

Local Government  
Association of NSW



Shires Association of NSW

**SUBMISSION ON THE REVIEW OF THE STATE ENVIRONMENTAL  
PLANNING POLICY NO 65 – DESIGN QUALITY OF RESIDENTIAL FLAT  
DEVELOPMENT**

**DATE**

**February 2012**

The Associations thank the Department of Planning and Infrastructure for the invitation to make a submission on SEPP 65 concerning Design Review Panels.

Recent survey work by the Associations' comprised extensive interviews with council staff who have current experience with Design Review Panels (DRPs) – both DRPs set up under SEPP 65 and those established by councils under their own operational guidelines.

### **There are few Design Review Panels (DRPs)**

There are currently about 15 Design Review Panels, shared by 18 councils that provide councils with design advice on Development Applications (DAs) and other planning matters. These councils represent about 12% of the sector.

SEPP 65 encourages councils to use Design Review Panels, however the requirements for these panels under the SEPP are very prescriptive that has meant that only six Design Review Panels have been set up under the SEPP. Hence a further nine Design Review Panel have been set up by councils themselves, similar to the model under SEPP 65 but tailored to their own needs.

It is important to observe that the overwhelming majority of councils do not use any form of DRP. Further research is required to ascertain the reasons, but initial feedback indicates that councils consider DRPs either too expensive to set up and manage or that councils do not have the steady flow of applications that would warrant setting up such a panel.

Although a DRP may be a workable model for the larger growth councils, other mechanisms to provide design advice to councils, apart from a panel, may be worth further consideration by the Department.

### **'Designer' Design Panels are the new generation Design Review Panels**

The survey clearly indicates that councils prefer to vary the model for a DRP under SEPP 65, to develop their own 'designer' DRPs, that address the type of applications they commonly receive that need design advice. These 'designer' panels set up by councils are different in detail but are surprisingly similar in substance and approach.

The council DRPs have developed an approach that differs from the SEPP 65 DRPs in the following ways. The council DRPs:

- are established and managed by councils, with no reference to the Minister or oversight required by the Department of Planning and Infrastructure, allowing the council to manage the panels more efficiently and proactively;
- provide advice on a wider range of development types such as shopping centres, commercial development, large churches and industrial development than the limited forms of residential flat development that are stipulated under the SEPP;
- usually apply higher fees commensurate with the cost of professional advice (though on occasion may apply lower fees ) rather than being restricted to the regulated fee;
- have lower membership numbers - often around 3 members instead of the 5 required under the SEPP that makes the panel more cost effective and manageable; and
- strictly control the period of time that advice is returned back to council (often within days) to make the system palatable for the applicant, and workable for councils instead of the unwieldy 31 days specified under the SEPP.

## Key recommendations

The Associations consider that the model for DRPs as prescribed under the SEPP is unnecessarily restrictive and being contained within a SEPP, is unable to be varied by councils.

Not only does the model need to be relaxed, more importantly, it needs to be removed from the SEPP and placed within a policy framework so that model can be adopted in principle by councils and varied in detail. The imposition of the model within the SEPP is counter productive and is not able to provide leadership to council. The alternative models for DRPs developed by councils are more workable, practical and flexible, achieving the outcomes intended under the SEPP.

It is strongly recommended that the Department resist amending the model for DRPs within the SEPP, and choose to place the 'model' within the framework of guidelines. Varying the SEPP will have the appearance of reforming the model but may be ignored by councils. The benefit of placing the model within 'Guidelines' is that it provides direction to councils on how to set up a DRP without being too prescriptive on every detail. This approach will not compromise the professional independence of the advice provided to councils, but encourage councils to implement a DRP that targets local issues.

The Associations:

1. Support non mandatory advisory Design Review Panels being adopted by councils.
2. Oppose the model for DRPs as prescribed under SEPP 65 and recommend that DRPs should be established outside the legal confines of the SEPP. Reference to DRPs should be removed from the SEPP and replaced by *Guidelines for Design Review Panels*, for councils when establishing a Design Review Panel.
3. Support the preparation of *Guidelines for Design Review Panels*. These Guidelines should include the following principles:
  - the Minister cannot require a council to adopt a DRP;
  - a council may establish a DRP in association with another council;
  - the membership of DRPs should be appointed and managed by the council/s. Members need to meet certain professional requirements and the number should be determined by the council having regard to the type of application;
  - that the councils should determine the range of activities that are required to be referred to the Panel and the general role of the panel in the planning process; and
  - fees should be de-regulated and applied by councils based on the scale and complexity of the proposed activity.
4. Recommend that other mechanisms for providing advice to councils on design issues as an alternative to Design Review Panels, needs to be further explored by the Department, in consultation with the Associations.