



PLANNING SYSTEM

State environmental planning policies

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Amendment No. 2 to SEPP 65 – Design Quality of Residential Flat Development

This circular is to advise councils of State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development (Amendment No. 2).

Overview of the SEPP

State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development (SEPP 65) is a State level policy which aims to improve the design quality of residential flat development in NSW.

State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development (Amendment No. 2) was gazetted on 4 July 2008.

The aims of Amendment No. 2 are to amend SEPP 65 to:

- add housing affordability to the social dimensions of design quality Principle 9
- establish ceiling height and apartment area standards that cannot be used as grounds to refuse development consent for residential flat buildings
- make transitional provisions as a consequence of the amendments made to the Policy.

Housing affordability

SEPP 65 outlines ten principles for residential development to provide a guide to achieving good design and the means of evaluating the merit of proposed solutions. These principles are used by councils when assessing development applications and when preparing development control plans that regulate residential flat development.

To acknowledge the importance of economic considerations, SEPP 65 Amendment No. 2 has amended Principle 9 (social dimensions) to

include housing affordability as an important social dimension.

When preparing development control plans and assessing development applications, councils should give consideration to housing affordability matters, such as optimising the provision of economic housing choices and providing a mix of housing types.

Ceiling height and apartment area

In recent years there has been a growing concern that overregulation of building and design standards may lead to significant increases in construction costs of residential flats. This has the potential to make housing less affordable, particularly for medium to lower income families.

Standards have been applied by some councils for ceiling heights and apartment sizes in excess of the accepted standards outlined in the NSW Government’s Residential Flat Design Code. This code was introduced in 2002 specifically to improve the standard of contemporary residential flat design.

To address overregulation, while at the same time ensuring high quality apartment design, SEPP 65 Amendment No. 2 includes a new provision that affects the application of development standards for ceiling heights and apartment areas.

Specifically, a consent authority can not refuse to grant consent for a residential flat development on the grounds of ceiling height or apartment area alone, if the proposed development meets or exceeds the ceiling height and apartment area guidelines in the Residential Flat Design Code.

The new SEPP clause (clause 30A) reads as follows:

30A(1) A consent authority must not refuse consent to a development application for the carrying out of residential flat development on any of the following grounds:

- (a) ceiling height: if the proposed ceiling heights for the building are equal to, or greater than, the minimum recommended ceiling heights set out in Part 3 of the Residential Flat Design Code
- (b) apartment area: if the proposed area for each apartment is equal to, or greater than, the recommended internal area and external area for the relevant apartment type set out in Part 3 of the Residential Flat Design Code.

The Building Code of Australia continues to regulate the minimum ceiling height standards for residential flat buildings (Class 2 buildings).

The ceiling height and apartment area guidelines in the Residential Flat Design Code are not a compulsory standard. A council still has the discretion to approve developments with lower ceiling heights and smaller apartment areas. For instance, councils can still apply the ceiling height and apartment area standards in their own development control plan if the standards do not exceed those in the Residential Flat Design Code.

It is also important to note that SEPP 65 Amendment No. 2 does not prevent a council from refusing to grant consent to a development application if the council is satisfied that the proposed development does not demonstrate adequate regard to the design quality principles in Part 2 of SEPP 65. Those principles include important design aspects such as context, scale, built form, density, landscape, amenity and aesthetics.

When will the new rules apply?

SEPP 65 Amendment No. 2 commences at the time of gazettal (i.e. 4 July 2008). Development applications made after this date will be subject to the changes, where relevant.

Clause 30A (relating to ceiling height and apartment area) does not apply to development applications that have been made, but not finally determined, before 4 July 2008.

Residential Flat Design Code

The Residential Flat Design Code provides comprehensive design guidelines for improving the quality of residential flats.

For details on ceiling height and apartment area guidelines please refer to Part 03 – Building Design of the Residential Flat Design Code.

A copy of the Residential Flat Design Code may be obtained from the Department's website at <http://www.planning.nsw.gov.au/programservices/dcode.asp>.

Further information

A copy of State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development (Amendment No. 2) is available from the Parliamentary Counsel Office's website at <http://www.legislation.nsw.gov.au>.

Note: This and other Department of Planning circulars are published on the web at <http://www.planning.nsw.gov.au/planningsystem/practicenotes>.

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Important note

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