

Architects Regulation 2012 Information Sheet Defining design quality in apartments – SEPP65

Clause 50 of the NSW Environmental Planning and Assessment Regulation (2000) requires that a “qualified designer” must design or direct the design of an apartment block of three or more storeys containing at least four or more dwellings. The Regulations define a *qualified designer* as a person registered as an architect in accordance with the Architects Act 2003.

The June 2015 amendments added two important requirements. These require that not only must the qualified designer prepare a statement that he or she designed or directed the design **but also** that he or she verify how the nine design quality principles are achieved (cl 50(1A)). The statement must demonstrate how the objectives of Parts 3 and 4 of the Apartment Design Guide (ADG) have been achieved (cl 50(1AB)). These new requirements expand the responsibility of the qualified designer to explain the design by demonstrating how compliance with the SEPP and ADG has been achieved.

The nine quality principles are:

1. Context and neighbourhood character
2. Built form and scale
3. Density
4. Sustainability
5. Landscape
6. Amenity
7. Safety
8. Housing diversity and social interaction
9. Aesthetics.

Parts 3 and 4 of the ADG are concerned with “Siting the development” and “Designing the building” respectively. Issues covered include orientation, open space, deep soil zones, pedestrian and vehicle access, etc – all in Part 3 and solar access, ventilation, ceiling heights, apartment size, apartment mix, facades, etc in Part 4. Many of these items are crucial to the design of a residential apartment building and numerical controls apply to aspects such as apartment depth, proportion of cross ventilated apartments, apartment areas, etc. Compliance with the design controls must be reported in any design statement under cl 50(1AB) of the Regulation.

The wording of the clause suggests that the architect must prepare, or direct and then sign, the design statement even when it is incorporated in a Statement of Environmental Effects prepared by others.

In order to meet the needs of clients, architects will need to be familiar with the structure of the ADG and its detail. In Parts 3 and 4, *objectives* describe the design outcomes sought, *design criteria* provide measurable requirements which are the benchmark for designs and *design guidance* provides advice on how the *objectives* and *design criteria* can be met or provide a base against which non-compliant design responses can be evaluated. This is not unlike the



deemed-to-satisfy philosophy of the National Construction Code and, as for the Code, architects will need a good deal of familiarity with the ADG.

With respect to modifications to development consents under s96 of the Environmental Planning and Assessment Act, provisions similar to that added to cl 50 of the Regulation now modify cl 115 with the addition of subclauses (3A) and 3(B). However, an additional test is applied. The qualified designer must: *verify that the modifications do not diminish or detract from the design quality, or compromise the design intent, of the development for which the development consent was granted.*

Where the qualified designer of an application to amend a DA is not the original architect who provided the design statement, cl 115(3B) requires the application to be resubmitted to a Design Review Panel *for advice as to whether the modifications diminish or detract from the design quality, or compromise the design intent.* This provision is intended to discourage the “dumbing down” of approved designs.

Architects should see the expanded reporting requirements of the amended SEPP as an opportunity to explain the design to approval authorities whose architectural expertise may not be as expert as that of a qualified designer. Or, in addressing a Design Review Panel, where assessment is by qualified peers.

Implications in the NSW Architects Code of Professional Conduct

The objectives of the Code are as follows:

- (a) to define for the community, architects and clients the reasonable standards of conduct expected from architects in their professional practice,
- (b) to facilitate the establishment of professional relationships between architects and their clients based on reasonable expectations concerning professional standards and the cost of architectural services,
- (c) to promote community confidence in the architectural profession.

It is the Board’s view that a competent application of the Code, in relation to the SEPP, requires as a minimum;

- 1). The architect’s registration number to be included on all stationery, presentation or construction documents (including drawings, specifications and schedules), illustrations, sign boards, public notices and architectural plans, and in publications, used or placed by the architect in connection with the architect’s professional practice.
- 2). Where relevant, that a Design Verification Statement issued by the practice indicates the name, and architect’s registration number of the architect(s) nominated as responsible for the provision of architectural services by the corporation or firm.

A failure to comply with the Code constitutes unsatisfactory professional conduct for the purposes of the Architects Act 2003 and may be grounds for disciplinary action under Part 4 of the Act.

