Planning Institute of Australia (NSW Division)
Submission: SEPP 65 & Residential Flat Design Code Review

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. This submission has been prepared on behalf of PIA NSW by Members of the Institute.

Introduction

The Planning Institute of Australia (NSW Division) welcomes the opportunity to comment on the SEPP 65 & Residential Flat Design Code Review. This submission has been prepared by members of the Planning Institute of Australia, including those members in the Urban Design Chapter and the Local Government Planners Network special interest group.

Since the introduction of SEPP 65 and the Residential Flat Design Code (RFDC) the quality of residential flat buildings has improved and these strategies have played a significant role in improving the design of typical apartments in NSW. The identification of design quality principles, the use of Design Review Panels and the rules of thumb in the RFDC have helped to create an environment where poor design can be identified and either modified or used to justify a refusal.

The outcomes of the SEPP 65 and the RFDC are the result of a conscious effort on behalf of the government to shape the physical form of apartments in the cities, towns and neighbourhoods of NSW. The outcomes are evidence that governments can have a positive impact on the way our cities are designed and built. Urban planning and design controls need not be a process with unexpected outcomes but can be the result of an integrated system which consciously recognises that urban planning, approvals processes and design codes create physical outcomes and these outcomes can impact on the success or failure of places.

To effectively review SEPP 65 it is helpful to recognise the earlier reports, forums and consultation that led up to its development. Ken Maher, former Chair of the Urban Design Advisory Committee, (UDAC), has commented that the changes came out of recommendations in ‘Achieving Better Design Residential Flat Buildings in NSW’
prepared by the UDAC in 2000\textsuperscript{1}. This report identified three conditions that impact good design which can be summarised as:

1. **The education, training and skill of the designer.**
   The key to condition is recognising the skills of good designers and empowering them to deliver good design.

2. **The effectiveness of the process regulating development.**
   This condition can be seen as the process of balancing the interests of individuals and the collective through design control.

3. **The quality and skill of the assessors.**
   This condition involves ensuring access to high quality design advice is available during development assessment process.

The three conditions identified as impacting good design within the UDAC report have been used to structure the PIA response. This response does not attempt to provide an answer to each of the questions raised within the SEPP 65 & Residential Flat Design Code Review document, but responses have been provided where it was felt that PIA was able to contribute.

**The Education, Training and Skill of the Designer**

The RFDC was the first time that the NSW government recognised and placed in law the importance of having registered architects creating large buildings such as apartment buildings. Other ways to support the quality of the design of residential flat buildings are:

- Promote good design by establishing or sponsoring an annual award for residential flat design (also a recommendation in Achieving Better Design).
- Recognise good design by detailed case studies and government reports similar to “Improving Flat Design - a progress report” prepared in 2004.
- Require qualified landscape architects to be involved in the concept and detailed design of apartment buildings. This will ensure that the landscape quality and landscape context of the site is professionally considered and enhanced.
- Run regular training sessions for architects and architectural students on the principles of good design and good apartment buildings (also a recommendation in Achieving Better Design).

**The Effectiveness of the Process Regulating Development**

To create successful places it is necessary to identify what we want our cities and towns to look like and then create the processes that allow it to happen. These process need to reflect the complexity of issues and ensure collective impacts are also considered. Accommodating the different drivers of the players involved including developers who are generally focused on returns and profit and local governments who tend to focus on community impacts and the long term legacy.

\textsuperscript{1} Urban Design Forum Quarterly June 2009
The NSW planning system typically assumes a number of key design decisions are determined at a site level during the development approval stage. This creates uncertainty in the minds of the community and Council and for the developer on the bulk, scale and location of development possible on the site. This can create an adversarial and time consuming approvals process and can also result in a high level of uncertainty about the final outcomes.

The success of SEPP 65 and RFDC is not in question however current development approval processes uses only a few of potential tools available. One tool for improving the quality of apartment buildings and places in NSW would be to increase the level of detailed local strategic planning at an early stage. Ideally these planning controls would be prepared by state and local governments, balance competing interests and establish, through detailed design testing, the type of development appropriate for different locations. A similar approach was identified in the ‘Achieving Better Design’ report which noted that the development of three-dimensional DCPs which involved architects, urban designers and landscape architects in the preparation of these controls would allow site specific design issues to be considered and addressed at the strategic design stage and not as part of the approvals process. Some of the comments in the discussion paper suggest increasing the controls or creating variations in controls of FSR, heights, separation distances for regional or city centre locations. The difficulty with this is that the ‘one size fits all’ approach doesn’t always work and a state wide control cannot consider the detailed context of each site. Effective design controls need to be paired with detailed local strategic planning.

