



Clockwise from top: St Leonards Square by Mirvac and Ping An; Wonderland by Frasers Property Australia; New Breeze by Dahua Group Australia; The Hermitage by Sekisui House Australia

Design & Place SEPP EIE

UDIA Response

April 2021

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CONTACT

For further information about any matter raised in the submission please contact:

Elizabeth York
Regional Manager



ABOUT UDIA NSW

Established in 1963, the Urban Development Institute of Australia, NSW (UDIA) is the leading industry body representing the interests of the urban development sector and has over 500 member companies in NSW. Our members span the breadth of the urban development sector, including greenfield and apartment developers, architects, urban designers, planners, landscape architects, lawyers, ecologists, local government and state agencies. UDIA NSW advocates for the creation of Liveable, Affordable and Connected Smart Cities.

INTRODUCTION

UDIA is grateful for the opportunity to provide a submission to the Design and Place State Environmental Planning Policy (SEPP) Explanation of Intended Effect (EIE) currently on exhibition.

Given the over-arching impact the proposed SEPP would have on future development in NSW, at the outset we must express our disappointment that during this recovery period from the extreme economic impacts of COVID-19, the Department of Planning Industry and the Environment (DPIE) has proposed to add costs and additional micro-management to development and generally undermine other equally worthwhile initiatives that would facilitate residential development and the social and economic benefits it brings to the people and construction industry of NSW. Currently, the proposed approach adds no genuinely measurable improvement to design in NSW that would warrant such a significant potential increase in processing times and imposes on development costs.

We must further express our disappointment with the process by which the EIE has been developed. UDIA welcomed the chance to participate in the limited industry workshops offered on this topic in 2020. However, the views expressed by UDIA representatives through that process have not been incorporated into the exhibited documents, especially those related to flexibility, design innovation and cost considerations. UDIA strongly believes that good growth requires close collaboration between government and the development sector and accordingly, there must be more meaningful engagement, not only on this initiative, but for all proposed policy changes that impact the sector if NSW wants to attract the investment it needs to sustain growth.

Notwithstanding this disappointment, our submission outlines our recommendations and associated comments on structure, process and changes to the proposed policies and guidelines.

EXECUTIVE SUMMARY

UDIA does not accept the proposition that design and place outcomes in NSW are so dire as to warrant the EIE's 'command and control' approach to development and its implications for costs and approval times.

As a matter of practice, UDIA advocates for best practice design and development outcomes for all urban land. Our members, including developers, Councils and a wide range of design professionals and experts, work together to provide great places for our communities. The quality of many developments delivered by our members through the existing planning framework stands testament to their focus, engagement and commitment to good design outcomes and place making, balanced with a sustainable economic return.

UDIA does support the effort to develop a principle-based approach to creating a high-quality urban fabric through consistent, transparent and rigorous processes. We also support the stated intention of consolidating and streamlining planning policies and guidelines related to design, and the proposed Principles outlined in the EIE. These aspirations are positive and overdue.

Nevertheless, at this stage, there is a high level of uncertainty in how the intended SEPP would be implemented and a great deal of concern over its potential impact on development in NSW:

1. UDIA is concerned that the intent of streamlining planning processes and promoting innovation on the path to good design outcomes will be lost through the SEPP's implementation, particularly given the broad application extended across development types; and
2. UDIA fears that the SEPP would diminish productivity and housing affordability while suppressing innovation.

The EIE proposes that the SEPP would apply to all development on urban land throughout NSW and proposes different application requirements and mandatory considerations according to the scale of development. The additional numerical controls are applied in a one-size-fits-all approach that the UDIA believes is inappropriate for the varied complexity of development the SEPP is proposed to cover. Fundamental issues such as the definitions of scale and integration into the current planning process remain open questions, making it difficult to comment fully on the effects the SEPP may have.

Ultimately, UDIA is concerned with the overall direction being pursued in the SEPP. There is a high risk that the SEPP will:

- add time and cost to development and thereby reduce housing supply and affordability;
- further complicate the planning process;
- result in a more prescriptive approach to design; and
- reduce innovation.

To avoid these effects, UDIA requests that our members, including urban and greenfield developers, designers, and associated professionals, be involved in a series of meaningful workshops with DPIE and GANSW to further guide the drafting of the SEPP.

We note there is the huge major reform agenda currently underway across development in NSW, including the Productivity Commission's Development Contributions reform program, the Treasurer's Property Tax reform, Aerotropolis Precinct Plans and four SEPPs. There are also myriad strategic plans

that are yet to be finalised, such as the Greater Sydney Commission (GSC) established District Plans, as well as local government strategic plans including housing strategies in all local government areas across NSW. These area-focused documents have all been subject to an extensive industry and public consultative process which should not be disregarded.

It is also at a time when industry jobs are at risk due to declines in planning approvals and delays in the roll out of enabling infrastructure. The Design & Place SEPP needs to be managed with a holistic approach to these challenges.

Our submission offers comments, questions, and where possible recommendations on each section of the EIE. We request that the issues and questions raised in our submission be addressed in these workshops, and that the NSW Government approach the task with an open mind to create a better approach.

Additionally, UDIA strongly recommends that DPIE further consults broadly within the Department as well as with other relevant areas of Government to get their input on the effects of the proposal. Particular reference is made to:

- DPIE's strategic teams regarding the impact on housing supply forecasts and local housing strategies;
- Greater Sydney Commission (GSC) on the potential impact to their District Plan targets;
- Productivity Commission on the impact to cost of housing, diversity and supply of housing and the ability of the professional services industry to adapt to these changes efficiently;
- Local Government NSW regarding the resourcing and training needs for Councils to manage the SEPP; and
- Treasury to analyse the impact on the COVID-19 economic recovery plan.

In summary, we provide the following recommendations for consideration by DPIE and GANSW:

- 1. Engage closely with industry overall on the development of the SEPP and particularly on the specific points highlighted in our submission, in a series of meaningful workshops to guide the drafting of the SEPP and supporting documents.**
- 2. All proposed changes must be considered against their potential to increase costs, and any added costs should be offset to ensure further pressure is not added to housing affordability.**
- 3. The SEPP should be structured on development type within the spatial context and clarify that the ADG is a component of the UDG, as built form apartments are a component of the larger urban setting.**
- 4. Amend the proposed Precinct Thresholds, particularly for subdivisions from 50 to 500 lots.**
- 5. Engage with industry on the format, timeframes, and Terms of Reference of the proposed Design Review Guide (DRG) and role of state and local design review panels. The DRG is a fundamentally important element and should be released for public comment ahead of the drafting of the SEPP itself.**

6. **Ensure the SEPP implementation does not undermine the enormous amount of work and community and stakeholder ownership undertaken by Local Authorities to produce their LSPS's and Housing Strategies.**
7. **Undertake another review, with industry consultation, of available examples for principle-led approaches from other jurisdictions including ACT, Victoria and WA, and adopt a true principle-led approach for the ADG and UDG.**
8. **Reinforce that the ADG and proposed UDG are guidelines, and variations should be permitted where an equal or better urban design or built form outcome can be gained, or where meeting the guidelines is impossible to achieve on a site. The SEPP must be absolutely clear where design considerations are aspirations, but not requirements.**
9. **Before the BASIX changes are finalized, DPIE should work with industry and provide modelling to enable better evaluation of the likely impacts of proposed changes.**
10. **Consider a "digital certification" approval process similar to BASIX on an urban scale for particular types of Precinct Plans, to enable development to progress efficiently.**

PART 2: PROPOSED NEW STATE ENVIRONMENTAL PLANNING POLICY (DESIGN AND PLACE)

Overall Approach

UDIA is optimistic that the NSW Government does not wish for the Design and Place SEPP to make housing less affordable or the related potential consequence to decrease housing supply. Unfortunately, the approach outlined in the EIE has the potential to do both, by adding time and cost to development and reducing feasibility. We are also gravely concerned that the approach would undermine the stated intended ambitions for the SEPP to streamline planning and support innovative design outcomes.

