

Circular	PS 17-001
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Related	nil

Using the Apartment Design Guide

This Circular provides guidance on the application of the Apartment Design Guide (ADG) in the development assessment process under *State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development* (SEPP 65).

Introduction

As more people in NSW choose to live in apartments, good apartment design is vital. Good apartment design delivers better living environments for residents, and enhances streetscapes and neighbourhoods across the state.

SEPP 65 and the ADG encourages a more consistent approach to apartment design across the state, more certainty for councils, architects and applicants, and promotes design innovation through Design Review Panels.

The purpose of this Circular is to:

- explain the relationship between SEPP 65 and the ADG and the application of the ADG to the assessment of development applications under SEPP 65;
- provide guidance to consent authorities regarding the application of the objectives and design criteria in the assessment of development applications; and
- clarify the role of Design Review Panels.

Relationship between SEPP 65 and the ADG

SEPP 65 provides a consistent planning framework to improve the design quality of residential apartment development in NSW. It gives legal force to the ADG, which is to be used in conjunction with SEPP 65. Further clarification on this relationship is set out in **Figure 1**, below.

The ADG is a guide containing design guidance to improve the planning and design of residential apartment development in NSW.

SEPP 65 and the ADG applies to residential flat buildings, shop top housing and the residential component of mixed use developments. They apply to

buildings that are three or more storeys and that have four or more dwellings where the development consists of the:

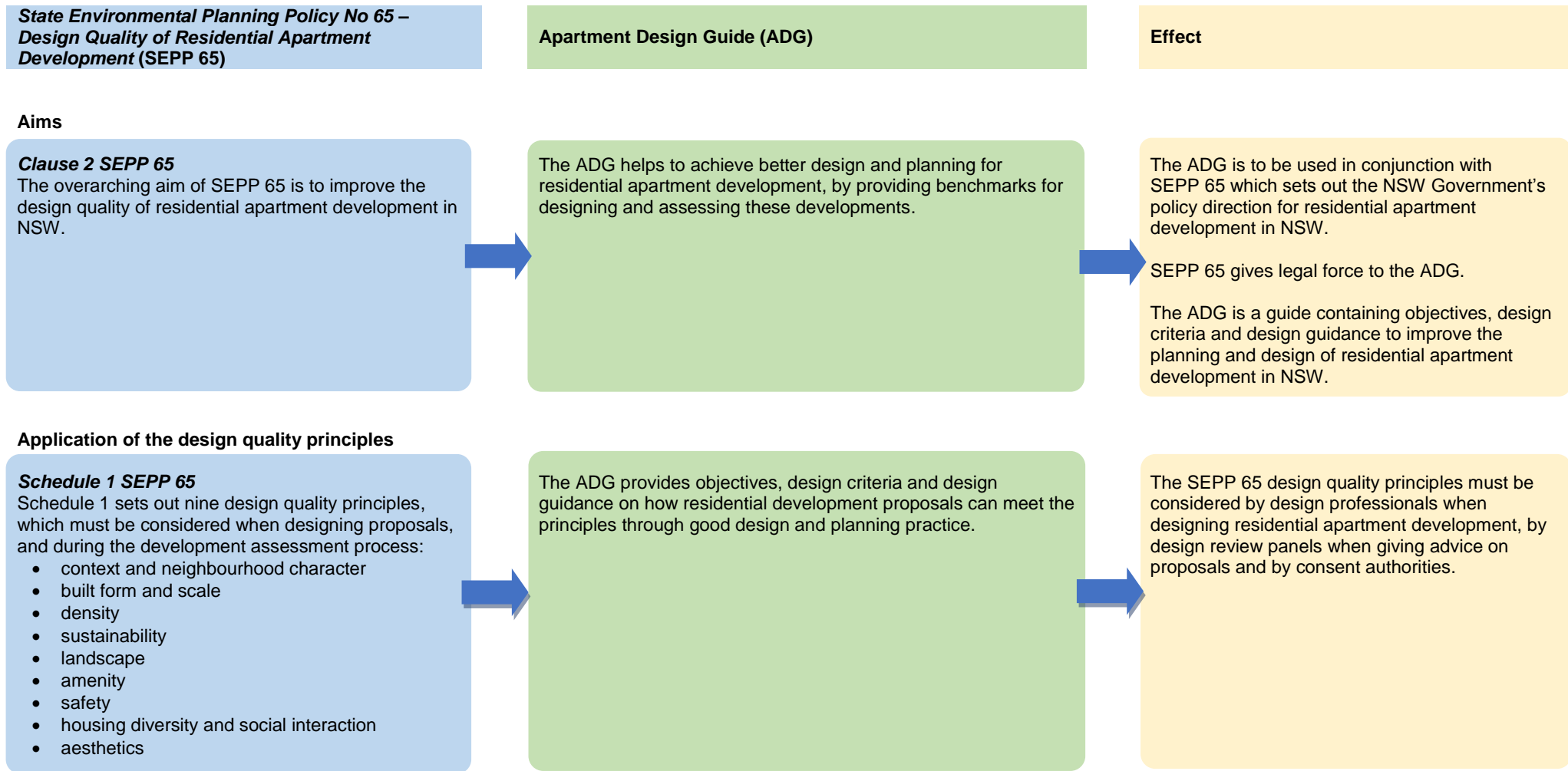
- erection of a new building;
- substantial redevelopment or refurbishment of an existing building; and
- conversion of an existing building to a residential flat building.

