

31 October 2014

Carolyn McNally
Secretary
Department of Planning and Environment
GPO Box 39
Sydney NSW 2001

Dear Ms McNally,

Draft State Environmental Planning Policy 65 and Draft Apartment Design Guideline raises fundamental issues about the NSW Planning System

The Urban Taskforce has looked at the draft SEPP 65 and the related Apartment Design Guide in detail and we believe that they raise some fundamental issues about the role of regulation in the planning system in NSW.

In making these comments, I am also responding to the recent publication by the Productivity Commission on the impact of planning and zoning on competition and the recent report by Deloitte Access Economics on the affect of regulation on national productivity. In this context SEPP 65 is an example of a regulatory layer that overlaps other regulatory planning policies, has excessive detail for the intended intervention to the market place and adds significant costs and time resulting in residential apartments becoming less affordable in return for dubious amenity gains.

I am raising these more systemic policy issues following your resent presentation to the Urban Taskforce where you indicated your desire to improve the whole planning system. Below I have highlighted the key systemic issues and the detail that supports these concerns is contained in our attached submission on the draft SEPP 65 and Apartment Design Guide.

1. SIMPLIFY THE PLANNING SYTEM BY AVOIDING OVERLAP AND CONTRADICTIONS.

SEPP 65 includes requirements on environmental performance that overlap BASIX and environmental criteria in council development control plans. There should only be one regulation for environmental performance and this should be BASIX. There are many other issues that are covered in local council development control plans as well as in SEPP 65 which require applicants to demonstrate compliance on multiple fronts.

2. AVOID THE DRAFT SEPP BEING USED FOR ASSESSMENT AS WELL AS THE CURRENT SEPP

As the draft SEPP has been on public exhibition it must be taken into account by consent authorities meaning applicants must report on two versions of the SEPP. We have already written to the Minister on this issue and provided you with a copy of our correspondence.

3. WHY REQUIRE AN EXPERT (ARCHITECT) TO DESIGN APARTMENTS AND THEN REQUIRE MANY RUES WITH MICRO DETAIL TO BE ADHERED TO

Apartments are the only building type in NSW that must be designed by a registered architect. It should be up to the registration body for architects to then ensure competency through guidelines and continuing education.

4. GUIDES LINKED TO A STATE ENVIRONMENTAL PLANNING POLICY INEVITABLY BECOME HARD AND FAST RULES

The NSW Land and Environment Court has determined that the existing SEPP 65 "Rules of Thumb" should be formal requirements for approval and many planners in councils develop check lists based on these guidelines. In this context the extent of material should be limited to key design issues.

5. MANY OF THE DRAFT CHANGES MAKE APARTMENTS LESS AFFORDABLE

The proposed increase in ceiling heights, the reduced widths of buildings, the excessive solar access requirements and the increase in the amount of deep soil will add to the cost of apartments, thereby reducing affordability. Furthermore the increased building separation from commercial buildings will minimise apartment yield, thus increasing unit costs.

6. SOME OF THE PROPOSED CONTROLS REDUCE AMENITY

The requirement for solar access to living rooms is forcing the balcony away from the living room in certain orientations. Many development proposals are forced to locate the balcony off a bedroom instead of the living areas.

Attached to this letter is our detailed submission on draft SEPP 65. This submission is the result of much input from our members who are designing and building apartments in the NSW market place. Some of these members have provided marked up drawings of approved projects indicating the changes that would be required to comply with the draft SEPP. These examples show that there will be a negative impact from many of the new proposals.

The Urban Taskforce understands that there is a need to ensure quality apartment buildings and that the broader community expects this. We believe that the requirement that a registered architect must design this building type is the most important demonstration of the Government's desire for quality results. In our opinion, the multitude of micro details included in the draft Apartment Design Guide is in the main, not needed. The way the government resolves SEPP 65 will be an important indication of what the future planning system for NSW may look like to the development industry. I am keen to have a more detailed discussion on this very important issue with you.

Yours sincerely

Urban Taskforce Australia



Chris Johnson AM
Chief Executive Officer

Draft SEPP 65 raises fundamental concerns about the role of regulation in the planning system in NSW.

Submission to the NSW Government on the draft State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development and draft Apartment Design Guide.

Prepared by *Urban Taskforce Australia*, 31 October 2014

1. Introduction

The Urban Taskforce is committed to quality residential apartment design and also the encouragement of affordable housing. This presents many challenges to government policy makers. On the one hand Government needs to introduce planning controls and guidance that will encourage good apartment design, but on the other hand the Government's planning controls should not result in an increase in housing costs, particularly in the current economic environment where NSW housing costs significantly exceeds national averages.

