

12 November 2014

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

Dear Ms Wing

Re: Proposed amendments to SEPP 65 and the Residential Flat Design Code

I am writing in response to your public exhibition of proposed changes to *SEPP 65 – Design Quality of Residential Flat Development (Amendment No. 3)* and the draft Apartment Design Guide. Thank you for granting an extension until 12 November 2014.

Mosman Council is well placed to provide feedback on these draft documents. While this is a small council area with a relatively small number of new residential flat building developments, Mosman has a history of having high quality developments designed almost exclusively by architects, many of whom are highly reputed. (See www.mosmandesignawards.com.au for evidence of this). Council's planners are experienced in assessing applications using SEPP 65 and the current Residential Flat Design Code (the Code) often within a complex planning framework, such as heritage conservation, view affectations and resident opposition.

The current planning regime for flats works well and our development assessment planners make the following points based on their experience:

- Principles are good, but less useful than the Code
- Numerical controls in the Code are useful.
- More weight could be given to 'Rules of Thumb' as applicants often say "Well that is only a rule of thumb."
- Assessment using the Code tends to be very involved and time consuming and there is often an overlap with DCP requirements.
- The requirement for a Design Verification Statement results in higher quality design.

The draft Apartment Design Guide has essentially rewritten the Residential Flat Design Code. I do not propose to address all the changes but focus on ones that would be more significant or relevant to the Mosman context. Matters that I wish to raise in this submission are discussed under the following headings:

1. Amendments to SEPP 65
2. Changes to Apartment Design Guide - its content, length and flexibility.
3. Design Panels

1. Amendments to SEPP 65

a) Objectives:

The three new objectives for the SEPP relate to dwelling targets, affordable housing and timely and efficient assessment of applications. This represents a departure from the aim of the Policy to improve the design quality of residential flat development to more general planning matters such as affordable housing and determination times. There are other tools at the Department's disposal such as *SEPP (Affordable Rental Housing) 2009*, *SEPP70 - Affordable Housing* and the Metropolitan and Sub-regional Plans to address these matters. The Draft Apartment Design Guide (the Guide) is a lengthy document addressing a broad range of issues.

- A comprehensive assessment of an application under the Guide will take considerable time. This is inconsistent of the aim of SEPP 65 "to facilitate the timely and efficient assessment of applications for residential flat development".
- The Government's media release focuses on the link between improving apartment design and affordability. To address this thenew objective proposed in the SEPP is "*to contribute to the provision of affordable housing options*". It appears that there is confusion between the government's proposal to address the "growing demand for apartments that are affordable" (FAQ, September 2014) and "affordable housing". The latter is a defined term under the *Environmental Planning and Assessment Act* and it is that term that is referred to in the new objective for SEPP 65. The changes to the Code (or Guide) including setting a minimum size for studio apartments at 35m² and no minimum car parking requirements for flat developments in certain nominated council areas close to train or light rail don't demonstrate that any savings would be passed onto home buyers. Regardless of this the changes do not address the issue of affordable housing as defined.

b) Principles

The Design Quality Principles are considered to be "an important nexus between the provisions of SEPP 65 and the more detailed design guidance" (p. 12) in the Guide. Of particular note, the issue of views contained in Principle 2 is only lightly touched on in the Performance Criteria and the issue of affordable housing is not directly addressed in the revised Principles.

c) Terminology

The introduction of new terminology, especially "apartment" is not favoured for the following reasons:

- It is inconsistent with the Standard Instrument and SEPP 65. If "apartment" is to be the new term then all related instruments should be amended. There is a plethora of terms already weighing down the Dictionary. There would be implications for Council DCPs as well.
- It is an American term and "unit" is more common in Australia.

Clause 6A refers twice to "standards". This is potentially misleading as it may imply that matters within the Guide have the same status as development standards, which they do not.

2. Changes to Apartment Design Guide

As there are a significant number of changes to requirements within the newly titled Guide I do not intend to address them all, but rather comment on a few. The format change to replace 'Rules of Thumb' with performance criteria is generally supported, however, I consider the document to be

too lengthy and unnecessarily complex. Some of the content that causes concern are:

- Some criteria and solutions are more important than others but this is not discernible by the layout of the document, for example Section *4U Energy Efficiency* adds little to what is in other sections in the document.
- Amendments made to numerical controls are generally reducing numbers and therefore potentially reducing amenity, for example deep soil zones.
- Side and rear setbacks: it is not sufficient to have a building setback the same distance at the side as at the rear. It is better planning practice to have rear setbacks more substantial to allow for useable landscaped area and private open space as well as improved amenity through better outlooks from dwellings.
- Private open space and balconies: The alternative solutions set out in the Guide create sunny rooms rather than open space and balconies. Under the Standard Instrument definition of gross floor area these spaces would be included as such.
- Dwelling sizes: The Residential Flat Design Code (RFDC) includes illustrations and a table of "well-organised, functional and high quality apartment layouts" (p.69) plus a 'Rule of Thumb' table for councils choosing to standardise apartment sizes. Under section 4N in the draft Guide only minimum apartment sizes from a studio to three bedrooms are included in a table without the current rule of thumb provisos.

The Department should reconsider its approach and reinstate the table from the RFDC that focuses on good design and limit the minimum apartment size table to application to affordable housing schemes under the Affordable Rental Housing SEPP.

The flexibility contained within the Guide is aimed at facilitating the development rather than concern about the amenity of neighbours, future residents in the development, building design or streetscape. These are issues that concern local government assessment planners in their determination of applications.

3. Design Panels

These Panels have had a low take up rate by councils. This means there is very limited evidence of their effectiveness in delivering better built outcomes. Despite this, changes are proposed to the SEPP and the Minister's delegations to make it easier for councils to establish a Design Panel, to act as an encouragement for councils.

It is generally accepted that the design quality of residential flat buildings has improved over the last decade across the State. This is according to the Department's own publicity as well as on-the-ground evidence. As this is the case it is considered that there would be limited value added to the built outcome by an additional layer in the assessment process that would add time, cost money and add to the public perception that planners are not expert or objective enough to assess development of this nature without outside assistance.

In conclusion, I commend the Department for undertaking a review of its Policy and the accompanying Guide. The experience of councils using these documents since 2002 will provide valuable feedback on further changes that could be made to improve them. I would recommend that the Department considers:

- The length of the Guide and review the necessity for some of its content,
- Its approach to addressing affordability through this Policy and its implications for good design,

- Streamlining terminology to ensure consistency and simplifying understanding.

Thank you again for extending the date to make a submission and providing the opportunity to comment. Please contact Linda Kelly, Manager Urban Planning on 9978 4041 if you have any questions.

Yours sincerely

Veronica Lee
GENERAL MANAGER

Per:

(Linda Kelly, Manager Urban Planning)