
SEPP 65 & APARTMENT DESIGN GUIDE

Response to draft Issued for public consultation

Submission from Planning Institute of Australia

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Introduction

The Planning Institute of Australia (NSW Division) welcomes the opportunity to comment on the SEPP 65 & draft Apartment Design Guide (ADG). This submission has been prepared by members of the Planning Institute of Australia (PIA).

The Planning Institute of Australia (PIA) is the peak body representing professionals involved in planning Australian cities, towns and regions. The Institute has around 4,500 members nationally and around 1,300 members in New South Wales. PIA NSW plays key roles in promoting and supporting the planning profession within NSW and advocating key planning and public policy issues.

Since 2002, SEPP 65 and the accompanying Residential Flat Design Code have proven to be a highly effective way of improving the quality of apartments in NSW. The review of SEPP 65 and the draft Apartment Design Guide has provided the opportunity to clarify the process, the relationship with other planning and design standards and to ensure the timely and efficient assessment of development applications.

The Institute is delighted that the government remains committed to well-designed apartment dwellings and has retained the core components of the earlier strategy; compliance with SEPP 65, a requirement to consider the Apartment Design Guide (ADG) and Design Review Panels.

We recognise the need for affordable housing in NSW and to ensure the timely and efficient assessment of development applications. We support the government's desire to provide "well designed, affordable apartments, to introduce greater consistency in the adoption of basic design principles, and to encourage more innovative design".

Apartment Design Guide

The structure of the document

The Department is to be complimented for the significant work involved in the review of SEPP 65 and the RFDC. The ADG reflects a significant body of work and the Institute's members have been complementary of the quality of the document in terms of its layout and diagrams. There has however also been overwhelming feedback that the structure of the draft ADG is not entirely clear and some sections of the text lack clarity and are difficult to interpret.

There is concern that this confusion could result in unfortunate or unexpected consequences for the development assessment processes and in the Courts. There is a risk that it will create the opposite result to the one intended, reducing certainty, innovation and the timely and efficient assessment of applications.

Of concern is also the sheer 'weight of numbers' in the document. The ADG breaks apartment design into a very large number of separate elements, each with its own subset of detailed design consideration. Each of these elements and sub-elements is no doubt worthy and supportable in its own right. PIA's concern however is that the assessment task may become so fragmented and disaggregated into its multiple constituent numerically based parts that the assessors may lose sight of the overall design qualities of a development.

Consideration may be given to identifying key principles that must be reported on (possibly in the form of mandatory 'schedules of consistency with guidelines') and others that are important to good design but may not be determinative of

development approval or refusal and do not require detailed reporting in DA documentation or consent authority assessment reports.

Recommendations

- ▶ That a detailed review of the structure and content of the ADG is undertaken to improve clarity and make the document easier to use.
- ▶ That the interrelationships between objectives, performance criteria, acceptable solutions and alternative solutions is clarified.
- ▶ That the ADG provide clearly-worded objectives and that the objectives are grouped together by topic, as objectives are often interrelated and need to be addressed holistically during the design process.
- ▶ That the Department identify the key standards necessary to achieve the objectives of the SEPP. These standards should be clearly articulated and measurable and should be located in the SEPP or in the ADG.

Performance Based Approach

The Institute is sympathetic to the “performance based” approach in the ADG. While a check list is easy for developers, architects and planners to understand, an over reliance on a “numbers based” approach can result in poor design and unintended outcomes.

We accept a performance based approach can increase flexibility and innovation but are also aware that it is very reliant on the time and expertise of those preparing and assessing the development. Amcord notes a key way of addressing the problems of a performance based approach is by providing clear objectives and desired outcomes (intent).

Recommendations

- ▶ That the ADG is restructured to make the objectives or design intent for each of the performance criteria clearer.
- ▶ That clear numbers based “performance criteria” are provided in the ADG for all matters in Clause 6A of SEPP65 where Development Control Plans cannot be inconsistent with the guide ie (a) visual privacy, (b) solar and daylight access, (c) common circulation and spaces, (d) apartment layout, (e) ceiling heights, (f) balconies and private open space, (g) natural ventilation and (h) storage.
- ▶ That the government create a program of regular training sessions for architects, planners, council staff and elected representatives on the principles of well-designed apartment buildings. The training sessions should also increase expertise on how to work effectively within a performance-based system.

Context

Well-designed buildings analyse and effectively respond to the local context and we support the increased attention given to context in the ADG. The ADG applies across the entire State, making understanding and responding effectively to the local context critical. There has been a tendency to focus on the building (the object) and not the impact the building has on the street and surrounding area (the context). Well-designed apartments support a high quality living environment in the area around the apartment as well as within the apartment development.

