

## Appendix K

### Draft State Environmental Planning Policy 65 - Compliance Assessment

The following is an assessment against the relevant considerations of the Draft State Environmental Planning Policy 65 and associated Residential Flat Design Code.

#### Part 4 – Application of design principles

Clause	Comment
<p><b>28 Determination of development applications</b></p> <p><i>(1) After receipt of a development application for consent to carry out residential flat development (other than State significant development) and before it determines the application, the consent authority is to refer the application to the relevant design review panel (if any) for advice concerning the design quality of the residential flat development.</i></p> <p><i>(2) In determining a development application for consent to carry out residential flat development, a consent authority is to take into consideration (in addition to any other matters that are required to be, or may be, taken into consideration):</i></p> <p><i>(a) the advice (if any) obtained in accordance with subclause (1), and</i></p> <p><i>(b) the design quality of the residential flat development when evaluated in accordance with the design quality principles, and</i></p> <p><i>(c) the Apartment Design Guide</i></p>	<p>A referral to the relevant design review panel (Council's UDCG) has occurred, as detailed in the assessment report.</p> <p>Consideration of the advice received from the panel is discussed in the report.</p> <p>The amended design quality principles and Apartment Design Guide are discussed below.</p>
<p><b>30 Standards that cannot be used as grounds to refuse development consent or modification of development consent</b></p> <p><i>(1) A consent authority must not refuse consent to a development application for the carrying out of residential flat development (or refuse an application for the modification of development consent) on any of the following grounds:</i></p> <p><i>(a) ceiling height:</i></p> <p><i>if the proposed ceiling heights for the building are equal to, or greater than, the minimum recommended ceiling heights set out in Part 4 of the Apartment Design Guide,</i></p> <p><i>(b) apartment area:</i></p> <p><i>if the proposed area for each apartment is equal to, or greater than, the recommended internal area for the relevant apartment type set out in Part 4 of the Apartment Design Guide.</i></p> <p><i>(c) car parking:</i></p> <p><i>if the proposed car parking for the building is equal to, or greater than, the recommended minimum amount of car parking set out in Part 3 of the Apartment Design Guide.</i></p> <p><i>Note. The Building Code of Australia regulates the minimum ceiling heights for residential flat buildings.</i></p>	<p>The proposal is acceptable having regard to these considerations.</p>



<p><i>(2) Nothing in this clause permits the granting of consent to a development application (or the modification of development consent) if, in the opinion of the consent authority, the proposed development or modification does not demonstrate that adequate regard has been given to the design quality principles.</i></p>	
<p><b>Schedule 1 – Design Quality Principles</b></p>	
<p><i>Principle 1: Context and Neighbourhood Character</i></p> <ul style="list-style-type: none"> <li>• <i>Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic and environmental conditions.</i></li> <li>• <i>Responding to context involves identifying the desirable elements of an area's existing or future character. Well designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood.</i></li> <li>• <i>Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.</i></li> </ul>	<p>The proposal is acceptable having regard to the context. The proposal is consistent with the existing and future character of the area, as identified in the approved concept plan.</p>
<p><i>Principle 2: Built Form and Scale</i></p> <ul style="list-style-type: none"> <li>• <i>Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.</i></li> <li>• <i>Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements.</i></li> <li>• <i>Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.</i></li> </ul>	<p>The proposal is considered to be acceptable having regard to bulk and scale.</p> <p>The proposal is generally consistent with the approved concept plan, which identified appropriate built form, building alignments, land uses and streetscape design for the site in its context.</p>
<p><i>Principle 3: Density</i></p> <ul style="list-style-type: none"> <li>• <i>Good design has a density appropriate for a site and its context, in terms of the number of units or residents.</i></li> <li>• <i>Appropriate densities are consistent with the area's existing or projected population.</i></li> <li>• <i>Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.</i></li> </ul>	<p>The proposal has an acceptable density, having regard to the approved concept plan for the site.</p>
<p><i>Principle 4: Sustainability</i></p> <ul style="list-style-type: none"> <li>• <i>Good design involves design features that provide positive environmental and social outcomes.</i></li> </ul>	<p>The proposed residential units comply with the design guide in relation to solar access, cross ventilation and</p>



