposed building separation metrics could risk sterilizing commercial assets in mixed use.

Deep soil zones

The proposed metrics for deep soil areas are impractical — especially for smaller sites. Under the Residential Flat Design Code, deep soil accounts for 6.25 percent of a site, and this is already challenging.

Proposing 20 percent of a site area of 1500 square metres and above be reserved for deep soil is unachievable. This requirement would render sites unfeasible for housing development.

Deep soil is not a one size fits all approach. For example, the proposed metrics cannot be met in dense areas where sites are constrained by the built environment (especially where it is deemed more important by councils to create proper street boundaries).

From industry's experience, ten percent can be reasonably achieved on sites over 1500 square metres in infill areas. As a result, the title for Table 1 should be renamed as 'deep soil zone requirements (where reasonable)' — or to that effect.

The context of the site influences the ability to cater for deep soil, and a holistic approach toward deep soil, landscaping, and open space is needed. As a result, we recommend deep soil be allowed in building setbacks and as reinstated soil on top of basement car parking structures.

Public domain interface

In many cases, councils require the height of solid fences and walls to be above one metre – particularly for sites subject to flooding concerns. As a result, we recommend this limit be removed.

Recommendations:

Depth

- Remove building depth metrics, and instead rely on apartment depth requirements

Separation

- Make the minimums for building separation approximate, and change separation metrics to 20 metres between habitable rooms/balconies for buildings nine storeys and above

Deep soil

- Increase flexibility for deep soil by stating to the following effect for Table 1 'deep soil requirements (where reasonable)'
- Allow deep soil in building setbacks from streets, and as reinstated soil on top of basement car parking structures

Public domain interface

- Remove the one metre limit for the height of solid fences or walls

Car parking

We welcome the changes proposed to car parking and believe greater reinforcement of their application across metro Sydney is needed.

We recommend the proposed car parking criteria is applicable to all inner and middle ring suburbs in the Sydney metropolitan region (including those on the North Shore).

We would also like to recommend that sites located within 400 metres of a metro bus stop in addition to rail stations be included in Table 2.

We agree that car parking requirements for those areas up to 800 metres should comply at minimum with the RMS code. As part of this, the RMS code must be made readily available or included in the Guide.

We support the inclusion of above ground parking as an option, and appropriate design needs to be properly acknowledged in the Guide. We believe that above ground car parking should be supported in general and not only where it is 'unavoidable'.

Basement/underground car parking is costly to construct and this needs to be taken into consideration for housing diversity and affordability.

Recommendations:

- Include high frequency bus stops in the provision for car parking
- Ensure councils in the north shore are included as part of the metropolitan region to which car parking minimums apply
- Allow for building heights to be negotiated where significant loss of floor space is incurred where above ground car parking is provided
- Clearly state and communicate RMS requirements
- Remove the premise for local councils:
 - Where less car parking is provided, limit on street resident parking
 - Only support above ground car parking where it is unavoidable

Apartment layout

Minimum apartment sizes

The minimum apartment sizes proposed are in line with common practice, but good design world-wide demonstrates that alternative dimensions can work well without compromising amenity.

We support the principle that applications cannot be rejected on the basis of meeting the minimums set in the Guide. However, councils frequently set minimums above and beyond what is required. Local development controls are often enforced as prescriptive rules at the expense of alternative innovative design and consumer preference.

To avoid this practice continuing and to allow for amenity innovation, we advise that applications proposing alternative solutions cannot be rejected. We recommend this premise is incorporated in clause 30 of the SEPP. (See our section on statutory weighting for the full recommendation.)

Apartment depth

The proposed ratio for ceiling height to room depth imposes unreasonable standards against industry practice.

Currently, it is common for rooms 8 metres deep to have a 2.7 metre high ceiling. Increasing minimum ceiling heights to 3 metres for rooms 8 metres deep is beyond what is needed. The proposed sliding scale would significantly undermine affordability.