Larger developments need to consider the surrounding street and block pattern which is the organising element of the city. As areas accommodate apartments and becoming denser there is a need for a finer grain street pattern and a clear separation between private space and public space. Large sites which are developed without effective public access can have a detrimental long term impact on the area.

The width and overall size of the public spaces (streets and open space) will also have an impact on the apparent or “visual” density of a development. Wider streets can usually accommodate taller buildings. Where taller buildings are located on the street alignment as for shop top housing, footpaths should be wide enough for street trees and awnings and be generous in relation to the footpath width and the width of the vehicle carriageway.

An understanding of context is also important in ensuring that a “one size fits all” approach is not taken to the application of the multiple provisions of the ADG. Where the development site enjoys good ‘external amenity’, via proximity to transport, services, natural attributes such as harbour views etc, there may be justification to compromise on certain guidelines relating to the ‘internal amenity’ of apartments. This is already recognised in relation to car parking provision but may for example be also relevant to unit sizes and orientation (should an apartment with south facing harbour views have to turn its back to those views to achieve 70% solar access)? Conversely in areas with lower ‘external amenity’ a more rigorous application of the ‘internal amenity’ guidelines may be warranted.

Recommendations

- ▶ A written statement is provided to accompany the site analysis (prepared as per Appendix 1) that summarises the local built and natural character of the area and identifies how the design has responded to the context of the site including solar access, heritage and deep soil planting.
- ▶ On larger sites or areas with poor existing access structure, development is to create a finer grain street pattern. This could be achieved by suggesting maximum street block sizes, minimum width of new streets, etc in the ADG.
- ▶ Streetscape elevations (not just building elevations) are to be provided for every application.
- ▶ Models (physical or computer generated) that show the surrounding context are to be encouraged.

Housing Choice and Dwelling Mix

The ADG does not indicate a desired dwelling mix. As the most profitable dwelling mix may not create the greatest long term value for the local area a dwelling mix is needed to ensure choice and diversity.

Recommendations

- ▶ To ensure local diversity and so that developments respond to local needs Council DCP's should continue to be able to set a dwelling mix for development in their area, however these should be based on evidenced based analysis to ensure that they do not detrimentally effect the affordability and viability of development.
- ▶ If a dwelling mix is included in the ADG it should set a recommended range than can be overridden by local Councils.

Shop Top Housing and Mixed Use

The ADG has been expanded to include shop top housing and mixed use development. The ADG must provide objectives and standards relevant to these development types.

For example a minimum ceiling height of 3.3m in the ADG may not be suitable for retail uses on the ground floor. The Green Square Town Centre DCP identifies 3.6m as a minimum ceiling height and a minimum floor to floor height of 4.5m. The Green Square Town Centre DCP also proposes a minimum ceiling height of 3.0m for “commercial and adaptable spaces” which is not included the ADG.

Recommendations

- ▶ New standards are established in the ADG for the newly included shop top housing and mixed use developments to ensure that the expansion to include these building types doesn't create poor quality outcomes.
- ▶ Town centre experts and retail and commercial specialist are involved in establishing these standards.

Deep Soil

Areas of deep soil play a critical role in allowing tall trees in higher density areas. Tall trees play an important role in creating amenity, mitigating the heat island effect, reducing air pollution and screening tall buildings. While roof top gardens and vertical wall are attractive they do not provide effective compensation for the loss of tall trees.

Recommendations

- ▶ Deep soil, combined with attractive open spaces should be an objective for all developments.
- ▶ Where it is not possible to provide deep soil other options such as streetscape widening and public open space areas should be explored to ensure that large trees can be provided close to the development.
- ▶ On suburban sites, areas of deep soil, combined with attractive open spaces should not be negotiable.

Parking

We welcome the reduction in minimum car parking standards in areas which are well located with good access to regular convenient public transport.

However, in recognition that proximity to public transport does not entirely limit the demand for private vehicles and car parking, consideration should be given to promoting car share spaces or schemes within or adjacent to developments which provide no or minimal private car parking spaces. This may reduce the demand for private vehicle ownership and on-street parking in areas where off street private parking is minimal.

Recommendations

- ▶ A minimum ceiling height for car parking is also included. Any car parking provided on grade and above ground should have an increased ceiling height to allow conversion to other uses in the future.