The RFDC, which was prepared to support SEPP 65, was drafted prepared on the advice of the Urban Design Advisory Committee (UDAC) and with the support of the NSW Urban Design Advisory Service (UDAS) both of which have since been abolished. At the time UDAS had prepared a number of well researched and respected guidance documents and its subsequent abolition resulted in much of this collective expertise moving outside the Department of Planning. A key challenge for this review and the development of future documents will be to ensure the same level of rigour and testing used to develop the original document. One solution would be to re establish the NSW Urban Design Advisory Service as an independent unit that focused on improving quality design and creating successful sustainable places. The key services provided by this unit would include best practice design guidance, independent design review, particularly on major projects, and expert education and training. Its first task could be the update of SEPP 65.

Other ways to support the quality of the design of residential flat buildings within the SEPP 65 & Residential Flat Design Code Review report are set out below:

**Section 1: SEPP 65 – General**

- Clause 2.1 - Additional aims should only be added if they support the primary aim of the SEPP which is “to improve the design quality of residential flat buildings”. The suggested “complimentary aims” may have the effect of weakening the primary aim and can be included in other documents (such as LEP’s). The primary aim could be expanded by replacing “to improve the quality design” with “to support high quality apartment living environments”.

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• Clause 2.2 - Using the standard instrument definition i.e. “residential flat building meaning a building containing 3 or more dwellings, but does not include an attached dwelling or multi dwelling housing” is supported as is the suggestion to replace qualified designer with registered architect.

• Clause 2.3 - Extending the policy to serviced apartments, student housing, boarding house is not necessary, however it should be made clear that these buildings will not gain approval for a change in use or strata subdivision unless they meet the requirements of the RFDC.

• Clause 2.4 - Extending the RFDC to mixed use is generally supported as is creating a new section for townhouses; however, these dwelling types occur in much smaller numbers and have a reduced visual impact so their inclusion is not seen as critical.

• Clause 2.8 - The residential flat design code had a number of recommendations that were intended to be guidelines but have started to become controls. It is recommended that they remain guidelines and that the designs are reviewed by design panels.

• Clause 2.9 - A second design verification certificate by a registered architect as part of the building certification system is supported.

• Clause 2.10 - Amenity and design as assessed by qualified design panels need to remain reasons why an application can be refused as these are qualities that are critically important to the success of a place.

Section 4: Residential Flat Design Code - General

• Clause 4.1 – Whilst a checklist for assessing the various components of the Code would be of assistance to local government planners, the Institute consider that good design cannot be achieved by “ticking boxes” and a matrix approach needs to be carefully considered so that it does not weaken the design principles. It is understood that the Code was written to try and balance prescriptive and performance based criteria. It is the view of the Institute that whilst prescriptive criteria can be measured, over reliance on these types of controls can limit the best outcomes for a site. Performance based criteria allow flexibility and innovation but rely on skilled architects and skilled assessment (like the design panel) to assess if the performance is acceptable.

• Clause 4.6 – The Institute supports the affordability measures and suggest including minimum apartment sizes, reduced parking, providing equity in mixed tenure development, and minimising running costs and maintenance costs. Some of the controls in the RFDC may increase the cost of apartments and reduce potential ‘yield’ of a site. Some of these ‘high cost’ controls (such as separation distances between buildings) could be reduced though careful design. Detailed strategic planning (like 3D DCP’s) created at a local level would also improve affordability by streamlining the approvals process, increasing certainty and reducing the time cost of the approvals process.

• The Code could be improved by including some case studies highlighting good residential flat design for regional areas, as well as metropolitan areas. In
addition, the Code could include measures to improve design in buildings that are being revitalised or undergoing change, as well as guidelines for new build.

Section 5: Residential Flat Design Code – Part 1

- Clause 5.7 – The addition of diagrams to illustrate guidance on building separation is supported.