While we accept that the Government has a delicate balancing act to perform, we believe that the draft State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development ("the draft plan") and draft Apartment Design Guide ("the draft guide") try to do more than needed. That is, ***the draft guideline includes far too many performance criteria and acceptable solutions, particularly when it is understood that by law, only registered architects are able to design residential flat buildings in New South Wales.***

Clearly the authors of the draft guideline have sought to translate much of the current Residential Flat Design Code (RFDC) into the draft guideline and then add more criteria into the mix. The resulting complexity of controls and degree of prescription in the draft guide will most certainly restrict architectural creativity and increase housing costs. This kind of regulation will see investment driven to other states, where development is encouraged and buildings aren't designed by government regulation.

We accept that there should be planning controls for residential apartment design, but we do not support the level of prescription suggested in the draft guideline, nor do we agree with the metrics for many of the criteria included in the draft guideline. ***The complexity and degree of prescription in the draft guideline will discourage innovative and affordable apartment design required to meet the needs of existing and future residents of Sydney.***

The Urban Taskforce argues that the introduction of more residential apartment design controls, which will ultimately increase the cost of new housing, should not be pursued by Government. This is not to suggest that we do not see the value in progressively encouraging improved building design and construction methods, but we are in a housing affordability crisis and the introduction of new regulation that will increase the cost of housing must be abandoned. Below is a summary of Urban Taskforce concerns with the draft SEPP and draft guide. This submission was prepared with the input of Urban Taskforce members, particularly Meriton, Australand, Crown Group and Urbis.

2. Preferred Option – Removal from the SEPP of all reference to the Apartment Design Guide

The existing SEPP 65 and the draft SEPP requires that all residential apartments be designed by registered architects. This means that only experience and qualified, highly skilled professionals are permitted by law to design these buildings. A skilled architect does not need a design handbook, particularly one produced by the Department of Planning and Environment, that in the hands of consent authorities will be reduced to a compliance check list and achieve little for built form outcomes.

The Urban Taskforce argues that the draft SEPP should:

- continue to require that only registered architects be permitted to design residential flat buildings;
- include a set of design quality principles (Schedule 1) as currently proposed that an architect would consider and demonstrate how a design satisfies these principles; and,
- delete all references to the Apartment Design Guide.

The Apartment Design Guide could become a guidance document or resource to be used by the NSW Architects Registration Board as one of the means of assessing competency of architects seeking registration. The guide could also be adapted by the Architects Registration Board as an

educational aid to be used in the provision of continuing profession development for registered architects.

To ensure an appropriate level of control over apartment development, the SEPP should only set baseline standards that are complementary to standards contained in local environmental plans.

That is, local environmental plans already contain building height and floor space ratio standards applicable to all development, including residential apartments. The control over residential flat development could be supported by the SEPP. The SEPP could include an additional schedule that would list the base controls applicable to residential flat buildings. These controls should be:

1. minimum apartment floor area;
2. minimum ceiling height;
3. minimum private open space;
4. Maximum site coverage;
5. minimum car parking; and,
6. building separation.

With these controls, in addition to height and FSR standards contained in a local environmental plan, a consent authority could clearly articulate building envelopes and maintain an appropriate level of control over residential flat development. Matters of design would be addressed by the project architects, guided by the Design Quality Principles contained in the SEPP.

The SEPP could continue to provide for the establishment of design review panels which a consent authority could rely upon for advice on design quality if required.

The SEPP must provide suitable protection to applicants

Whether the Government adopts all or parts of the Urban Taskforce preferred option as detailed above or not, the final version of the SEPP must contain protections for the applicant. That is, while the SEPP makes it clear that a consent authority is unable to refuse an application on certain grounds (apartment size, ceiling height or parking), there are many examples of local councils deliberately disregarding this matter and seeking to enforce their own inconsistent standards. An applicant must then resort to court appeals for a reasonable determination. This is clearly unfair and costly.

To remedy this, the SEPP must:

1. continue to include standards that cannot be used as grounds to refuse an application. These would be standards such as those currently listed in the draft SEPP. This must be reinforced with penalty provisions which an authority would be liable if they were to disregard the provisions of the SEPP. It could be that the applicant would be entitled to the reimbursement of all costs incurred, including legal and holding costs, or that the application would be referred to an independent arbiter for determination;
2. clearly state that a local development control plan is not to include controls for residential flat development that are included in the SEPP or any other state level planning policy. That is, if we are to have a SEPP and some form of design guide, then local development control plans need not consider any of those matters. Local consent authorities should be obliged to use only the state level controls when making a determination. ***There is no need for state and local controls dealing with the same development type.***

3. The Apartment Design Guide must be simplified

For the reasons detailed above we remain of the view that there is no need for state level apartment design guidance, however, if the Government is to persist with implementing a state planning apartment design guide, then it must be significantly reduced in detail and complexity.

While we understand that the Government's intention is to produce a "Guide" that is an advisory document, that is flexible and not to be applied as if it is law. Our experience and legal advice confirms, that the guide will be applied as if it were law or standards. Changing the name from the Residential Flat Design Code to Apartment Design Guide makes no difference.