The SEPP as currently proposed would add:

1. Unnecessary repeated processes, time, and cost on top of existing development design and assessment processes, exacerbating housing affordability challenges. For example, Section 3.2 outlines additional requirements for Development Applications (DA), including many additional maps and reports. In addition, Design Review Panels (DRP) are forecast to have an expanded role, and while the extent of the DRP-industry interface is currently unclear, it has vast potential to add time and cost; and
2. New, and questionably unnecessary controls as outlined in the appendices, including changes to the Apartment Design Guide (ADG), imposing additional numeric and prescriptive design criteria that would be more costly to integrate into the built form.

Adding costs to development goes against the priority to make housing more affordable in NSW. The impacts of additional time and cost to delivery of new urban developments, as well as associated

increased maintenance and living costs resulting from new requirements, would ripple through the different markets across Sydney and the regions in NSW. UDIA points out that the commercial realities of development mean that increases to the cost of development are ultimately passed on to the home buyer in the form of higher prices. However, there is a limit on development costs that can be absorbed before projects lose their viability and developers decide not to proceed. In fact, our members report that under the proposed changes exhibited in the EIE, many award-winning developments would not be economically feasible to deliver, including the winner of the UDIA NSW 2020 Award for Best Masterplanned Community - Billbergia's Wentworth Point Marinas Master Plan.

In Sydney and across many regions, we are facing a critical shortage in the short-term pipeline for new homes in both greenfield and apartment sectors. Now is not the time to shackle the industry with increased costs, additional application timeframes and unnecessary bureaucratic processes. The NSW Treasurer is relying on the development and construction sector to drive the NSW economy forward in the post-COVID environment, increase housing supply and to make it easier for Australians to buy a home. Those goals should not be undermined.

DPIE and GANSW, should they pursue the approach as currently proposed in the EIE, must:

- Understand the cost impact of each new requirement, and how it could be offset. For example, potential offsets could be found in allowing for higher density, reduction in affordable housing requirements, reduction in infrastructure contributions or other adjustments on development imposts; and
- Recognise that while a more streamlined design process could provide better places to live, work and play and has the potential to increase productivity and support better health, such social and environmental outcomes cannot be achieved if the places cannot be built because of feasibility impacts.

There are already many planning documents touching on the idea of design, which demonstrates the importance of the issue. However, rather than streamlining, the proposed approach of the new SEPP appears to add another layer to the planning process, adding to the uncertainty of the current system.

Importantly, the SEPP, as currently proposed, could *further complicate the planning process* as:

- The EIE does not appear to consider the varying components of urban design and what urban design is for, nor the purpose and ease of use by practitioners and regulators;
- The SEPP endeavors to interact with 15 existing, draft and/or new guidance documents; the GANSW Better Placed policy; and the full suite of NSW environmental planning instruments including myriad LEPs and DCPs, at least 8 other SEPPs and any number of relevant planning circulars, practice notes and Ministerial directions. The interaction of the proposed SEPP with these combined statutory and regulatory documents at relevant points in the planning process remains unclear, and the schedule of integrating the new SEPP is also unknown.

The SEPP could result in a more prescriptive approach to design and reduce innovation. The policy should be outcome focused rather than input focused. The numerical requirements outlined in the mandatory matters for consideration and the proposed ADG amendments do not fit an outcome focused approach. Many additional numerical controls are applied in a one-size-fits-all approach that is inappropriate for the complexity of development the SEPP will cover across the variety of large spatial greenfield areas converting to urban; inner urban areas that are emerging, existing, or converting; and individual built form.

Overall, the EIE claims the SEPP would achieve design excellence through streamlined and site focused analysis. However, we disagree. The proposed changes to the ADG are counter-intuitive to this, resulting in further prescription of metric, and far less individual design quality and site response. The ADG is already far too metric-based and misused by many councils as a tick-box exercise. The proposed approach fails its function to achieve better design and homogenizes building forms and outcomes.

The ADG requirements appear to be non-negotiable, elevating them above the Principles. This is the opposite of a principle-led approach. The components of landscape and built form are relevant as a consequence of a broader urban design piece. The ADG should contain very few mandatory quantitative requirements, with the rest as guidelines to support achieving the Principles within the overall urban design. Several examples exist from other jurisdictions whose approach should be (re)considered, for example the ACT's Multi-Unit Housing Code.

The EIE raises many fundamental questions. The breadth and complexity of the issues are substantial. It is critical that DPIE and GANSW work closely with industry, including developers, designers and associated professions, to arrive at a workable policy that enhances without complicating the development planning process.

Recommendation 1: *Engage closely with industry overall on the development of the SEPP and particularly on the specific points highlighted in our submission, in a series of meaningful workshops to guide the drafting of the SEPP and supporting documents.*

Recommendation 2: *All proposed changes must be considered against their potential to increase costs, and any added costs should be offset to ensure further pressure is not added to housing affordability.*

2.1 Structure of the New SEPP

Opportunity for a Fresh Approach – Structure on Type within Spatial Context.

Generally, the EIE suggests that the SEPP is expected to be a comprehensive and all-encompassing document that covers a full range of elements relating to a broad design arena. We note the document is overwhelmingly written from a building-first lens. We propose the consideration should start with the urban fabric, then the space, the building and finally the measurement against prescribed detailed metrics such as sustainability. In crafting the approach, DPIE and GANSW should consider the varying components of urban design and what urban design is for, the purpose and ease of use by practitioners and regulators.

In practice, design is applied in different ways, at different times, for different types of development, by different practitioners:

- *Planning* urban design for establishing new communities in greenfield areas;
- *Architectural* urban design relating to a street block or a building;
- *Landscape Architectural* urban design relating to a park or open space area;
- Urban design involving a *combination* of Planner, Architect and Landscape Architect for the regeneration of a town centre, urban area, or brownfield inner urban area.

We suggest that the *development types should be the framework*, with the components of scale (e.g., precinct, significant development and all other development, if those are ultimately used) being incorporated into that structure, not the other way around. Spatial scale will assist with an urban design, navigating how it responds to the Principles and guidelines of the SEPP, according to the development type.

The policy needs to be structured to account for all the above in a meaningful and useable way to ensure the best implementation of the SEPP and achieve the intended effect. The SEPP could be structured to provide a clear line of sight from a broader context to detailed focus through to the built form design outcome for:

1. Large spatial areas converting to urban
2. Inner urban areas (emerging, existing and converting)
3. Built form

A SEPP structured in this manner would enable a designer to relate to the SEPP in a more meaningful and productive way and ensure that reviewers or consent authorities do not draw on unrelated elements to the urban design component being undertaken (e.g., requiring building design at greenfield Precinct Planning).