Section 7: Residential Flat Design Code – Part 3

- Clause 7.7 - Noise in apartment living is one of the major sources of complaints\(^2\). This issue includes noise transmission between units (not surprising considering the popularity of home entertainment centres and air conditioning) and when apartments are located near outside noise source. The need to strengthen measures relating to acoustic privacy is supported.

- In addition, with increasing numbers of people living in apartment buildings, there is a need to ensure that facilities and spaces within the building are designed to encourage high quality social interaction between neighbours. A high level of research has been done on this issue since 2000 and the addition of guidance and design principles that address this issue is supported\(^3\).

- Clause 7.10 – The Institute would support greater guidance in the Code about water conservation (water sensitive design issues) and stormwater management.

The quality and skill of the assessors

The critical component of this was the establishment of formally constituted design review panels. The panels that have been established have been generally effective and helped improve understanding of design and the quality of the schemes. While there are many local council areas in NSW there has been only a small number of formal design review panels established. The benefits of the expanding the number of panels and providing access to skilled design advice to all councils including those in regional and remote areas would make a significant contribution to the quality of the assessment process.

Detailed recommendations are set out below:

- Create a pool of 5 panel members but only a minimum of 3 would be needed on any day (refer Clause 3.2).

- If panels were established and managed by the Department of Planning & Infrastructure (DoP&I) with fixed terms this would ensure consistency across the state to allow members of panels to move around. Over time this would help train panel members and create a unified approach to the advice.

- Create fixed terms (2 years perhaps), but only change half of the panel at any one time to new ideas in and ensure consistency.

- Panels need to have a range of skills including landscape architecture, architecture and planning, heritage etc, but the advice of the panel should be related to design only rather than other matters such as traffic impact.

\(^2\) Living Well in Greater Density Hazel Easthope and Sarah Judd, June 2010


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Panels should provide advice within 14 days (refer Clause 3.5).

To attract panel members ‘remuneration needs to reflect their professional skills and experience and the time needed to prepare, sit on the panel and provide advice in a timely manner. Panel costs should be covered by a mix of DoP&I (as part of a commitment by the NSW government to improving design quality across the state) and partly by local government (refer Clause 3.6).

Independent design panels should also be established to review and provide independent advice on apartment development approved at a state level (by DoP&I) (refer Clause 3.8).

Conclusions

It is generally accepted that the design quality of an item is an essential component of its long term success. The design quality of the cities, towns and neighbourhoods are therefore equally important for the long term success of NSW. The design of buildings will impact on the economic health (attractive places encourage investment), the environmental health (well designed places are less resources intensive in construction and ongoing costs) and social and physical well being.

The design quality of apartments is not an insignificant contributor to the design of our cities. In the central and middle regions of Sydney apartments make up more than 25% of total dwellings and in some inner areas apartments are more than 50% of all dwellings. It has been suggested by Hazel Easthope and Sarah Judd in their report ‘Living Well in Greater Density’ that “If the urban consolidation is to be successful, it will be essential to ensure that negative impacts faced by residents of higher density developments as a result of living in higher density are addressed, and solutions proposed.”

Over the last 10 years the government has made a significant contribution towards improving the design of apartments in NSW but there are many opportunities to improve the process and increase certainty around the outcomes for developers and for the community. SEPP 65 and the RFDC are two ways to improved design quality; however, focusing this review only on a revision of the text in these two documents is unlikely to create the strongest results. We urge the government to focus on a three pronged approach and recognise the skills of good designers and empower them to deliver good design, strengthen the process regulating development and ensure planners within state and local government have access to high quality independent design advice.

References:

- Design Quality Program 7 Year Review - Recommendations UDAL 2009
- Achieving Better Design – Residential Flat Development in NSW UDAC 2000
- Living Well in Greater Density Hazel Easthope and Sarah Judd June 2010
- Macquarie University Atlas of NSW Dr Kristian Ruming
- Urban Design Forum Quarterly June 2009

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3 Living Well in Greater Density Hazel Easthope and Sarah Judd, June 2010
4 Dr Kristian Ruming, Macquarie University Atlas of NSW
5 P 10 Living well in greater density Hazel Easthope and Sarah Judd June 2010