Therefore, if we are to have an Apartment Design Guide it should only include the absolutely necessary controls, knowing that whatever is included in the guide will eventually be reduced by the consent authority into a compliance checklist and applied as if it were a standard that must be complied with. There will be little flexibility in application as demonstrated by the use of the existing Residential Flat Design Code.

Thirty two (32) sections, eighty four (84) performance criteria and two hundred and ninety (290) acceptable solutions provided in the draft guide is a clear example of excessive regulation. Furthermore, the language and form of the Apartment Design Guide is akin to a construction standard, such as the Building Code of Australia, where construction standards are set and acceptable solutions articulated. This approach may be appropriate for construction method regulation, but definitely not appropriate to design, where there are infinite design and innovative solutions possible to achieve a desired built form outcome.

Should the Government proceed with an Apartment Design Guide, then Parts 1 and 2 should be deleted altogether as these are general development control matters or of a strategic nature that can be considered by the local authority as part of their local planning functions. Parts 3 and 4 should be condensed to only consider:

1. Overshadowing;
2. Solar Access;
3. Building Depth;
4. Ceiling Height;
5. Ventilation;
6. Private open space;
7. Deep soil zones/site coverage;
8. Visual Privacy and Building separation;
9. Car Parking; and,
10. Waste Management;

The guide should then state a clear objective for each criteria, but limit prescriptive compliance schedules to only the essential metrics. **Long lists of "acceptable solutions" should not be included as these simply limit innovation and design opportunities.** Furthermore, as noted above, long lists of acceptable solutions will simply be reduced to endless compliance checklists to be used by the approval authority. The end result will be that compliance will take precedence over design and built form outcomes.

4. General objection to draft controls within the draft Apartment Design Guide

Notwithstanding any of the above, the draft Apartment Design Guide has numerous flaws if permitted to remain in the final incarnation of an Apartment Design Guide would drastically impact on project feasibility and ultimately housing affordability. The following are just some of the concerns raised during Urban Taskforce workshops and briefing sessions where members of the Urban Taskforce have sought to apply the controls within the draft Apartment Design Guide to existing,

recently approved projects, or projects about to be lodged with the local council for determination. The result of this exercise is alarming.

a. Building Depth

The draft Apartment Design Guide suggests a significant change from the existing Residential Flat Design Code in relation to building depth. Currently building depth is measured from glass line to glass line and generally should not exceed 18 metres. Balconies are not included in this maximum depth control. However the draft Apartment Design Guide suggests a maximum building depth of 18 metres with the balcony as part of the building depth limitation. If implemented this will significantly impact on development design specifically, making it very difficult to provide apartments on either side of a corridor.

b. Deep soil zones

Deep soil zones proposed are excessive, particularly in an urban context. We argue that the current requirements are excessive, however the suggestion that up to 20 per cent of a development site be preserved for deep soil is unwarranted. Currently, the deep soil requirement is that 25 per cent of the open space requirements, which is generally 25 per cent of the site, be preserved for deep soil zones. Therefore the deep soil requirement is 25% of 25% = 6.25% of the site. The draft Apartment Design Guideline proposes 7% to 20% of the site area as deep soil. This is excessive and will essentially sterilise many sites from apartment development.

c. Building Separation

We support an appropriate building separation control. The existing RFDC includes separation distances dependant on building height and contiguous land use. While not appropriate in all instances, the RFDC separation requirements provide a reasonable starting point for building design. However, the draft guide suggests that commercial buildings in town centres be considered as habitable spaces and that a residential apartment be set back from a commercial building as if the commercial building was residential in nature. This requirement will significantly increase currently accepted building separation requirements and will effectively serialise many town centre/mixed use sites from apartment development.

Furthermore, adaptive reuse of buildings in town centre contexts becomes even more challenging than under current controls.