The proposed metrics would drive kitchens to be designed as single sided instead of being open planned with island benches. For this design to be achieved, room depths need to be closer to 9 metres with a 2.7 metre ceiling height. Whereas the proposed scale would force ceiling height to be at 3.6 metres, rendering this design as cost prohibitive due to the loss of floor space for additional apartments.

Therefore, we strongly urge the sliding scale be removed, as well as the proposed criteria for open plan layouts where the back of the kitchen is a maximum 8 metres from a window.

Room width

The stipulated minimum widths of 3 metres for bedrooms and 4 metres for living rooms overshoot current market standards of 2.7 metres wide for bedrooms and 3.5 metres wide for living rooms. The proposed dimensions put smaller units at risk, and ultimately impact the delivery of affordable housing and diversity.

The minimum room widths proposed run against standard design practice, and we strongly recommend they be removed.

Furthermore, the measurements outlined on the indicative layout diagrams provided conflict with overall apartment sizes. We recommend the removal of these metrics as they would lead to incorrect interpretation by councils.

The requirement for kitchens in corner units to be located next to external walls with windows is a poor design outcome. These windows normally face the best view and design orientation should be responsive to this consideration. As a result, we recommend the removal of this criterion.

Ceiling height

The room depth scale indicates an 8 metre deep room would require a 3.2 metre ceiling height. As discussed earlier in this submission, this requirement is not practical. We recommend the proposed ceiling height to room depth sliding scale is removed.

It is contrary to standard design practice and would produce adverse apartment layouts. Councils can still impose standards above the proposed minimum metrics, and this could result in unachievable local planning controls being developed.

Consumer preference drives apartment design, and principles in the Guide should take into account occupant amenity.

Additionally, the restriction on allowing bulkheads in kitchens, living rooms and bedrooms on the premise they reduce ceiling height is a flawed approach, given these are frequently unavoidable. Cross-over units normally require bulkheads as does a situation where unit layouts change on each floor.

Bulkheads only take up a small proportion of the floor space. We recommend they are permitted as a design option as well as excluded from ceiling height calculations.

Balcony design

We welcome the inclusion of enclosed and Juliette balconies as a permitted design option. However, we are concerned by the impact of the standard definition of gross floor area in NSW on these types of balconies. There is a real risk they could be considered as an extension of indoor space.

Although the State's definition of gross floor area (GFA) does not include balconies, it needs to be made clear in the Guide that enclosed and Juliette balconies should be excluded from apartment size calculations.

An additional unintended issue affecting balcony design is the impact of solar access on apartment orientation.

Apartments facing south and west would not meet sunlight requirements for living rooms, and as a result, balconies are located adjacent to instead of in front of living rooms.

This is a perverse outcome given consumer preference is for the main balcony to be located in this way to maximise common living space and alfresco access. Consequently, we advise that 'living rooms or private open spaces' have solar access — in lieu of both as proposed. (See solar access below for more detail.)

Recommendations:

Apartment depth

- Emphasise in the Guide that 'indicative layout diagrams do not limit planning solutions to only these plans'
- Stipulate a concession for deeper apartments where side windows exist as corner apartments should not be subject to room depth where access to light is achieved from side windows

Room width

- Remove performance criteria and metrics for room widths

Ceiling height

- Remove the sliding scale of ceiling height to room width ratios
- Exclude bulkheads from ceiling height calculations

Balconies

- Exclude all balconies — including enclosed and Juliette balconies — from the calculation of floor space (GFA)
- Improve balcony design options by allowing solar access in 'living rooms or private open spaces', instead of both

Solar access

From industry's experience, meeting solar access requirements is too challenging and at odds with market preference and amenity.

Building orientations and envelopes are determined at the master-plan stage to set floor space ratios. However, in some instances, the ratios cannot be realised due to inflexible solar access requirements.

For example, site constraints and orientation of views will determine the best design for a building but often solar access limits design options for west and south facing apartments. This undermines the ability for buildings to be orientated towards the best views.

As discussed earlier in this submission, the proposed criteria would result in the main balcony being located adjacent to the living room with the glazing line moved to allow for sunlight. This is a perverse and sub-optimal result.