Assessment and design processes, including relevant rules and criteria that may be found in supporting or complementary policies or guides, should be clearly laid out for each category of development.

Recommendation 3: The SEPP should be structured on development type within the spatial context and clarify that the ADG is a component of the UDG.

2.2 & 2.3 Aims and Principles

We support the Principles of the proposed Design and Place SEPP, which are generally sound and translatable across areas of urban design, though not all relate to all aspects of urban design, mainly because of scale.

GANSW has stated that principle-led approaches from other jurisdictions were reviewed. However, UDIA is not able to discern a true principle-led approach in the EIE. We acknowledge that five core Principles have been articulated, and UDIA agrees with those Principles. However, we do not believe the overall approach as proposed in the EIE would achieve efficient delivery of those Principles, within a flexible framework needed to deliver the best outcomes across the State.

UDIA requests more information about the intent to understand:

- Is it the intention for the Design and Place SEPP and supporting design guides such as the ADG and UDG to eventually replace DCPs?
- Is a previous proposal to develop a standard DCP template the same as an Urban Design Guide?

2.2.1 Connecting with Country

UDIA questions how the SEPP will achieve meaningful engagement with Country and create tangible outcomes in design and place. It is unclear how GANSW's draft Connecting with Country framework would be embedded in the planning process. UDIA suggests that the process of Connecting with Country is continual and regular and is best managed through local authorities who already have strong engagement with local Aboriginal communities and addressed early in an area's strategic plans. Individual developments should engage through this local strategic planning process and structure, to derive input in a timely manner.

2.4 Application of the new SEPP: Development scales

UDIA has fundamental questions around the definitions of each scale – precinct, significant development, and all other development – which are yet to be finalised. In general, these definitions will need to be better framed towards what design is being undertaken, and the SEPP needs to clearly articulate the respective roles and responsibilities of all state and local parties so there is no confusion.

The point of what piece of urban design is being undertaken needs to be embedded in the discussion of this section. The development scales are not sufficiently robust enough to cover the complete practice of a multifaceted urban design. As outlined above in Section 2.1, a more logical approach might be to focus on the following:

1. Large spatial areas converting to urban
2. Inner urban areas (emerging, existing and converting/redeveloping)
3. Built form

Some real-world examples illustrate the difficulty of applying numeric thresholds and their applicability for different development types. For example:

- Will methods for occupancy calculation include short- and long-term tenure residents and workers? 1000 workers could be accommodated in 1 building; is that building a precinct?
- Would Waterloo Metro Quarter State Significant Development be a precinct or significant development? It was on a 1.8ha site, accommodating approximately 70,000sqm GFA, including 700 apartments + 13,000sqm non-residential, with over 1000 people.
- We note that some state development will be a single building such as a hotel or a residential building at Darling Harbour.
- A town centre should not be a patchwork of individual project Precinct Plans. This individual project type and scale needs a different name and purpose.

Precinct Subdivision Threshold

The precinct subdivision threshold of 50 lots is not supported. A precinct planning pathway for a subdivision of this size is unreasonable and would only add time and costs to projects with a lower feasibility profile. Smaller subdivisions can achieve good outcomes through a conventional DA process in response to local authority LEP and DCPs.

The SEPP must also consider the regions/greenfield sites outside the Sydney Growth Centres, which need to have sufficient scale to be meaningful and where the additional requirements would have an even greater effect of reducing housing supply and affordability. UDIA notes that a 50-lot subdivision, which may accommodate 200 people in a residential subdivision covering 1.25ha @ 250sqm/lot in Greater Sydney (even fewer people in the regions where density is lower), is inconsistent with the precinct thresholds of 10ha or 1000 people (100pp/ha).

More analysis is needed, but for consideration the UDIA proposes that a minimum of 500 lots would be more appropriate and consistent to enable any significant positive design outcome through a Design and Place Precinct Planning process.

***Recommendation 4:** Amend the proposed Precinct Thresholds, particularly for subdivisions from 50 to 500 lots.*

2.4.1 Development Types

With regard to the structure of the proposed SEPP, we suggest that the Development Types section should be the framework, with the components of scale (e.g., precinct, significant development and all other development, if those are ultimately used) being incorporated into that structure, not the other way around. Spatial scale will assist with an urban design, navigating how it responds to the Principles and guidelines of the SEPP, according to the development type. Please refer to our complete comments on this point above under Section 2.1 *Opportunity for a Fresh Approach – Structure on Type within Spatial Context*.

PART 3: KEY COMPONENTS OF THE NEW STATE ENVIRONMENTAL PLANNING POLICY (DESIGN AND PLACE)

3.1 Design Processes: Design skills, Place-based approach, Design evaluation and review

Design Review Panels

The EIE refers to a new Terms of Reference for design review panels (DRP) as part of a new Design Review Guide. This document will be critical to ensure that the DRPs focus on matters for consideration, rather than legal planning regulation. UDIA's members, and the development industry generally, comprise many respected, qualified design professionals in their respective fields who work with developers to deliver high quality places. There is no evidence that this expertise is deficient in quality to warrant such a heavy-handed approach to design management. Similarly, there is no guarantee that DRPs can add meaningful improvements to design quality. It is important the expertise and contribution of design professionals throughout the development process is recognised and their ability to impart innovation and intellectual property is not thwarted by the subjective, often competing design views of DRP members.

Overall, our experiences suggest that the requirements for and merits of design review remain questionable. DRPs to date have demonstrated subjectivity in assessment and it is not unusual for competing designers in a DRP to compete with each other to the detriment of the vision of the proponent's design. It is stated that thresholds and other considerations will be determined during development of the draft SEPP. This is a critical area with enormous potential to add complexity, time, and cost to the development process. Importantly it risks formalising subjectivity which may defeat a proponent's design vision, notwithstanding its merits.

Close consultation with developers and designers in drafting these considerations is important to avoid unintended consequences. Some initial questions that have already been raised include:

- Is DRP endorsement required to be achieved by the applicant or can matters of disagreement be recognised and then assessed by the relevant consent authority?
- How will a DRP relate to Joint Regional Planning Panels and Local Planning Panels?
- How do local government DRPs fit in?
- Are proposed developments that meet the Precinct Plan criteria required to go to all DRPs for endorsement?
- Is the DRP process before or after community/public notification?
- Is the process confidential, or open?
- It is assumed that the DRP is a fee paid service. How is the fee determined and who receives and manage the payment?