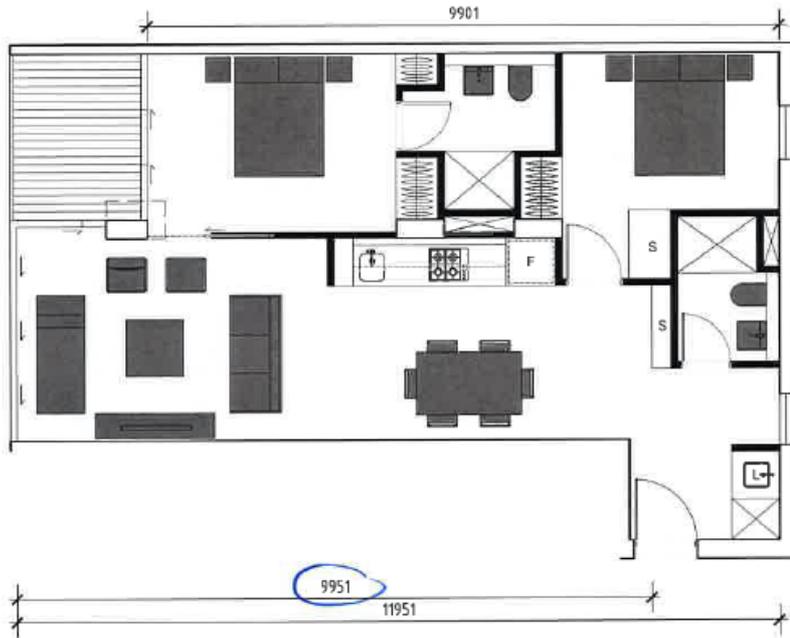
d. Ceiling Heights

Currently the minimum floor to ceiling height for residential apartments is 2.7 metres and is considered more than adequate. A ceiling height of 2.7 metres provides the opportunity for the provision of a perfectly acceptable open plan apartment with a room depth of 8 metres. There are many such apartments in existence which work well in terms of light and ventilation. However, the draft apartment floor to ceiling height to room depth ratio would limit room depths to 6.75 metres if provided with a standard, accepted 2.7 metre floor to ceiling height. To put this another way, to provide a standard 8 metre deep open plan apartment, currently being approved and built in Sydney, a ceiling height of 3 metres would be required, not the currently permitted 2.7 metre floor to ceiling height. If implemented the result will be drastic to project feasibility as an increase in ceiling height simply means that less residential floors and apartments can be accommodated within the permitted building height control.

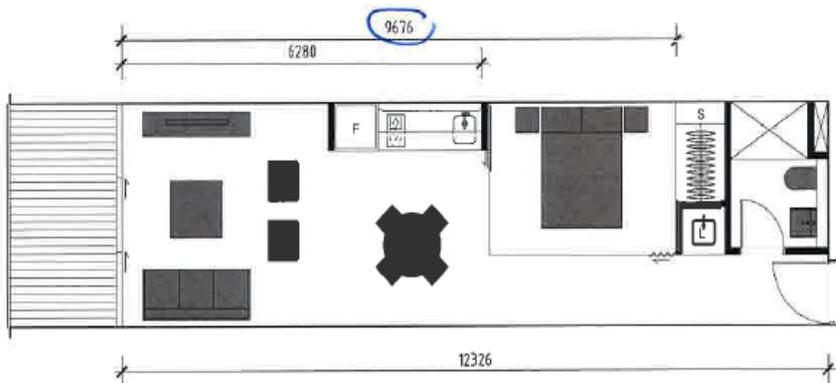
Fewer apartments means that there will be a corresponding increase in price per apartment built. ***Should the room depth to ceiling height ratio be adopted as a matter that should be complied with, then according to our investigation, due to a loss of apartment yield per***

development, each standard apartment could become approximately \$50,000.00 more expensive.

The flowing figures show standard apartments that are currently approved and built with a standard 2.7 floor to ceiling height. Applying the draft controls would mean that these apartments would not be approved unless the floor to ceiling height was significantly increased as indicated in red.



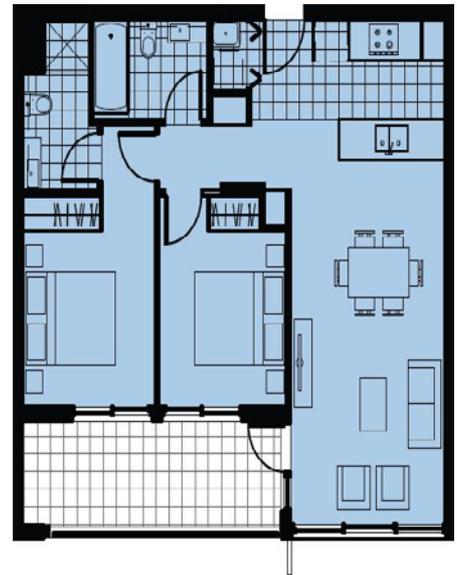
Ceiling height = 4.1m X



Ceiling height = 3.0m X

e. Solar access

Adequate solar access is essential for good amenity. However the controls proposed in the draft guide continue to be too restrictive and complex (regardless of the Government's intention). Within an urban context, a minimum of two (2) hours direct sunlight to private open space or living areas is more than adequate. Current controls and those proposed, require a minimum of 3 hours direct sunlight to living areas and private open spaces. The unintended consequence of this is that balconies are provided in less than optimum locations relative to living areas. As shown in the figures below, to achieve the required level of solar access to living areas and private open space, the balcony is often set to the side of the main living area to achieve the desired level of sunlight to the living area. It would be preferable for the control to simply require at least 2 hours sunlight on private open spaces or living spaces, not both.