For example, buildings below 25 metres (exempt from more complex fire safety requirements for those above this height) require spandrels or horizontal projections to prevent the spread of fire vertically. However to meet the proposed solar access criteria, balconies are forced to the side of the living room with internal views of spandrels instead of being in front with views outwards.

For the majority of inhabitants, solar access is most enjoyed before and after work hours, which is outside the proposed hours of 9.00am – 3.00pm for three hours of direct sunlight.

We strongly urge the time frame be amended to 8.00am – 4.00pm with two hours of direct sunlight to private open space or living areas. Occupants are more likely to be present in their homes to enjoy the sunlight and this would allow for more flexible balcony design options.

Solar access should ultimately be measured based on a few weeks either side of the equinox in lieu of the worst day for sunlight in the calendar year (21 June).

Also, the new requirement that 50 percent of communal open space receive two hours of solar access will force open space to be located on the northern side of a site impacting building orientation. This measure is overly prescriptive as it would limit design orientation.

Recommendations:

- Expand solar access to 8.00am to 4.00pm, with two hours of direct sunlight into the living room or private open space
- Remove the requirement that single aspect apartments must have a northerly or easterly aspect, and prevent the minimization of south and west-facing apartments
- Remove the requirement that 50 percent of communal open space should receive solar access

Common circulation

We do not agree with the proposed criteria to restrict the number of apartments off a circulation core on a single level to no more than eight units.

This restriction undermines site feasibility and is also unresponsive to individual site variations in height, access to views and design concepts. Furthermore, normally more than eight apartments per floor can be accommodated.

Capping the number of apartments to below industry standards would result in:

- Site sterilisation as development costs would be prohibitive for lower apartment numbers
- Increased building heights to deliver apartment volume required — but this would require greater lift and fire stair capacity, ultimately impacting building costs and housing affordability
- Undermining medium density design opportunities (i.e. delivering lower heights due to more apartments per floor).

Ultimately, the need to mandate the number of apartments per floor is redundant given building envelope requirements set the size and scale of development, and they are also curtailed by site constraints and fire and safety measures.

Recommendation:

- Remove the restriction of the number of apartments on a single level off a circulation core

Acoustic privacy

The proposed performance criteria for acoustic privacy are too onerous and will lead to non-compliance.

Requiring window and door openings to be orientated away from noise source — including driveways — cannot always be achieved. This is particularly for sites next to roads, rail corridors, or in dense urban areas with site constraints.

Instead, we recommend the performance criteria be stripped back replaced with prevailing standards stipulated in the Building Code of Australia (BCA).

Recommendation:

- Remove all performance criteria for acoustic privacy and refer to the BCA as the prevailing instrument

Ventilation

The suggested performance criteria for natural and cross ventilation would drive sub-optimal apartment design.

The requirement for a minimum of 60 percent of apartments to be cross ventilated is too challenging to achieve in practice where it is not viable to have multiple cores.

This criterion can only be achieved where there is more than one core in order to deliver open planned apartments with large windows. For single core apartment buildings, this control would perversely result in slot windows and snorkel apartments being default design.

The proposed building depth metrics (as raised at the beginning of this submission) are too restrictive for ventilation to be suitably achieved and we suggest the metrics be removed. From industry's experience, building depths are usually from 20 metres between external walls, or 25 metres to balcony edges.

Cross ventilation is designed via sophisticated building engineering and the proposed criteria are excessive compliance. The floor plan diagrammatic examples are only suitable for buildings below 25 metres.

The example is also incompatible with other performance criteria in the Guide. For example, an eight apartment per floor building using the proposed arrangement would only achieve 50 per cent cross ventilation.

Furthermore, proposing dual aspect windows to be placed on both sides of a building is unfeasible — especially if doors in between rooms are smaller than the window areas. In particular, bedrooms to one aspect would have smaller windows than living areas to balconies on the alternate aspect.