<ul style="list-style-type: none"> <li>• <i>Good sustainable design includes use of natural cross breezes and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation.</i></li> </ul>	<p>building depth.</p> <p>The proposal is supported by a BASIX certificate.</p> <p>The proposal is considered to be acceptable in relation to these considerations.</p>
<p><i>Principle 5: Landscape</i></p> <ul style="list-style-type: none"> <li>• <i>Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.</i></li> <li>• <i>Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values and preserving green networks.</i></li> <li>• <i>Good landscape design optimises useability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity and provides for practical establishment and long term management.</i></li> </ul>	<p>The semi-public spaces integrate the development well with the surrounding areas. The associated landscaping proposed in these areas is considered to be acceptable.</p>
<p><i>Principle 6: Amenity</i></p> <ul style="list-style-type: none"> <li>• <i>Good design positively influences internal amenity for residents and external amenity for neighbours. Achieving good amenity contributes to positive living environments and resident well being.</i></li> <li>• <i>Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, and ease of access for all age groups and degrees of mobility.</i></li> </ul>	<p>It is considered that a high level of amenity will be provided to the future residents.</p> <p>The siting of the building reasonably considers the protection of amenity of adjoining buildings.</p>
<p><i>Principle 7: Safety</i></p> <ul style="list-style-type: none"> <li>• <i>Good design optimises safety and security, with in the development and the public domain.</i></li> <li>• <i>It provides for quality public and private spaces that are clearly defined and fit for purpose.</i></li> <li>• <i>Opportunities to maximise passive surveillance of public and communal areas promote safety.</i></li> </ul>	<p>It is considered that the proposal is acceptable in relation to these considerations.</p> <p>It is considered that the interaction between private, semi-public and public spaces is clearly defined.</p>



<ul style="list-style-type: none"> <li>• <i>A positive relationship between public and private spaces is achieved through clearly defined secure access points and well lit and visible areas that are easily maintained and appropriate to the location and purpose.</i></li> </ul>	
<p><i>Principle 8: Housing Diversity and Social Interaction</i></p> <ul style="list-style-type: none"> <li>• <i>Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.</i></li> <li>• <i>Well designed developments respond to social context by providing housing and facilities to suit the existing and future social mix.</i></li> <li>• <i>Good design involves practical and flexible features, including different types of communal spaces for a broad range of people, providing opportunities for social interaction amongst residents</i></li> </ul>	<p>The proposed unit mix is 24 x studios, 77 x 1 bed units, 54 x 2 bed units, 5 x 3 bed units and 1 x 4 bed unit.</p> <p>As the units are designed for potential consolidation (on demand), it is considered that the proposal is acceptable having regard to these considerations.</p>
<p><i>Principle 9: Architectural Expression</i></p> <ul style="list-style-type: none"> <li>• <i>Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures.</i></li> <li>• <i>The visual appearance of well designed apartment buildings responds to the existing or future local context, particularly desirable elements and rhythms of the streetscape.</i></li> </ul>	<p>As detailed in the UDCG minutes, it is considered that the proposal is acceptable in relation to design and visual appearance.</p>

### **Draft Apartment Design Guide (Draft Guide)**

The following table summarises the assessment of the proposal against the Draft Guide:

Section	Comment
3A Site Analysis	This was addressed under Part 6 Concept Plan considerations of the report. The subject application responds to the identified building footprint. The proposal is acceptable having regard to the context. The proposal is consistent with the existing and future character of the area, as identified in the approved concept plan.
3B Orientation	The orientation and position of the building is constrained by the approved envelope. As detailed in the assessment report, it is considered that the proposal is acceptable, having regard to solar access, privacy and amenity provided to residents, existing buildings and the streetscape.
3C Public domain interface	It is noted that the change in levels across Shortland Esplanade has been responded to by the applicant, through the provision of commercial frontages on two different levels. It is considered that the semi-public podium level and proposed fencing to the ground level courtyards are acceptable.
3D Communal and	The performance criteria requires communal open space to



public open space	<p>have a minimum area of 25% of the site. As discussed in the assessment of the current guidelines contained in Appendix J, the proposal is considered to be acceptable. While this area does not achieve the 2 hours of solar access referenced in the guide, it is noted that this draft guide was released subsequently to the application being lodged, and approval of the previous DA2012-549 which comprised the same arrangement. It is considered that the communal open space has an acceptable amenity. It is also noted that the site is in close proximity to a number of high quality open space areas, i.e. Newcastle Beach and various parks.</p> <p>It is considered that an appropriate level of passive surveillance is available to the communal open space areas, and is well connected to the public street.</p>
3E Deep Soil Zones	<p>As discussed in the assessment of the current guidelines contained in Appendix J, the proposal is considered to be acceptable. In accordance with the DCP the application has been accompanied by a landscape concept plan and landscape design report prepared by a landscape architect. The provision of landscaping on the site is considered acceptable for the context and would complement the development.</p>
3F Visual Privacy	<p>The Draft Guide has amended the separation distance acceptable solution, so as to be considered to the side and rear boundary rather than the adjoining buildings. The distance to the boundary for habitable rooms and balconies are:</p> <p>Up to 12m (4 storeys) – 6 metres  Up to 25m (5-8 storeys) – 9 metres  Over 25m (9+ storeys) – 12 metres</p> <p>Further, consideration of commercial buildings is now required (Note: Council officers had considered separation to the commercial office as part of the previous DA 2012-549 despite not being explicitly required).</p> <p>Impacts in relation to this setback have been considered in the assessment report.</p> <p>The proposal has a setback of 7.2 metres to the western boundary. Levels 5-6 will require translucent glazing to ensure protection of privacy to residents.</p> <p>In relation to the upper levels, it is noted that these levels are already approved for residential use. The adjoining building does not extend above level 6, and accordingly, based on the current code, the proposal complied with the separation distances. As the neighbouring building was recently refurbished, it is not considered likely that further height increases are likely in the near future.</p> <p>In relation to the northern boundary, which is considered to be a non-habitable frontage due to the lack of windows/decks (with the exception of small strips of translucent glazing), the</p>