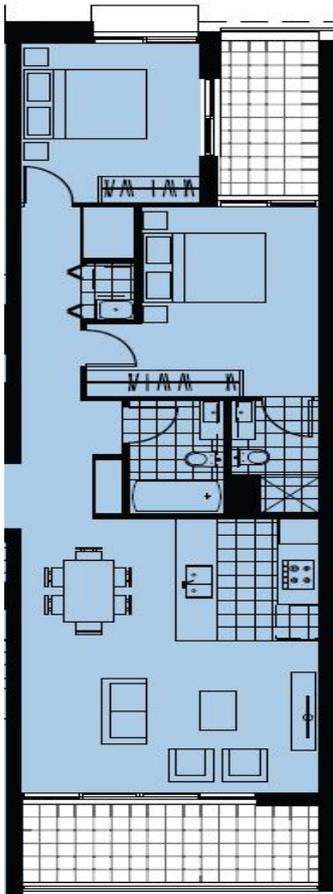
Views from living areas less than optimal. Consumers forced to accept this.

The figures above demonstrate the impact of regulation on built form outcome. To achieve the level of solar access required in living areas and private open space, the balcony must be set to the side of the living space at the expense of views and access.

The figure below shows what the market really wants. This apartment layout provides much better outlook and amenity. While the indoor living area may not always achieve the required solar access, the balcony generally does. When asked, customers prefer less sun in living areas in return for sun on balconies and much improved outlook.



Consumers prefer this outlook



Consumers prefer this apartment layout where living areas open directly onto balcony. This layout is limited due to the requirement to achieve 3 hrs sun light on balcony and living areas.

Modelling completed by Urban Taskforce members on a generic apartment with an inset balcony to living area has shown that excellent sun access to the balcony can be achieved for most orientations with balcony depths of 2.0 and 2.5 metres. Inset balconies are preferred in many instances as they are more economical to build than cantilevered balconies and they have the benefit of being more sheltered from wind, but they can restrict sunlight more than a cantilevered balcony.

A 2.5m balcony with 0.2m hob and a 2.0m balcony with a 0.2m hob have the performance outlined in the tables below. It should be noted that the assessment has been carried out for the hours of sunlight received in the context of Performance Criteria 4L-2 which states the "...need to demonstrate that a person is able to sit in the sun in a habitable room...". Therefore time where only a small patch of light touches a small part of the room interior has not been counted, only time where it seems reasonable that sunlight is on an armchair position.

The first table shows the hours of sun to the internal space, the second table shows the hours of sun to the balcony.

Generic Apartment with an Inset Balcony to Living Area			
Hours of Sun to Living Area			
2.0m Balcony		2.5m Balcony	
North	3 hours	North	3 hours
10 Deg North	3 hours	10 Deg North	3 hours
20 Deg North	3 hours	20 Deg North	2 hours
East/West	0 hours	East/West	0 hours
10 Deg East/West	0 hours	10 Deg East/West	0 hours
20 Deg East/West	0.5 hours	20 Deg East/West	0 hours

Generic Apartment with an Inset Balcony to Living Area			
Hours of Sun to Balcony			
2.0m Balcony		2.5m Balcony	
North	6 hours	North	6 hours
10 Deg North	6 hours	10 Deg North	6 hours
20 Deg North	6 hours	20 Deg North	6 hours
East/West	2 hours	East/West	1.5 hours
10 Deg East/West	2 hours	10 Deg East/West	2 hours
20 Deg East/West	2.5 hours	20 Deg East/West	2.5 hours

Furthermore, the way that solar access is measured is far too conservative. Solar access should be considered as an average over a longer time period of say 8am to 4pm within the winter months. We should not be measuring solar performance purely during the most difficult winter month. This is an unrealistic measure of overall building performance, the result is less than optimal apartment configuration driven by compliance, not amenity.

It is also concerning to note that the draft guide includes a number of indicative apartment layouts at section 4N (reproduced below). The apartments highlighted with the red bubble would find it difficult to achieve the required 3 hours sunlight into living rooms. However, they would achieve 3 hours sunlight to balconies.