The linkages between the proposed ventilation and apartment dimensions would result in the following unintended consequences:

- Without separating balconies from GFA calculations, living rooms will be squashed in order to meet ventilation criteria leading to poor design at the cost of amenity
- Ideally, laundries and bathrooms (i.e. wet rooms) should be located away from the balcony so that living rooms, kitchens and bedrooms can be located alongside windows for views, solar access and ventilation — however, this design is difficult to achieve given the high ceiling heights proposed and restrictions on placement of walls to meet cross ventilation criteria
- For high rise apartments, a central corridor within the apartment is needed for structural integrity, and as a result, apartment width needs to be expanded to meet airflow requirements
- Although mechanical ventilation and air shafts for high rise apartments can be considered, in some instances, councils do not accept these options as design solutions.

The proposed criteria for ventilation are too limiting and conflicting and we request they be revised accordingly. We recommend the number of apartments that must be cross ventilated in a building be reduced from 60 to 50 percent.

Recommendations:

- Remove the proposed criteria for building depth and dual aspect apartment windows
- Deem natural ventilation as complied for buildings over nine storeys, and remove the need for a wind consultant to certify cross ventilation
- Reduce the minimum number for apartments in a building to be cross-ventilated from 60 percent to 50 percent

Building presentation

Façade design and building maintenance

The intention to moderate the types of façade materials used is unfairly prescriptive. The proposed criteria would stifle building design innovation, and prevent the use of a range of materials.

Councils already vet façade as part of the development assessment process, and applicants should retain flexibility over the designs they put forward for assessment.

For example, stipulating preference for the use of face brick work on facades prevents choice, and is anti-competitive in nature. Many developments use pre-cast concrete in lieu of brick which delivers the same performance at less cost. To protect flexibility of design choice, we urge the performance criteria is removed.

Landscaping

Specifying both the number of trees for deep soil zones and tree type combinations is unnecessary and duplicative. We advise the removal of all related performance criteria.

Landscaping should be left to landscape architectural design to ensure the best options for overshadowing requirements, scaling, and solar access options that are amenable to site specificities.

Planting on roofs

The proposal to enforce planting on roofs and building structures adds unacceptable construction and maintenance costs to apartment buildings.

The ability for a development to provide for planting on structures is dependent on site constraints and price points. To mandate this unilaterally is unfair and unreasonable, and we recommend the removal of relevant performance criteria.

Recommendations:

- Remove all performance criteria for:
 - Façade design and maintenance
 - Landscaping
 - Planting on roofs

Sustainability measures

The performance criteria proposed for energy and water is more conservative than BASIX compliance measures and they should not be included. For example:

- As stated in our submission to the 2014 BASIX review, requiring storm water to be plumbed into toilets and laundries cannot be complied with — this is due to core footprint constraints for high rise buildings being unable to accommodate large systems and the limitation of rain water supply to deliver a beneficial outcome
- The 'provision of consolidated heating and cooling infrastructure in a centralised location (e.g. the basement)' is restrictive and often cost prohibitive for incorporation in design
- Additionally, council requirements for waste management are well established and the performance criteria outlined are not needed and may conflict with local practices.

Incorporating components of BASIX in SEPP65 will lead to conflict and confusion. BASIX is a flexible system that is sensitive to individual cases and market preferences by allowing trade-offs to deliver improved amenity overall.

We support design excellence for improved sustainable outcomes and believe BASIX is the appropriate tool to drive these principles as the prevailing policy.

Recommendations:

- Remove all performance criteria for energy and water management and conservation, and make reference to BASIX as the prevailing instrument
- Remove all performance criteria for waste management and make reference to local council standards for guidance

PART THREE: IMPLEMENTATION

Statutory weighting

Enshrining flexibility

We support the Guide's underlying intention to introduce a performance based approach to regulation of apartment design.

However, we are concerned by the impact of interpretation of the Guide as discussed throughout this submission. The purpose of the Guide is that of an advisory document that is flexible and not to be applied as law. Yet, the risk of implementation of the Guide as a checklist is real and would likely occur without the enshrinement of flexibility.