***Recommendation 5:** Engage with industry on the format, timeframes and Terms of Reference of the proposed Design Review Guide (DRG) and role of state and local design review panels. The DRG is a fundamentally important element and should be released for public comment ahead of the drafting of the SEPP itself.*

Precinct Planning

Existing planning instruments already call for a “Precinct Plan” (PP) and most of these example developments already follow a well-established site analysis, design and place making process, without any significant design and place deficiencies. UDIA is concerned that the SEPP would add another planning layer that seeks to establish “greater consistency” in design outcomes through Precinct Planning. We have some fundamental questions that should be addressed in the consultation workshops we have requested:

- Who prepares the Precinct Plan (PP) and what is the role of the Urban Design Guide?
- How will this reduce complexity?
- Who assesses the PP? What is the role of the Local or Regional Planning Panel?
- How developed (i.e., prescriptive) should the concepts be to satisfy the PP outcome without detailed design of all major elements? It is not unreasonable to defer detailed design to the proponent where they can impart their own vision on design and place provided it achieves applicable principles.
- What is the review process and how long will it take?
- Does a PP go through the Design Review Panel (DRP) process, and if so, when and which DRP?
- What is the ability to discuss/present underlying design and urban form elements?
- What is the dispute resolution over PPs, and will there be an appeals process?
- Will a PP be like a staged DA?
- Is there an opportunity to combine this with a planning proposal? We note that many precincts or Growth Centre master planned developments incorporate site-specific DCPs, providing an opportunity for innovation within their precincts, supported by consent authorities. Similarly, in the ACT, this is done reasonably successfully through an Estate Development Plan (EDP), where agency stakeholder consultation at this early stage reduces development assessment timeframes once DAs are lodged, and achieves early agency buy-in.
- Another approach to smooth delivery over the life of the precinct could be to certify the PP. See comments under Appendix C: *Opportunity to Innovate: Certify a Precinct Plan and Matters for Consideration.*

3.2 Design and place considerations: Application requirements, Mandatory matters for consideration

UDIA is concerned by the rigid numeric size thresholds for applying specific requirements on an application. Further to our comments above regarding the definitions of scale, some flexibility is required instead of a hard and fast rule based on area, population, or dwelling numbers.

We do not support deferring to the DRP for guidance (if that is the intention) as to whether the SEPP is applicable, as this gives too much authority to the DRP. See further comments above related to DRPs.

This section introduces new mandatory matters for consideration for development applications of different scales. Again, we are concerned with the prescriptive nature of many of these, such as:

- 20 minutes' walk to shops
- 5 minutes' walk to local open space
- foreshadowing maximum block lengths
- minimum street intersections
- target gross densities for residential
- one moderate tree removal to be replaced with two, etc.

The SEPP must be absolutely clear where design considerations are aspirations, but not requirements. We are concerned that metrics will be strictly applied by planning authorities, either wholly or unpredictably in a piecemeal, project-by-project, matter-by-matter approach. More clarity of expectation and consideration for flexibility in meeting outcomes is needed.

UDIA recommends that DPIE and GANSW consider alternative approaches to establishing application requirements, such as those suggested in our above comments on Section 2.1: *Opportunity for a Fresh Approach – Structure on Type within Spatial Context*.

3.3. Guidance: Existing guidance, Guidance to be revised, New guidance

UDIA appreciates the stated intent that proposed new guidance will be exhibited concurrently with the draft SEPP. It is important to allow for thorough consideration of the impacts of the SEPP and its supporting guidance in the planning process.

We believe the proposed new Design Review Guide is a fundamentally important element and its development should be undertaken with industry consultation and released for public comment ahead of the drafting of the SEPP itself. That sequence will facilitate the appropriate shaping of the SEPP's approach.

- **New Design Review Guide (DRG) and Terms of Reference**
The proposed new Design Review Guide will be a very important document. Design is a highly subjective topic that at times can have many competing considerations. A Design Review Guide should offer a sound basis for designers and developers to understand how the rules of

engagement with regulators is to occur. The DRG should be undertaken with industry consultation and released for public comment ahead of the drafting of the SEPP itself.

- **New Urban Design Guide (UDG)**

UDIA is concerned that the development of a single Urban Design Guide to inform Precinct Plan development can have the effect of stifling innovation, resulting in a one size fits all outcome. We have similar concerns with the ADG amendments. We caution against the use of metric requirements, but if they are employed, flexibility to achieve outcomes is required.

The UDG should employ a principle-led, outcomes-based approach. Please refer to our comments under Appendix A: *Opportunity to Better Focus on Outcomes – Use a Rules-and-Criteria Approach*. We recommend that a series of mandatory provisions be defined for critical social and community infrastructure, either delivered by developers or under section 7.11 provisions, and layers of less significant matters for consideration be clearly implemented as aspirational guidance criteria.

- **Greener Places Design Guide**

UDIA provided feedback on the proposed Greener Places Design Guide previously, and it is yet to be determined what the form of the final guideline document will be. The document is planned to include guidelines on the quantum, quality and distribution of local open space and supporting infrastructure, water sensitive urban design (WSUD) treatment measures, and Urban Tree Canopy. All these elements will contribute to a better urban community should they be delivered appropriately, and if the relevant management authority has adequate budget to maintain these quality assets. **UDIA notes with disappointment that adequate budgets to support the health and well-being of the community by maintaining a safe and attractive open space system are yet to be realised across existing developments in NSW.**

The Greener Places Design Guide includes a target of 40% tree canopy set for Greater Sydney (Greater Sydney Regional Plan). This target seems to be translated into a planning control in the proposed SEPP, but without recognition of bushfire constraints to some sites, noting that much of Greater Sydney is mapped as bushfire prone land. The RFS guideline *Planning for Bushfire Protection* calls for a maximum of 15% tree canopy cover on these sites, with tree species and placement requirements to promote bushfire resilience. The risk must be balanced and this discrepancy should be addressed. This is another example where the SEPP must allow for flexibility to achieve the best outcome.

PART 4: PROPOSED AMENDMENTS TO EXISTING STATE ENVIRONMENTAL PLANNING POLICIES

4.1 State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development

In general, UDIA is concerned that the proposed changes to the ADG are too prescriptive, will be too costly to implement and inhibit good design outcomes.

UDIA recommends that the SEPP make it absolutely clear:

- which design criteria are requirements;
- which design criteria are aspirations; and
- how flexibility will be implemented and considered to achieve the optimal design outcome for the specific project being assessed.

Please refer to section *Appendix A* as well as this *Submission's Appendix* for UDIA's detailed comments to the changes proposed to SEPP 65 and the ADG.

4.2 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

UDIA supports the principles of Ecologically Sustainable Development (ESD) which seek to balance environmental, social and economic benefits for our society. UDIA's members include leaders in innovative sustainable building practices and design. It is not disputed that sustainability is an important and shared goal.

Overall, as with our comments related to the majority of the EIE's proposals for the SEPP, we must caution that any changes to BASIX could have cost implications and potentially undermine efforts to address housing affordability. As part of the ongoing consultation process for the Design and Place SEPP and BASIX review, the measures to increase sustainability targets will need to be appropriately tested and understood and offsetting costs identified to ensure that there is no significant increase in costs to the end user which will ultimately add to the cost of housing.

Please refer to section *Appendix C* for UDIA's detailed comments to the proposed changes.

PART 5: RELATIONSHIP WITH OTHER PLANNING INSTRUMENTS AND POLICIES

It does not appear that the application of the SEPP through the established regulatory consent process has been determined. This level of missing detail is critical to ensure that the Design and Place process does not add any additional extraneous layers, or confusion with established strategic plans, or undermine provisions in LEP and DCP controls. As just one example, restricting floor plates to 700m² may result in an attempt to increase a building height and require a Section 4.6 amendment.