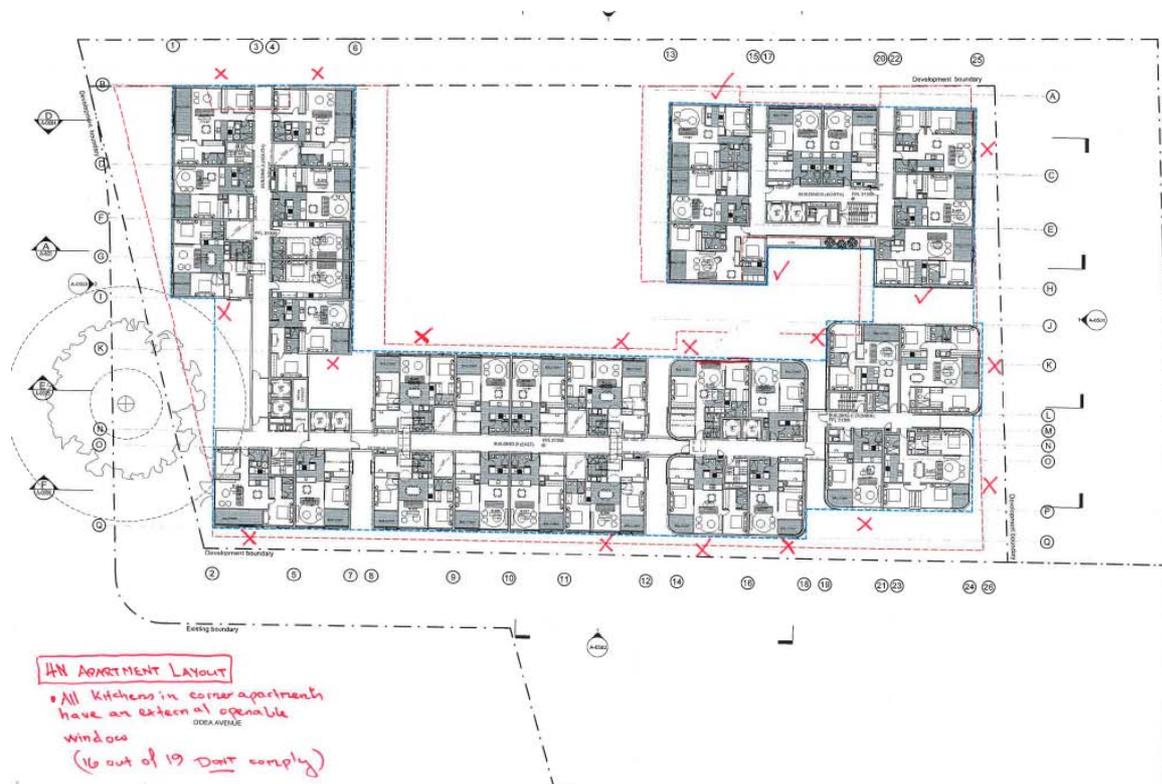


f. Apartment layout

The draft Apartment Guide stipulates minimum room widths that exceed currently acceptable room widths. Bedrooms of 2.7 metres width and living areas of 3.5 width are excepted and common to many developments. However, the draft guide seeks to increase this to 3 metres for bedrooms and 4 metres for living areas. Like the increased ceiling height noted above, increased minimum room widths will simply mean a reduction in development yield and hence increase in apartment costs.

Furthermore, the draft guide requires that all kitchens of corner apartments have an external openable window. This requirement is restrictive and the unintended consequence of such a control will be that access to views from corner apartments will be restricted due to the need to locate a kitchen along that wall where a living space would normally be placed to take advantage of views.

Below is a plan of an apartment development that would normally comply with existing controls. However, marked in red are all the apartments that will no longer comply due to kitchen window placement.



g. Car parking

It is encouraging to see recognition that car parking requirements have in the past been excessive. Removing the requirement to provide car parking in some locations is supported, provided car parking can be provided to respond to market demand. Furthermore, the removal of minimum parking should apply to all major transport nodes, not just rail. If a development is within 400 metres of a major bus interchange, the same rules should apply.

Currently the draft guide only supports above ground car parking in “unavoidable” circumstances. Appropriately designed above ground car parking must be properly acknowledged. This has significant environmental and affordability benefits.

h. Communal and private open space

Reasonable communal open space is a worthy inclusion in any development, provided consideration is given to access to public open space. In locations that have good quality public open spaces within say 400 metres, the need to provide communal open space in each development is questionable.

Furthermore, the requirement that 50% of the communal open space receive 2 hours sunlight could result in the open space having to be provided on the northern side of the site, impacting on building orientation.

Private open space requirements have also been amended in the draft guide to require more total area and deeper balconies. It should be noted that deep balconies, particularly not north facing, will reduce sun penetration to living spaces.

i. Common circulation and spaces

The draft guide seeks to limit the number of apartments to eight (8) off a circulation core. This drastically limits development options and increases the development cost. Limiting eight (8) units per core results in additional lifts and fire stairs being required that in the end simply increases the development cost and hence the cost of each apartment.

j. Landscaping

Residential flat development applications are supported by detailed landscape plans prepared by highly skilled professional landscape architects. Like architects, these professionals do not need further state planning controls to comply with. Landscape architects produce plans that are tailored to each individual project, responding to environmental challenges unique to the site. Seeking to implement a standard set of criteria will simply result in the pursuit of compliance, not the best solution for the site. For instance, the draft guide stipulates the number and type of trees to be provided. This is simply too limiting and inappropriate.