SEPP 65

The key recommendations for the redrafting of the SEPP are as follows:

- ▶ Clause 2: Additional aims (f) (g) and (h) have been added, in relation to contributing to a variety of dwelling types, the provision of affordable housing options and the timely and efficient assessment of applications for residential flat dwellings.
There may at times be tensions between these aims and the aim to “improve the design quality of residential flat buildings”. We recommend that the ‘key objective’ must be identified as being improving design quality, and be given greater ‘weight’ than objectives such as the timely assessment of applications.
- ▶ Clause 3: We note that in this policy “residential flat development” now means development to which this Policy applies because of Clause 4 and in Clause 4 “This Policy applies to development for the purpose of a residential flat building, shop top housing or mixed use development with a residential accommodation component”
Well designed shop top and mixed use developments have a slightly different range of considerations to residential flat buildings. We recommend that a new section addressing key issues such as active frontages, awning and servicing is included in the ADG.
- ▶ Clause 6(A): We note that Development Control Plans cannot be inconsistent with the Apartment Design Guide. DCP’s are of no effect to the extent to which they aim to establish standards with respect to any of the following matters in relation to residential flat development that are inconsistent with the standards set out in the Apartment Design Guide: (a) visual privacy, (b) solar and daylight access, (c) common circulation and spaces, (d) apartment layout, (e) ceiling heights, (f) balconies and private open space, (g) natural ventilation, (h) storage.
To avoid a situation where there is no effective control either in the Apartment Design Guide or in a DCP we recommend that clear numbers based “performance criteria” are provided in the Apartment Design Guide for all matters identified in this clause. See suggested table below.
- ▶ *That the process to abolish a design review panel under Clause 19 is clear and justifiable to ensure there is no perception of undue influence.*
- ▶ *That the change to the panel numbers in Clause 21 is not implemented since they could not meet if one panel member was unavailable which could slow down the approvals process or make it impossible for panels to contribute to the process.*
- ▶ Clause 21 Membership of panels:
(2) A person is qualified for appointment as a member of a design review panel if the person has expertise in any one or more of the following disciplines, namely, architecture, landscape architecture or urban design.
This change removes environmental planners from those qualified to be on a design panel. There is no explanation for this removal within the exhibition material and PIA strongly objects to it. PIA members have been involved in many panels and consider that qualified and experienced planners can contribute significantly to design review panels. Planners are particularly skilled at understanding and applying the first design quality principle of SEPP 65 – context – to the assessment of apartment developments. Whereas the other named professionals possess strong skills in many of the detailed, site specific design elements (as do planners), it is this broader context that the SEPP and the ADG recognise as the ‘starting point’ for good site design. It is therefore critical in our view that planners retain a key role on panels.

The proposal to remove planners from the panels should be fully explained and supported by evidence as to how their presence on panels to date has been of no benefit and warrants their removal or conversely, an explanation as to how the panels would benefit from their removal. Since we believe there is no evidence to support either proposition, the profession of environmental planner should remain as eligible for panel membership.

- ▶ Clause 27 (1) (b): Inserts “or applications for the modification of development consents” after “applications”.
We support the proposal that design review panels should also give advice on modifications to development consents.
- ▶ 28 (3): If the relevant design review panel fails to inform the consent authority of its advice concerning the design quality of the residential flat development within 14 days after its first meeting to deal with the application concerned, the consent authority may determine the development application without considering any such advice and a development consent so granted is not voidable on that ground.
We accept the need for panels to provide timely advice. We recommend sufficient resources are provided to panel members to ensure this is possible and that fees are able to be set by Councils that reflect the costs of such resourcing.
- ▶ 30 (1) Standards that cannot be used as grounds to refuse development consent or modifications to development consent: (c) car parking: if the proposed car parking for the building is equal to, or greater than, the recommended minimum amount of car parking set out in Part 3 of the Apartment Design Guide.
We support the addition of car parking to this clause. However we also support mechanisms to promote car share schemes where parking is so minimised.
- ▶ 31 Transitional provision. Each design review panel (if any) in existence immediately before the commencement of State Environmental Planning Policy No 65—Design Quality of Residential Flat Development (Amendment No 3) is abolished on that commencement.
It will take time to appoint new design review panels. We recommend that the Department consider keeping existing panels or delaying abolishing panels for 3 months to allow time for a new panel to be identified.
- ▶ 32 Effect of Amendment 3.
We recommend that additional text is added to the effect that amendments made to this Policy by State Environmental Planning Policy No 65—Design Quality of Residential Flat Development (Amendment No 3) do not apply to a development application made but not finally determined before the commencement of those amendments.