	<p>Draft Guide requires a 3-6metre setback as the height of the building increases. It is noted that this Draft Guide was released subsequently to the application being lodged and approval of the previous DA2012-549 which comprised the same arrangement.</p> <p>It is considered that there is adequate separation and/or screening of habitable rooms and decks to the semi-public and public areas of the proposal.</p>
3G Pedestrian access and entries	It is considered that the design of the entries and pedestrian links is acceptable.
3H Vehicle access	It is considered that the design and location of the proposed entries is acceptable in relation to safety and visual impact.
3J Bicycle and car parking	<p>The Draft Guide states that land within 400metre of land zoned B3 Commercial Core or B4 Mixed Use is to comply with the RMS Guide to Traffic Generating Development or the carparking requirement prescribed by the relevant Council, whichever is the less.</p> <p>As detailed in the assessment report, the proposal complies with Council's DCP requirements.</p> <p>Further, adequate motorcycle, bicycle parking and residents storage for bicycles, has been provided.</p> <p>In relation to the proposed at grade carpark, it is considered that the area is not highly visible to the street and is incorporated into the overall landscaping design for the site.</p> <p>The design of the carpark entrances is generally considered to be acceptable.</p>
4A Apartment mix	The apartment mix is considered to be acceptable.
4B Ground Floor Apartments	The security and amenity to these units is considered to be acceptable.
4C Facades	As detailed in the UDCG minutes, it is considered that the proposal is acceptable in relation to design.
4D Roof Design	The proposal is considered to be acceptable.
4E Landscape Design and 4F Planting on Structures	The semi-public spaces integrate the development well with the surrounding areas. The associated landscaping proposed in these areas is considered to be acceptable.
4G Universal Design	In relation to these requirements, it is noted that the proposal was lodged prior to the release of the Draft Guide. However, the proposal is designed to allow consolidation of units (as needed) and has been supported by a Disability Access Report.
4H Adaptive Reuse	Not applicable.
4J Mixed Use	The proposal involves mixed uses. In this regard it is considered that the design of entrances and general layout adequately integrates these uses.
4K Awnings and signage	The proposal is acceptable.
4L Solar and daylight access	As detailed in the assessment report, it is considered that an acceptable number of units receive solar access. It is further



	considered that the applicant has demonstrated that, within the constraints of the approved concept plan and existing buildings, all efforts to provide solar access have been undertaken. Given the coastal location it is only natural that the living areas be orientated to capture ocean views and breezes. While this does not always result in the best solar access the visual amenity gained is considered to justify the design. Furthermore orientating balconies to the ocean provides for a more attractive urban form facing Shortland Esplanade. It is noted that the UDCG did not raise any objection to buildings solar access.
4M Common Circulation and spaces	The design of the proposal is considered to be acceptable.
4N Apartment Layout	Consideration of apartment dimension has occurred in accordance with the current design guidelines.
4O Ceiling Heights	The plans provide for 3m between residential floors. Allowing for the slab thickness would provide for approximately 2.7m ceilings. The proposal complies with this section.
4P Private Open Space and balconies	The draft performance criteria identifies larger minimum areas than the current guidelines. As identified in the assessment of the current guidelines, the proposal is considered to be acceptable, particularly given the proximity of the site to Newcastle Beach and public open space. The ground level private open space complies with the performance criteria.
4Q Natural ventilation	The draft performance criteria are generally consistent with the existing guidelines. As discussed in the assessment, the proposal is considered to be acceptable in this regard.
4R Storage	As discussed in the assessment report, the proposal provides adequate storage for occupants.
4S Acoustic Privacy	The design of the proposal can adequately provide acoustic privacy.
4T Noise and Pollution	The design of the proposal can adequately provide amenity to the future occupants.
4U Energy Efficiency and 4V Water Management and conservation	The proposal is considered to be acceptable.
4W Waste Management	The common waste areas and storage are considered to be acceptable, noting private collection would be required.
4X Building Maintenance	The proposal is considered to be acceptable.

Having regard to the Draft Guide, the proposal is considered to be acceptable.