k. Facade Design and Materials

The range of facade designs and materials appropriate for residential flat development is limitless. New materials and styles are constantly emerging and it is for this reason that design regulation is not recommended. Regulation in this area of building design will limit variety and potential to respond to new and emerging design and building trends.

l. Apartment mix

The development industry must be provided with the opportunity to deliver a product that meets market demand. A mix of apartment types will be provided to respond to demand without reliance on government regulation. Furthermore, the performance criteria stated in the draft guide relates to market demand and development needing to provide what is required in the locality, hence there is no need for the draft criteria or controls for this matter.

m. Noise pollution and acoustic privacy

The proposed controls in the draft guide do not properly consider development realities. While good design would suggest that windows should be oriented away from major noise sources, this is not always possible particularly in the case of small sites on busy roads. Furthermore, it may not be desirable to orientate windows away from noise sources, particularly in the case of north facing windows where solar access is at a maximum. In fact solar access and views are what drive window placement and flexibility must be provided to the architect to locate windows in the most desirable locations.

n. Matters that should be deleted from the Apartment Design Guide

The draft guide includes a number of issues that are already adequately dealt with under other existing legislation. This means that there is no reason to include these issues in the Apartment Design Guide. Inclusion will mean that as other standards and legislation is amended, the apartment design guide will progressively become inconsistent with other regulation. In this

regard the deletion of, Energy Efficiency, Water Management and Conservation is recommended, as these matters are already adequately covered by the BASIX SEPP. Universal units and adaptable design should also be deleted from the draft guide as these matters are already covered under Australian Standards for Adaptable Housing.

5. Implementation of the draft SEPP 65 and Apartment Design Guide will increase the cost of apartments

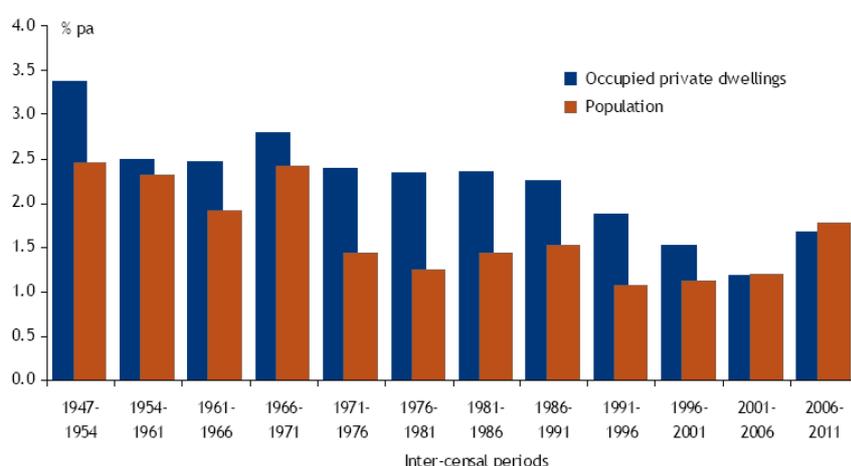
To avoid detrimental impact on housing affordability and project feasibility, the Government should reconsider the need to introduce further complexity and regulation to the apartment design and development process. Pursuing this policy reform process will show that the Government is driving the cost of housing up. For instance, if the draft:

- room depth to ceiling height ratio criteria was implemented, then according to our members, due to a loss of apartment yield per development, each standard apartment could become approximately \$50,000.00 more expensive; or
- deep soil zone and/or building separation from commercial buildings was to be implemented, then the dramatic loss of building gross floor area would simply mean that a development that was once considered feasible is no longer feasible.

There is abundant research which highlights the need to build approximately 35,000 new homes each year in New South Wales to keep up with increases in demand. Unfortunately, while there has been an improvement in housing delivery of late, we still have quite a way to go to reach this target.

Highly respected economist Saul Eslake has commented extensively on Australian housing policy and its drastic impact on housing affordability. In his submission to the Senate Economics Reference Committee, 21 December 2013 he outlines how housing supply has not kept up with population growth, leaving a significant deficit in house and an escalating housing affordability problem. Mr Eslake's figure, reproduced below shows that since 2006 the percentage population growth has exceeded the percentage growth of private dwellings.¹

Chart 1: Growth in the population and housing stock, 1947-2011



Sources: Australian Bureau of Statistics, Census results; author's calculations.