Apart from the non-discretionary development standards in SEPP 65¹, the ADG is not intended to be and should not be applied as a set of strict development standards.

A summary of how SEPP 65 and the ADG work and their effect is provided in **Figure 1** below.

¹ Clause 30 of SEPP 65 identifies non-discretionary development standards: car parking, internal area, ceiling heights which, if complied with in a DA, cannot be used as grounds to refuse the DA.

Figure 1 – How SEPP 65 and the ADG work



State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development (SEPP 65)

Determination of development applications

Clause 28 SEPP 65

When determining a development application, consent authorities are required to take into consideration:

- advice (if any) from a design review panel;
- the ADG; and
- the development’s design quality in relation to the design quality principles.

The extent of this consideration is a matter for the consent authority to consider under section 79C of the *Environmental Planning and Assessment Act 1979* (NSW), given the particulars of the application.



Apartment Design Guide (ADG)

The ADG is a matter for consideration for consent authorities when determining a DA.

Parts 3 and 4 of the ADG set out:

- objectives;
- design criteria; and
- design guidance;

for the siting, design and amenity of residential apartment development.

A development needs to demonstrate how it meets the objectives and design criteria set out in Parts 3 and 4. The design criteria sets a clear and measurable benchmark on how the objective can be practically achieved.

If it is not possible to satisfy the design criteria, applications must demonstrate how, through good design, the objective can be achieved. The design guidance can be used to assist in this.



Objective
outcomes to be achieved by residential apartment development

Objective 3D-1
An adequate area of communal open space is provided to enhance residential amenity and to provide opportunities for landscaping.

Design criteria

1. Communal open space has a minimum area equal to 25% of the site (see figure 3D.3)
2. Developments must achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid winter)

Design guidance
design advice on how the objective can be achieved through particular design approaches

Design guidance

- Communal open space should be consolidated into a well designed, easily identified and usable area
- Communal open space should have a minimum dimension of 3m, and larger developments should consider greater dimensions
- Communal open space should be co-located with deep soil areas

Design criteria
measurable criteria to achieve the objective for residential apartment development

Effect

When determining a development application, consent authorities are required to take into consideration:

- advice (if any) from a design review panel;
- the ADG; and
- the development’s design quality in relation to the design quality principles.

In determining a development’s design quality in relation to the design quality principles², the consent authority is to consider:

- how the development meets the objectives and design criteria set out in Parts 3 and 4.

If it is not possible to satisfy the design criteria, the consent authority is to consider:

- how, through good design, the objective can be achieved. Design guidance can be used to assist in this process.

Apart from the non-discretionary development standards³, the ADG is not intended to be, and should not be applied as, a set of strict development standards.