The EIE appears to propose an added layer of planning complexity. Some fundamental questions arise, such as:

- When LEPs and DCPs are 'progressively reviewed' will they be brought into alignment with the SEPP? Although they are supposed to be reviewed every 5 years, that timeframe is rarely met. In the interim period, how will discrepancies be managed?
- Is it the intention for the Design and Place SEPP and supporting design guides such as the Apartment Design Guide (ADG) and Urban Design Guide (UDG), to eventually replace DCPs?
- Will the Environmental Planning and Assessment Act be modified to legally recognise Precinct Plans and mandate them for certain types of developments?

Recommendation 6: Ensure the SEPP implementation does not undermine the enormous amount of work and community and stakeholder ownership undertaken by Local Authorities to produce their LSPS's and Housing Strategies.

We offer the following comments with respect to other planning documents:

- **Growth Centres SEPP**
The reference to inserting Design and Place SEPP principles in Cl.16 of the Growth Centres SEPP is not correct. This clause relates to controlling development within the existing zoning under the Local Authority LEP prior to a Precinct Planning exercise that brings the zoning under the Growth Centres SEPP. Insert reference in Cl.2 and Cl.6 to make the Design and Place SEPP relate.
- **Draft Housing Diversity SEPP**
Review of the intention to include student accommodation, co-living and build-to-rent provisions into the revised Apartment Design Guide needs to be done thoroughly, particularly in relation to balconies where other amenity spaces are provided for tenants/residents.
- **Cumberland Plain Conservation Plan**
The relationship with the Design and Place SEPP needs to be better integrated; otherwise, there will likely be discrepancy of intent and a possible unexpected detrimental outcome.

PART 6: PLANNING PATHWAYS

While we appreciate all efforts to bring more clarity and improvements to the planning system in NSW, UDIA is frustrated that the proposed Design and Place SEPP is yet another example where a suggested solution could merely add to the system's complexity. UDIA is concerned that fundamental issues remain open.

For example, the proposed Design and Place SEPP alignment with other strategic plans is yet to be clarified, including the Greater Sydney Commission (GSC) established District Plans, and local government strategic plans including housing strategies in all local government areas across NSW. These documents have all been subject to an extensive industry and public consultative process which should not be disregarded. The GSC-led planning instruments inform subsequent supported amendments to council LEPs, and ultimately provide for a more streamlined approval pathway for appropriate development. This process managed by the GSC has yet to run its full course, and by insisting on a specific Precinct Plan overlay and process through the Design and Place SEPP, an additional planning approval pathway layer is added that may be incongruent with the endorsed LSPS.

UDIA again emphasizes the importance of engaging with industry as approaches to these issues are developed.

6.4 Transitional provisions

Given the detail and complexity proposed, it is recommended that a transitional period be applied for at least 6 months.

APPENDIX A: PROPOSED AMENDMENTS TO ADG AND SEPP 65

UDIA offers comments here on the proposed approach to the ADG and SEPP 65. Additionally, we have provided detailed remarks on each of the proposed amendments in the below *Submission Appendix*.

GANSW has stated that principle-led approaches from other jurisdictions were reviewed. However, UDIA is not able to discern a true principle-led approach in the EIE. We acknowledge that five core Principles have been articulated, and UDIA agrees with those Principles. However, we do not believe the overall approach as proposed in the EIE would achieve efficient delivery of those Principles. UDIA has substantial concerns with both the overall proposed application of the ADG as well as many of the specific amendments.

Which principle-led approaches in other jurisdictions have been considered, and what elements of those approaches does the proposal seek to incorporate? UDIA recommends a workshop focused on identifying best practice from other jurisdictions and how to incorporate an outcome-focused approach in NSW.

***Recommendation 7:** Undertake another review, with industry consultation, of available examples for principle-led approaches from other jurisdictions including ACT, Victoria and WA, and adopt a true principle-led approach for the ADG and UDG.*

The EIE states that a detailed review of key design criteria was undertaken to determine which design criteria were suitable for retention to give certainty to developers, assessors, and the public about how a given outcome will be achieved, and which matters could be dealt with through improved guidance.

However, the fundamental issue with the ADG, has and will continue to be the interpretation by the determining authority. While the Minister and Department have been very clear that the guide is to be used as just that (i.e., guidance) more often than not councils are requiring strict compliance or outperformance of the stated metrics. This is compounded, in that this misinterpretation of the guide varies between determining authorities and even between the requirement to comply with specific metrics and not others on the same development. In revising the ADG and incorporating changes into the new SEPP, it is imperative that this misinterpretation be resolved.

***Recommendation 8:** Reinforce that the ADG and proposed UDG are guidelines, and variations should be permitted where an equal or better urban design or built form outcome can be gained, or where meeting the guidelines is impossible to achieve on a site. The SEPP must be absolutely clear where design considerations are aspirations, but not requirements.*

GANSW reports that they undertook a thorough review of principle-based design systems from other Australian and international jurisdictions. Having looked at the approaches in other areas, GANSW and DPIE have landed on an approach that returns to mandatory considerations. This will exacerbate the current problems industry experiences with interpretation of the ADG.

UDIA recommends that another review be undertaken of available examples of principle-led approaches, with a close analysis of the ACT, Victorian and WA systems. Their approaches utilise rules where necessary, with accompanying guidance to consider variation and promote better dialogue of site-specific considerations leading to good design that is appropriate for an individual site.

The EIE states that careful consideration has been given to the balance required between supporting the amenity of residents, the affordability of housing, and the need for apartment development to remain financially feasible in the areas where it is being delivered. It is not clear in the document how this balance has been achieved, as there is no evidence presented to support this statement.

UDIA objects to the inclusion of a range of revised criteria and guidance which are only supported by the comment ‘council and industry feedback’. Each proposed change should stand on its own merits, and the rationale for each change should be clearly articulated. This is particularly important where a change is likely to introduce cost or time.

Furthermore, while some of these criteria are difficult to achieve in isolation, many are almost impossible to achieve when read together. Again, no supporting information has been presented that the cumulative impact has been considered from ‘industry feedback’. We acknowledge multiple industries are touched by the proposed SEPP, but as the centrally impacted industry, UDIA emphasises that the development industry does not support most of the proposed changes to the ADG. In general, these changes all seem to have been made purely through an aspirational aesthetic perspective. Without any supporting analysis it is difficult to understand how these numerical changes have been arrived at and why they represent the correct balance with affordability and development feasibility. UDIA firmly supports the ambition to find that right balance, which is imperative to unlocking future housing supply.

It is also difficult to understand some of the revised criteria and guidance considering the many very successful development projects that have been completed over the past decade, both prior to and post-implementation of the current ADG. Many of Sydney’s globally recognised and award-winning developments that have achieved innovative built form and place outcomes would not have been realised in their current form, if required to comply with the revised ADG.