Whilst car parking, ceiling heights and apartment sizes cannot be grounds for refusal of a development application (provided the minimums are met), protection for new opportunities for consideration is absent. This would lead to continuing practices by councils where local planning controls (DCPs) can be used to excessively curtail applications above and beyond what is required at the expense of broader amenity.

To genuinely drive a performance based approach, the principle of considering alternative design or methods that can meet amenity must be given statutory weighting. We recommend that this be included in the SEPP.

Oversight and compliance

We support the reinforcement of the SEPP as the prevailing statutory instrument and the Guide as the higher order criteria to DCPs.

Although it is stipulated that DCPs cannot be inconsistent with the Guide in the SEPP (clause 6A), this relates to listed matters only. As a result, we believe this principle should be extended to the Guide as a whole. In other words, DCPs should not be inconsistent with the Guide in general, and this should be reinforced in the SEPP as a principle.

We recommend that an audit of all DCPs is undertaken and controls are updated accordingly. If legal parameters are not clearly stated, then councils can and will pursue with unnecessary controls with the Land and Environment Court as a costly and timely recourse.

Recommendations:

- Insert the following statement clause 30 of the SEPP: 'A standard contains the requirements to meet the objective and a standard should normally be met. However, if an application for an alternative design solution meets the objective of the performance criteria, the alternative design solution cannot be rejected on this basis and it must be considered'.
- Reinforce the following principle in the SEPP and Guide: 'DCPs cannot be inconsistent with the Apartment Design Guide'
- As part of this review, audit all DCPs and require they be stripped of inconsistencies

Documentation for lodgment

Checklists

The check list of documentation required for lodgment of pre-development proposals and development applications is above and beyond what is currently needed.

The check lists run contrary to the intention of reviewing SEPP65 — which is to provide simple and clear guidance. As a result, we recommend unnecessary requirements be removed and the checklists instead reflect existing lodgment processes and documentation requirements.

Section 96 applications

We do not support the proposal for section 96 applications to be reviewed by design review panels (i.e. 'a maximum additional development application fee to be charged for apartment building applications...will be referred to a design review panel').

We believe this requirement is excessive and will add additional assessment, cost and time to already lengthy approvals processes. Enforcing the disclosure of negotiable fees would encourage councils to set new and unrealistic thresholds for charging across the planning system. We strongly request this requirement be removed.

Recommendations:

- Revise the DA checklist to reflect only necessary items
- Remove the requirement for section 96 applications to be reviewed by design review panels

Program design

Education

We support the rigour stated for the administration of design review panels in the Guide. The main source of concern regarding the implementation of the Guide is its treatment as a prescriptive checklist.

There is substantial scope and opportunity for an education program to be established to assist councils with assessing apartment design, and this could be in the form of:

- An accreditation program established by the Department of Planning and Environment, where all government planners attend workshops, and
- Bi-annual sessions hosted by design review panels to showcase practical decision making using examples.

An ongoing education program would foster knowledge sharing between industry and government on contemporary design practices and improve interpretation of SEPP65.

BASIX-style framework

We support the move to a performance based framework for apartment design, and recommend a BASIX-style program be introduced over the next five years.

As reflected throughout this submission, prescriptive criteria in isolation can result in perverse outcomes at the expense of broader amenity, preferred design and affordability.

The benefits of introducing a contemporary BASIX-style system would include:

- Self-selection for applicants to determine design trade-offs
- A performance based framework responsive to changing innovation and market drivers
- Streamlined assessment pathways removing burden and pressure from councils
- Certain costs and timeframes, and increased accountability.

The Property Council and its members were key partners in the development of BASIX, and we recommend an industry taskforce be established to assist with designing a program over the next five years.

