



New South Wales

State Environmental Planning Policy No 65—Design Quality of Residential Flat Development (Amendment No 2)

under the

Environmental Planning and Assessment Act 1979

Her Excellency the Governor, with the advice of the Executive Council, has made the following State environmental planning policy under the *Environmental Planning and Assessment Act 1979* in accordance with the recommendation made by the Minister for Planning. (S08/00479/PC)

FRANK SARTOR, M.P.,
Minister for Planning

State Environmental Planning Policy No 65—Design Quality of Residential Flat Development (Amendment No 2)

under the

Environmental Planning and Assessment Act 1979

1 Name of Policy

This Policy is *State Environmental Planning Policy No 65—Design Quality of Residential Flat Development (Amendment No 2)*.

2 Aims of Policy

The aims of this Policy are to amend *State Environmental Planning Policy No 65—Design Quality of Residential Flat Development*:

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

3 Land to which Policy applies

This Policy applies to the land to which *State Environmental Planning Policy No 65—Design Quality of Residential Flat Development* applies.

4 Amendment of State Environmental Planning Policy No 65—Design Quality of Residential Flat Development

State Environmental Planning Policy No 65—Design Quality of Residential Flat Development is amended as set out in Schedule 1.

Schedule 1 Amendments

(Clause 4)

[1] Clause 3 Definitions

Insert in alphabetical order in clause 3 (1):

Residential Flat Design Code means the document titled “*Residential Flat Design Code*”, (a publication of the Department of Planning, September 2002), held in the head office of the Department.

[2] Clause 17 Principle 9: Social dimensions and housing affordability

Insert at the end of the clause:

New developments should address housing affordability by optimising the provision of economic housing choices and providing a mix of housing types to cater for different budgets and housing needs.

[3] Clause 30A

Insert before Part 5:

30A Standards that cannot be used as grounds to refuse development consent for residential flat buildings

- (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*.
- (2) Nothing in this clause permits the granting of consent to a development application if the consent authority is satisfied that the proposed development does not demonstrate that adequate regard has been given to the design quality principles in Part 2 of this Policy.

Note. The *Building Code of Australia* regulates the minimum ceiling heights for residential flat buildings.

Note. The provisions of this clause do not impose any limitations on the grounds on which a consent authority may grant development consent.

2008 No 282

State Environmental Planning Policy No 65—Design Quality of Residential Flat Development (Amendment No 2)

Schedule 1 Amendments

[4] Clause 31 Transitional provisions

Insert after clause 31 (4):

- (5) The provisions of clause 30A do not extend to the determination of a development application for consent to carry out development to which this Policy applies that has been made, but not finally determined, before the date of commencement of *State Environmental Planning Policy No 65—Design Quality of Residential Flat Development (Amendment No 2)*.

BY AUTHORITY