For example:

PROJECT	NON-COMPLIANCE OF PROPOSED NEW DESIGN CRITERIA
<p>Wonderland Central Park and most other residential buildings at Central Park (<i>multiple awards from UDIA Awards for Excellence, Sydney Design Awards, NSW Architecture Awards</i>) - Frasers</p>	<p>Apartments per floor Apartment sizes 70% cross Ventilation Building length Building separation Ratio of lifts per apartments</p>
<p>Darling Square and Barangaroo (<i>multiple Australian and global awards including design and sustainability</i>) - Lendlease</p>	<p>Floorplate size Tower separation 70% cross ventilation</p>

PROJECT	NON-COMPLIANCE OF PROPOSED NEW DESIGN CRITERIA
Jacksons Landing (<i>multiple architecture and development awards</i>) - Lendlease	Floorplate size 70% cross ventilation
Zen and Sirius Wentworth Point (<i>2018 UDIA Award for Best Residential Development</i>) - Billbergia Marina Square Wentworth Point (<i>2019 UDIA NSW Commendation for Best Residential Development</i>) - Billbergia Rhodes Central Rhodes - Billbergia	Floorplate size (Building Form) 70% cross ventilation Deep soil Building Separation Solar Access Shading and Glazing Control Apartment Layout

The EIE purports to create a principle-led approach to achieving optimal design outcomes. It would be a sad misfortune if the above examples, which deliver places of beauty and character, that are productive, connected and diverse (all fundamental elements of the EIE’s Principles) would be stifled. UDIA again underscores the importance of close collaboration between government and the development industry as the SEPP is drafted, to avoid such unintended consequences.

Interaction between ADG and UDG

Finally, reference is made to interaction between the ADG and the UDG.

The use of terminology in *Figure A2* is concerning. We note:

1. “place” is the outcome, not the starting point; the correct term would be “context”;
2. “Structure”, “Grain” and “Form” are all one and the same component. More appropriate headings might be: Context & Country; Land Use Arrangement (housing, employment, retail etc.); Infrastructure; and Implementation.

It is important to agree on the appropriate relationship between the guidance documents. The EIE proposes that the ADG is complemented by, or informs, the UDG. In fact, the relationship is the reverse. Using the ADG as the framework for the UDG inappropriately focuses design from the bottom up, rather than top down in relation to scale. UDIA recommends that the link between the ADG and the UDG should be clarified that the ADG is a component of the UDG, as built form apartments are a component of a larger precinct. See our related comments above under Section 2.1 *Opportunity for a Fresh Approach – Structure on Type within Spatial Context*.

Opportunity to Better Focus on Outcomes – Use a Rules-and-Criteria Approach

In addressing apartment design specifically, UDIA recommends an approach such as the ACT’s Multi-Unit Housing Code, which adopts an approach based on “rules” that are the deemed-to-satisfy provisions, accompanied by clear “criteria” that provide opportunity for an innovative or accommodating approach. Rather than imposing strict numerical controls, the ACT approach is more principle-led and allows for innovation and appropriate accommodation of site-specific constraints.

A similar approach should be employed in the new Urban Design Guide (UDG), should it ultimately contain rules.

Some examples from the ACT Multi-Unit Housing Code include:

Private Open Space, where non-conventional dimensions can still serve the intended purpose and functions (Rule 61, Criteria 61):

6.4 Principal private open space	
<p>R61 Each dwelling has at least one area of <i>principal private open space</i> that complies with all of the following:</p> <ul style="list-style-type: none"> a) located on the site b) has minimum area and dimensions specified in table A9 c) is screened from adjoining public streets and public open space d) is directly accessible from, and adjacent to, a <i>habitable room</i> other than a bedroom e) is not located to the south, south-east or south-west of the <i>dwelling</i>, unless it achieves one or more of the following - <ul style="list-style-type: none"> i) not less than 3 hours of direct sunlight onto 50% of the minimum required area between the hours of 9am and 3pm on the winter solstice (21 June) ii) located at an <i>upper floor level</i> and overlooks a public street or public open space. 	<p>C61 <i>Principal private open space</i> for each dwelling achieves all of the following:</p> <ul style="list-style-type: none"> a) an area proportionate to the size of the <i>dwelling</i> b) an extension of the function of the <i>dwelling</i> for relaxation, dining, entertainment, recreation c) directly accessible from the <i>dwelling</i> d) service functions such as clothes drying and mechanical services e) reasonable privacy f) reasonable solar access.

Dwelling size – Rule 55 provides minimums, while Criteria 55 provides an opportunity to justify a departure.

5.7 Minimum dwelling size	
<p>R55 Minimum <i>dwelling</i> floor areas are as follows:</p> <ul style="list-style-type: none"> a) studio <i>dwelling</i>s - 40 m² b) one-bedroom <i>dwelling</i>s - 50 m² c) 2-bedroom <i>dwelling</i>s - 70 m² d) <i>dwelling</i>s with 3 or more bedrooms - 95 m² <p>The minimum <i>dwelling</i> floor area excludes balconies and car parking facilities. Storage within <i>dwelling</i>s is included in the area calculations.</p>	<p>C55 <i>Dwelling</i> sizes and layouts provide functional living spaces, flexibility in furniture layout, and adequate storage and service areas. The provision of shared facilities (eg. open space, laundry, lounge and storage) may be considered when determining compliance with the criterion.</p>

APPENDIX B: PROPOSED NEW URBAN DESIGN GUIDE

As with our recommendations for the ADG, we recommend a principle-led approach to the Urban Design Guide (UDG). See our comments above in Appendix A: *Opportunity to Better Focus on Outcomes – Use a Rules-and-Criteria Approach*.

As written, the UDG would apply to “precinct structure planning”. “Precinct” is defined in section 2.4.1, therefore the UDG would apply to:

- Any development where a ‘precinct plan’, ‘precinct study’ or ‘masterplan’ is specified in another instrument
- Any planning proposal under s.3.33 of EP&A Act greater than 10 ha or 1000 people
- Any community scheme subdivision or subdivision into more than 50 lots
- Areas identified for local strategic planning including LEP amendments that are not planning proposals
- Any other similar plan or spatial arrangement greater than 10 ha or 1000 people

Comments:

- Our concerns with the definition of “precinct” are outlined above under section 2.4.1. We again object to the threshold for subdivisions at 50 lots and recommend that threshold be increased to 500 lots.
- The first line of this Appendix states “At present, there is no single comprehensive design guide for precinct planning and larger scale development proposals in NSW.” In fact, we note that the *Growth Centres Development Code 2006* (GCDC) was formulated for the sole purpose of guiding Precinct Planning for larger scale development. All the matters raised in regard to the proposed UDG are addressed in the GCDC. This existing design guide could be used as the basis for the UDG, if it were reviewed and updated with regard to the legislative and policy changes that have occurred over the past 15 years.
- The proposed structure of the UDG is not representative of practice and the relationship of design to LEP and DCP controls. The structure should be better aligned with the appropriate level of design at the appropriate scale and the appropriate context, considering whether the precinct is emerging, existing or redeveloping. The Growth Centres Development Code 2006 is a good example of how this already occurs.
- The concept of urban scale design guidance is difficult to implement without the overall context of the individual place and local character being considered. Is it intended the UDG will be used as a guide by councils preparing town centre and place strategies to inform LEP and DCPs?
- The link between the ADG and the UDG should be that the ADG is a component of the UDG, as built form apartments are a component of a larger precinct. The EIE proposes an inappropriate relationship that the ADG is complemented by, or informs, the UDG. It is

important to agree on the relationship between the guidance documents, as using the ADG as the framework for the UDG focuses design from the bottom up, rather than top down in relation to scale.