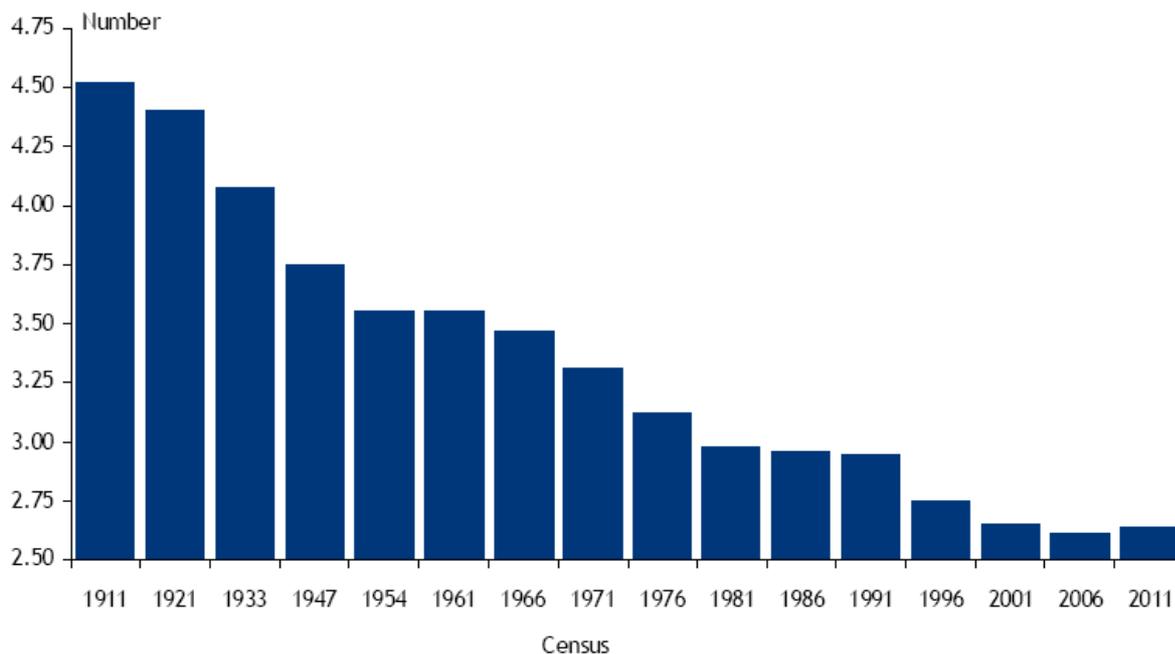
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¹ Saul Eslake (2013) AUSTRALIAN HOUSING POLICY: 50 YEARS OF FAILURE Submission to the Senate Economics References Committee 21st December 2013. 21st December 2013

²ibid. p.3.

As shown on the figure below, the result of housing supply not meeting population growth is that for the first time in almost one hundred years, we are seeing a growth of the number of people per dwelling. This is a direct response to housing becoming less affordable and reflects a reduction in the standard of living.

Chart 3: Average number of people per dwelling at Censuses, 1911-2011



Sources: Advisory Council for Intergovernment Relations, *Australian Housing Policy and Intergovernmental Relations*, Discussion Paper No. 14 (1982), Appendix B, Table B3; Australian Bureau of Statistics, *2011 Census Quickstats* and earlier Census reports. ³

To assist in meeting housing demand we urgently need to support housing construction and unless significant initiatives are put in place so that there is a reduction in the cost of production, introducing new regulation that will increase the cost of residential apartments will drastically impact on dwelling production and affordability. Unfortunately, households with mortgage costs of more than thirty percent of gross household income is at its highest in New South Wales. ⁴

The introduction of more onerous and complex apartment design regulation will make it even more difficult for home buyers as further increases to the cost of housing will ultimately be passed on to the homebuyer. If the prospective home buyer has already reached their borrowing capacity, home ownership will be out of reach.

³ Saul Eslake (2013) AUSTRALIAN HOUSING POLICY: 50 YEARS OF FAILURE Submission to the Senate Economics References Committee 21st December 2013. 21st December 2013. p.4

⁴ National Housing Supply Council. Housing Supply and Affordability Issues 2012-13

6. The impact of the draft SEPP and Apartment design guide is already being felt

The Urban Taskforce is concerned about the impact that an exhibited draft environmental planning instrument, in this case being the draft SEPP 65, will have on current development applications and housing affordability. That is, the Environmental Planning and Assessment Act, 1979 requires that:

In determining a development application, a consent authority is to take into consideration.....:

(a) the provisions of:

(ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Director-General has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved) ⁵

Therefore, because the draft SEPP has been exhibited and is the subject of public consultation the draft SEPP and the draft Apartment Design Guideline must be considered by a consent authority when making a determination of a development application. However, as detailed above, there are many deficiencies in the draft SEPP and draft Guidelines.

The Urban Taskforce argues that the adverse impact of this draft SEPP and Guideline warrants special and urgent action by Government. To avoid detrimental impact on housing affordability and project feasibility, the Government must immediately take action to ensure that until the draft SEPP and Guideline are finalised, no consideration or weight be given to them by a consent authority when making a determination of a development application.

Further information regarding this submission can be obtained by contacting the undersigned on telephone number 92383937.

Urban Taskforce Australia



Chris Johnson AM
Chief Executive Officer

⁵ Environmental Planning and Assessment Act 1979, S79C. 1(a)(ii).