Table of possible standards to address Clause 6(A)

Clause 6 (A)	Relevant Performance Criteria	Possible Standards (measurable)
(a) visual privacy,	3F	<p>Minimum separation between windows and balconies by building height.</p> <p>To ensure building separation distances do not encourage stepped building forms, separation distances</p>

		<p>should be for the entire building and not just the higher floors and Figure 2F.4 should be revised to be three separate diagrams. Exceptions may occur where podium, street edge or 'built to boundary' solutions are appropriate in the context.</p> <p>Setbacks from boundaries and blank walls by building height</p> <p>Minimum light well size by building height as per table in 3F-1.</p> <p>Acceptable solution 2 with reduced separation distances only in exceptional circumstances.</p>
(b) solar and daylight access,	4L	<p>Living rooms of at least 70% of apartments in a building receive a minimum of 3 hours of direct sunlight between 9am-3pm.</p> <p>Sunlight is defined as - for a min of 4sqm measured to the vertical face of a building for living room windows and balconies.</p> <p>This can be reduced to 2 hours in areas with FSR over 2.0:1</p>
(c) common circulation and spaces,	4M	<p>Maximum number of apartments off a circulation core is eight with objectives clearly explained and acceptable alternatives identified for buildings where this is not practical eg when crossover apartments predominate.</p>
(d) apartment layout,	4N	<p>Min apartment size as per table 6</p> <p>Minimum living room width of 3.6m for 1 bed units and 4m for 2 and 3 bed units.</p> <p>Every habitable room to have an external directly visible window.</p> <p>Minimum master bedroom size of 10m² and other bedrooms 9m².</p>
(e) ceiling heights	4O	<p>Minimum ceiling heights as per 4O-1</p> <p>Acceptable solution 1. Minimum ceiling heights for ground floor of mixed use areas 3.6m. Minimum floor to floor heights in mixed use/shop top housing.</p>
(f) balconies and private open space,	4P	<p>Minimum balcony sizes as per table in 4P-2</p> <p>Acceptable solution 2</p>
(g) natural ventilation,	4Q	<p>Below 9 storeys - 60% of apartments are naturally cross ventilated.</p> <p>9 storeys and above - no controls for natural ventilation for slender towers with apartments wider than they are deep.</p>
(h) storage.	4R	<p>Minimum storage size and location as per 4R-1</p> <p>Acceptable solution 1.</p>

The Design Quality Principles in Schedule 1 are substantially based on the current Design Quality Principles. The Institute considers that while some of the rewording is an improvement, others are weaker than the current principles and may make increased flexibility more difficult. For example:

- ▶ Good design makes efficient use of natural resources, energy and water throughout its full life cycle, including construction.
Sustainability is integral to the design process. Aspects include demolition of existing structures, recycling of materials, selection of appropriate and sustainable materials, adaptability and reuse of buildings, layouts and built form, passive solar design principles, efficient appliances and mechanical services, soil zones for vegetation and reuse of water.

Has been replaced by:

- ▶ Good design involves design features that provide positive environmental and social outcomes.
Good sustainable design includes use of natural cross breezes and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation.

Recommendation

- ▶ While PIA welcomes the inclusion of social outcomes and the replacement of passive solar design with passive thermal design in the principle we regret the loss of the consideration of the full life cycle and the ability to promote adaptability and the reuse of buildings and recommend that they be restored within the principle.

Implementation

The Institute recommend that the Government creates an effective strategy for implementing and monitoring the changes. High quality apartment buildings take time to design and assess and a change in the standards and assessment processes will take time.

- ▶ We recommend that there is a transitional period of one month when the final guidelines and SEPP have been published but before they come into force. This will allow designers and those assessing the controls to understand the changes.
- ▶ We recommend before the SEPP and ADG come into force the Department run training sessions (minimum half day) for council staff and design panel members that clearly identify the changes and how the changes are expected to impact on apartment designs.
- ▶ We recommend that the Government commit to an assessment and post occupancy analysis of the impacts of the ADG within 12-18 months of implementation to identify any issues or unexpected outcomes of the controls.

Conclusion

The Institute supports the government's desire to provide “well designed, affordable apartments, to introduce greater consistency in the adoption of basic design principles, and to encourage more innovative design”. We are keen to ensure that the process will deliver quality and certainty for all involved in the planning, development, design and approval of apartment buildings.

Recommendations

- ▶ That Department of Planning and Environment undertake a comprehensive review of the ADG and the draft SEPP before adopting either document based on the comments within this submission and those of other interested parties.
- ▶ That the Department form a small working group with AIA, PIA and AILA in order to efficiently resolve the issues identified during the exhibition of the draft SEPP 65 and Apartment Design Guide.

PIA welcomes the opportunity to make this submission to this important public policy initiative and looks forward to continuing to contribute to its refinement prior to its finalisation.