- The adoption of metrics in a SEPP is not supported. Height, FSR, setbacks and other built form envelope controls appear to be at odds with both the ADG and any opportunity for merit-based assessments of a better-quality outcome.
- The Proposed Design Criteria is focused on the detail before getting to the overall picture and concept of what is the form and function of the place. Table B1 offers an example of design criteria for streets by type in the UDG. The example is concerning on several fronts:
 - The example suggests illogical standards for street widths and footpath widths for the hierarchy outlined. The criteria are likely to add significant costs to development.
 - We note that this work was done for the Growth Centres and is a worthwhile piece to maintain rather than starting afresh.
 - This example is without consideration to the Western Sydney Street Design Guide work that is ongoing by the Western Sydney Planning Partnership.
 - The nomenclature and width of the streets are not inline with convention and we question the need to review standard practice and add confusion.
- The UDG document should be clear that its purpose is to provide guidance on the attainment of the Principles in the SEPP. We presume that the UDG would relate to the Design and Place SEPP in the way that the ADG currently relates to SEPP 65, that is: the ADG is a guide that is incorporated to provide guidance on the application of the SEPP 65 and must be applied with respect to certain objectives, design criteria and design guidance in Parts 3 and 4 of the ADG, for which it takes priority over any inconsistent measure in a DCP control.
 - Is it intended that the Design and Place SEPP would expressly reference Urban Design Quality Principles and the UDG would specify objectives for the relevant Urban Design Quality Principles?
 - Calling up other documents by reference in the Urban Design Guide should be prevented in order to optimize its ease of use and administration and avoid confusion.
 - To provide certainty to industry, any changes to the requirements of the Urban Design Guide should require amendment to the SEPP.
- UDIA places a high value on good design. What is the role of the proposed Urban Design Guide and its relationship to other “guides for new development” such as the Growth Centres DCPs, and in new Growth Areas the Precinct and Neighbourhood Plans, or DPIE Priority Precinct Plans and Urban Design Plans/Frameworks that must be prepared before Development Applications can be approved? What is the approval pathway for these Urban Design Plans? We are concerned that as the expertise does not reside in most local councils, the expansion of Design Review Panels and Local Planning Panels would be required, with the consequential timetabling delays, and uncertainty of outcomes. See our further comments above under Section 3.1.

APPENDIX C: SUSTAINABILITY IN RESIDENTIAL BUILDINGS

UDIA supports the principles of Ecologically Sustainable Development (ESD) which seek to balance environmental, social, and economic benefits for our society. UDIA's members include leaders in innovative sustainable building practices and design. It is not disputed that sustainability is an important and shared goal.

Overall, as with our comments related to the majority of the EIE's proposals for the SEPP, we must caution that any changes to BASIX could have cost implications and potentially undermine efforts to address housing affordability. As part of the ongoing consultation process for the Design and Place SEPP, the measures to address sustainability targets will need to be appropriately tested and understood to ensure that there is no significant cost impost to the end user which will ultimately add to the cost of housing.

Even with the limited information available in the EIE, we have concerns that changes will increase costs. UDIA recommends that before the BASIX changes are finalised, DPIE work with industry and provide modelling to enable industry to better evaluate the proposed changes and the anticipated cost obligations.

Recommendation 9: Before the BASIX changes are finalized, DPIE should work with industry and provide modelling to enable better evaluation of the likely impacts of proposed changes.

Process

Any BASIX review and update should not only consider the assumptions, technical aspects and benchmarking within the tool, but also the alignment to the development and design process of multi-unit residential. A significant amount of design typically occurs *between* a development application and construction. However, BASIX requires specific glazing performance and a high level of detail to be *included on planning drawings*, that would be more typically provided at the detailed designed stage of any project.

A more flexible and appropriate approach would be to require a level of *building envelope* performance to be achieved, that is then demonstrated via detailed documentation at construction certification stage. While the current process works for detached dwellings, it should be reviewed for multi-unit developments to prevent re-certification costs associated with NatHERS at construction stage. This would also align NSW with the other states.

Achieving a "pass mark" for BASIX should not mean that the proposed development is rendered unaffordable. We should be aiming to not increase the cost of new dwellings through this platform. Housing affordability is still the main constraint to more equitable home ownership in NSW.

Specific Comments

Objectives of sustainability reforms

- The suggested objectives are appropriate and recognise other sustainability assessment tools and parallel programs being developed by other jurisdictions.
- Refer to individual notes below.

C.2.1 Providing more flexibility in the available assessment pathways

- Flexible working solutions are welcomed for further review when details are developed, however we believe the following issues need to be considered:
 - a. Is it going to take more time and effort than the current BASIX process? If so, then we suggest that the existing BASIX process be improved, and alternatives provided within the BASIX assessment, not a replacement of it.
 - b. Any reform should align the commitment of BASIX targets at the planning stage, with the design information available at the time, and not require full BASIX certification until Construction Certificate stage when we have final façade and envelope details. This will save applicants time and money redoing BASIX work at the CC stage.

C.2.1.1 An independent, merit assessment pathway

- It is proposed to provide applicants with opportunities for a more flexible series of merit-based assessment pathways that demonstrate the individual projects commitment to delivering a sustainable development. This flexibility has the potential to reduce time and cost of achieving a BASIX certificate and could speed up approval. We recommend detailed review when the proposed amended technical framework is further developed.
- It is understood that this will offer alternative pathways to the BASIX certification through:
 - a. Sustainability reports by qualified and accredited independent assessors and complementary audit process for non-BASIX submissions.
 - b. A defined report format for these alternative submissions that can be referred to by councils and certifiers.
 - c. Online data capture on sustainability initiatives required.

C.2.1.2 Providing other assessment tools that 'plug in' to BASIX

- The proposal to provide applicants with opportunities for "Plug-in" alternate satisfactory metrics to BASIX that will meet either Thermal, Water or Energy requirements is welcomed. We note that this will require detailed review when the proposed amended technical framework is further developed.

- It is understood that this will offer alternative pathways to the BASIX certification through:
 - a. Examples are NatHERS and Passive House Design standard to achieve the BASIX Thermal Comfort compliance. BASIX already recognises these as of Nov 2020.
 - b. Or other innovative strategy or technology that can assist in meeting the requirements but is not currently recognised by BASIX.
 - c. How much credit will the developer get for this, and who will determine this? What if there is a disagreement between the assessor and the certifier?

C.2.1.3 Allowing a tailored approach for thermal comfort and energy performance

- “Trading off” alternate satisfactory metrics to BASIX.
 - a. To be initiated if compliance cannot be achieved through the established standard assessments? Why can this not be available for all instances?
 - b. Trade-offs between Thermal Comfort and Energy may be permitted, but how this is defined and administered will be very important. Thermal Comfort typically is not a challenge to achieve on high rise apartments, but achieving the Energy score itself can be challenging.

C.2.2 Aligning sustainability performance with Design and Place SEPP principles

- The Design and Place SEPP infers measuring precinct level sustainability performance through a BASIX like implementation tool. If this is what is being proposed more detail is required to enable informed comment. As this is considered, please refer to our comments below in *Opportunity to Innovate - Certify the Precinct Plan and Matters for Consideration*.