Recommendations:

- Develop and establish an ongoing education program on apartment design for government planners
- Establish a taskforce with industry to design a BASIX-style framework for apartment design over the next five years

PART FOUR: SUMMARY OF RECOMMENDATIONS

IMPACT

Performance criteria

- Emphasise in the Guide that 'applicants can either use the listed acceptable solution, alternative solution (where available) or put forward a different design feature or method that achieves the relevant criteria'
- Increase flexibility for design innovation by placing 'or' against each performance criteria
- Remove duplicative requirements in different sections to ensure clarity should alternate solutions be used
- Present acceptable and alternative solutions in the same format for clearer understanding and to reinforce that they are equal options

Guidance for councils - interpretation

- Replace consistency with compatibility where land uses, height and scale differ

Typology affected

- State the building typology to which the Guide does not apply

PERFORMANCE CRITERIA AND DESIGN

Building measurements

Depth

- Remove building depth metrics, and instead rely on apartment depth requirements

Separation

- Make the minimums for building separation approximate, and change separation metrics to 20 metres for buildings nine storeys and above

Deep soil

- Increase flexibility for deep soil by stating to the following effect for Table 1 'deep soil requirements (where reasonable)'
- Allow deep soil in building setbacks from streets, and as reinstated soil on top of basement car parking structures

Public domain interface

- Remove the one metre limit for the height of solid fences or walls

Car parking

- Include high frequency bus stops in the provision for car parking
- Ensure councils in the north shore are included as part of the metropolitan region to which car parking minimums apply
- Allow for building heights to be negotiated where significant loss of floor space is incurred where above ground car parking is provided
- Clearly state and communicate RMS requirements

- Remove the premise for local councils:
 - Where less car parking is provided, limit on street resident parking
 - Only support above ground car parking where it is unavoidable

Apartment layout

Apartment depth

- Emphasise in the Guide that 'indicative layout diagrams do not limit planning solutions to only these plans'
- Stipulate a concession for deeper apartments where side windows exist as corner apartments should not be subject to room depth where access to light is achieved from side windows

Room width

- Remove performance criteria and metrics for room widths

Ceiling height

- Remove the sliding scale of ceiling height to room width ratios
- Exclude bulkheads from ceiling height calculations

Balconies

- Exclude all balconies — including enclosed and Juliette balconies — from the calculation of floor space (GFA)
- Improve balcony design options by allowing solar access in 'living rooms or private open spaces', instead of both

Solar access

- Expand solar access to 8.00am to 4.00pm, with two hours of direct sunlight into the living room or private open space
- Remove the requirement that single aspect apartments must have a northerly or easterly aspect, and prevent the minimization of south west-facing apartments
- Remove the requirement that 50 percent of communal open space should receive solar access

Common circulation and spaces

- Remove the restriction of the number of apartments on a single level off a circulation core

Acoustic privacy

- Remove all performance criteria for acoustic privacy and refer to the BCA as the prevailing instrument

Ventilation

- Remove the proposed criteria for building depth and dual aspect apartment windows
- Deem natural ventilation as complied for buildings over nine storeys, and remove the need for a wind consultant to certify cross ventilation
- Reduce the minimum number for apartments in a building to be cross-ventilated from 60 percent to 50 percent

Building presentation

- Remove all performance criteria for:
 - Façade design and maintenance
 - Landscaping
 - Planting on roofs

Sustainability measures

- Remove all performance criteria for energy and water management and conservation, and make reference to BASIX as the prevailing instrument
- Remove all performance criteria for waste management and make reference to local council standards for guidance

IMPLEMENTATION

Statutory weighting

- Insert the following statement clause 30 of the SEPP: 'A standard contains the requirements to meet the objective and a standard should normally be met. However, if an application for an alternative design solution meets the objective of the performance criteria, the alternative design solution cannot be rejected on this basis and it must be considered'.
- Reinforce following wording in the SEPP and Guide: 'DCPs cannot be inconsistent with the Apartment Design Guide'
- As part of this review, audit all DCPs and require they be stripped of inconsistencies

Documentation for lodgment

- Revise the DA checklist to reflect only necessary items
- Remove the requirement for section 96 applications to be reviewed by design review panels

Program design

- Develop and establish an ongoing education program on apartment design for government planners
- Establish a taskforce with industry to design a BASIX-style framework for apartment design over the next five years

PART FIVE: CONTACT US

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