² Schedule 1 SEPP 65

³ Clause 30 of SEPP 65 identifies non-discretionary development standards: car parking, internal area, ceiling heights which cannot be used as grounds to refuse a DA

State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development (SEPP 65)

Apartment Design Guide (ADG)

Effect

Standards that cannot be used as grounds to refuse development consent

Clause 30(1) SEPP 65

SEPP 65 identifies non-discretionary development standards relating to minimum requirements for:

- car parking;
- internal area;
- ceiling heights;

which, if complied with, cannot be used as grounds to refuse a development application or an application to modify a development consent.

The ADG sets out minimum requirements for:

- car parking;
- internal area; and
- ceiling heights

If the proposal satisfies the design criteria in clause 30(1) of SEPP 65, the consent authority:

- is not entitled to take those standards into further consideration in determining the application;

- must not refuse the application on those grounds (however the consent authority can refuse the application on other grounds); and
- must not impose a condition of consent that has the same, or substantially the same, effect as those standards but is more onerous than those standards.

Development Control Plan (DCP) cannot be inconsistent with the ADG

Clause 6A SEPP 65

SEPP 65 identifies that some provisions in the ADG prevail over any similar provisions in a Council DCP:

- visual privacy
- solar and daylight access
- common circulation and space
- apartment size and layout
- ceiling heights
- private open space and balconies
- natural ventilation
- storage

Parts 3 and 4 provide detailed objectives, design criteria and design guidance of provisions siting a development and designing the building, including the provisions identified in clause 6A of SEPP 65:

- visual privacy
- solar and daylight access
- common circulation and space
- apartment size and layout
- ceiling heights
- private open space and balconies
- natural ventilation
- storage

If a DCP contains provisions that specify requirements, standards or controls in relation to the following:

- visual privacy
- solar and daylight access
- common circulation and space
- apartment size and layout
- ceiling heights
- private open space and balconies
- natural ventilation
- storage;

those DCP provisions will have no effect, and the relevant ADG provisions will prevail.

**State Environmental Planning Policy No 65 –
Design Quality of Residential Apartment
Development (SEPP 65)**

Design Review Panels

Part 3 SEPP 65

Part 3 sets out the rules for:

- membership and function of Panels;
- requirements for consultation with Panels; and
- other procedural matters for Panels

Apartment Design Guide (ADG)

Section 5 of the ADG explains:

- functions, membership and constitution of Panels;
- roles and responsibilities of councils and Panel members;
- operating procedures and guidelines;
- templates (meeting agenda, development assessment and meeting minutes).

Effect

SEPP 65 allows for the establishment of Design Review Panels as an important tool to improve and enhance design quality of residential apartment developments.

The ADG is a toolkit for the establishment and operation of Design Review Panels, including details about:

- functions, membership and constitution of Panels;
- roles and responsibilities of councils and Panel members;
- operating procedures and guidelines;
- templates (meeting agenda, development assessment and meeting minutes).

Design review panels

SEPP 65 establishes the Design Review Panel as an important tool to improve and enhance the design quality of apartment developments. Section 5 of the ADG explains the role of Design Review Panels in the development assessment process, and provides the specific procedures and templates councils can use to establish and administer Panels.

A Design Review Panel advises the consent authority on the design quality of applications with reference to SEPP 65's nine design quality principles and the ADG, amongst other things.

Design Review Panels comprise of design experts able to debate the merits of the application of the design quality principles in relation to the ADG, amongst other things.

The Panel may identify and recommend improvements necessary to achieve consistency with the design quality principles and the ADG. The Panel may also provide advice on how to improve design quality. In some instances, this may include recommendations that contradict individual clauses in the ADG where the Panel are convinced this would achieve a better design outcome. However, these recommendations cannot be inconsistent with the non-discretionary development standards in clause 30(1) of SEPP 65).

The Panel's advice is a relevant consideration for the consent authority when assessing a development application or modification for apartment development under SEPP 65.

The ADG encourages pre-development application discussions, including early input by a Design Review Panel. Early panel advice on a proposal can allow applicants to address issues early on, and save time later in the application process.

Further Information

For further information please call 1300 305 695. Department of Planning and Environment circulars are available from planning.nsw.gov.au/circulars

Authorised by:

Carolyn McNally **Secretary**

Important note: This circular does not constitute legal advice. Users are advised to seek professional advice and refer to the relevant legislation, as necessary, before taking action in relation to any matters covered by this circular.

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