C.2.3 Sustainability assessment consistent with other jurisdictions

- The most important element to achieve BASIX compliance is the base line metric of what may be considered a standard dwelling. Should the proposed amendments to the BASIX legislation propose a new benchmark/baseline home or dwelling, then recalibration must be reasonable and relative to the technology and infrastructure and building design and techniques available to the industry.
- Discussion as to what may be considered the new benchmark dwelling is critical and should not be determined in isolation.
- We suggest that Emissions co-efficients be forecast out as far as they can be reliably - say 2030 as a start, which will lower the ratio of gas to electricity and promote fossil fuel free solutions.

C.2.4 Improving the customer experience and promoting innovation

C.2.4.1 Improving the customer experience

- Digital technology to assist in the production of a more efficient, transparent, and intuitive BASIX platform is supported by the UDIA.
- We note that DPIE intends for the new BASIX Tool to be hosted on the NSW Planning Portal platform. Although UDIA strongly supports the ePlanning initiative and the potential efficiencies it can provide, integrating BASIX into the Planning Portal may be problematic as it assumes that the BASIX model is only run once and is a final input to a DA. In reality, the BASIX model is often run several times as different built form and thermal, energy, solar and water options are assessed to determine the most cost-effective outcome to achieve the required BASIX score. UDIA recommends that the BASIX Tool be self-contained and only the final Certified BASIX model lodged on the Planning Portal.
- We look forward to working closely with DPIE and NGA to develop this new customer focused interface.

C.2.4.2 Promoting innovation and the adoption of new technology

- UDIA welcomes the opportunity for its members and affiliated groups to promote innovation in sustainability, and have that work recognised as contributing to achieving BASIX compliance through regular industry forums or working groups. This is a welcome recognition of changing built environment technology, circular economy, and innovation.
- A structured approach to receiving feedback twice a year and some governance around that is a good proposal. We would like to see our comments addressed before they go too far in changing BASIX parameters.
- Noting that there could be a range of solutions and significantly variable performance between solutions that the tool will need to consider, any modification to the tool needs to enable flexibility for multi-dwelling projects to enter performance that is specific to the system being adopted.
- The extent of larger scale developments that may include a centralised heating and cooling systems and/or onsite energy generation for example may be limited, however there needs to be a mechanism to address these options, that does not require an alternative assessment process that is too difficult to resolve in the timelines necessary to submit planning applications.
- It would be difficult to achieve equitably, but if BASIX does not offer the opportunity to nominate specific more sustainably efficient appliances, the tool will revert to appliances that may be very poor and potentially over reward the provision of appliances with low star ratings. Alternatively, it is suggested that the default benchmark assumed by BASIX if appliances are not being provided needs to be improved.
- It is unrealistic to require high lighting and ventilation energy associated with plant rooms that impacts multi-unit developments with central services / large plant rooms. These may become

more common as the industry addresses the HFC phase down which may result in centralised plant solutions.

C.3 Implementation

- The proposed timeframe appears to be suitable, however adequate consultation and meaningful engagement and pilot program testing on real situations needs to be included in any review and implementation program. It isn't clear when target increases would occur or what the revised target increments might be, however target increases should be reflective of future market conditions. Development of a trajectory of costs and benefit over time and timeline for implementation would provide industry with direction and help industry to forward plan design alterations.
- Noting that from May 2021 onwards, DPIE will be looking at how the Trajectory for Low Energy Buildings fits into any modified BASIX targets, consultation with industry on how this may occur will be critical.

C.4 BASIX Policy Initiatives

- We are unsure how precinct wide green infrastructure and circular economic strategies implemented at precinct scale is to be implemented into a site specific single detached dwelling BASIX compliance. It should be assumed that at that stage, the precinct has been endorsed, and that sustainable measures mentioned are imbedded into the precinct/subdivision development. Items such as roof colour/solar absorption index, and on-site landscaping/private tree canopy targets, could be employed into BASIX easily and assessed by private certifiers/council. See our comment below under *Opportunity to Innovate - Certify the Precinct Plan and Matters for Consideration*.
- UDIA welcomes a flexible approach to achieving BASIX compliance.

C.4 Impacts on the BASIX SEPP

- The existing BASIX SEPP will be repealed, and its key content relocated to the Design and Place SEPP. This change will take effect when the Design and Place SEPP commences. However, BASIX needs to operate independently to the Design and Place SEPP once the final SEPP framework is defined.

Opportunity to Innovate - Certify the Precinct Plan and Matters for Consideration

The Design and Place SEPP EIE proposes a more user-friendly interface with BASIX as a key objective. This provides an opportunity to establish a similar certificate for developments complying with the suggested Precinct Plan matters for consideration, benchmarked against evidence based on real data.

Achieving acceptable thresholds for considerations such as energy and water use, walkability, solar gain, deep soil planting, urban tree canopy, etc., could be imbedded into the equivalent of a Precinct Level BASIX. These tools already exist in the market and are used by developers and governments alike. Some examples include the GBCA Greenstar Rating Tool, Kinesis CCAP Precinct (Precinx), UDIA's EnviroDevelopment rating tool, and ISCA Rating Scheme for Infrastructure design and development.

This has the potential to simplify the outcome, enable the market to move on confidently and allow the consent authority to review and cross check on performance and deliverables, but does not limit the site analysis, detailed study or innovative design responses to matters for consideration prior to the certification.

UDIA is keen to work with DPIE and the NSW Government more generally to seek pathways that ensure that future urban development projects contribute to the NSW Net Zero targets. These require the scale of precinct or large projects to make a difference, but could include:

- Integrated site solutions for energy production and distribution.
- Integration of green infrastructure with water quality treatment and stormwater harvesting to better utilise stormwater and roof water runoff.
- Project design for better tree canopy and cooling to improve outdoor and indoor thermal comfort.
- Building design and materials selection to reduce both embodied energy but also operational costs of the buildings.
- Precinct and project design to enable active transport modes by safe and easy to navigate shared paths.

Addressing these issues early and at scale could optimise sustainability outcomes and simplify the planning process, which would save time and cost.

Recommendation 10: Consider a “digital certification” approval process similar to BASIX on an urban scale for particular types of Precinct Plans, to enable development to progress efficiently.

ACRONYMS AND GLOSSARY

Acronyms

- GFA is used industry wide as Gross Floor Area. Ground Floor Area should be given another acronym such as GRA

Glossary

- Definitions for Urban Design and Urban Designer should be included.
- Open Space areas can include buildings and other built structures as part of the provision of amenity and facility for residents (i.e., shade shelters, play equipment, ablutions etc.).
- Precinct Structure Plan should include reference to density and housing diversity. The definition is too 'built form' focused.
- Precinct should be defined more appropriately to capture all levels of scale that a 'precinct' could apply.

CONCLUSION

UDIA is committed to assist in creating a principle-based approach to high quality urban design that results in affordable and accessible great places for the people of NSW. Especially given the broad and serious concerns with the EIE as expressed in our submission, we caution that this work must be undertaken with great care and in close consultation with industry to ensure that the desired results can be achieved without undermining housing supply and affordability.

There is the huge major reform agenda currently underway across development in NSW, including the Productivity Commission's Development Contributions reform program, the Treasurer's Property Tax reform, Aerotropolis precinct plans and four SEPPs under review even before you get to the Design & Place SEPP. It is also at a time when industry jobs are at risk due to declines in planning approvals and delays in the rollout of enabling infrastructure.

UDIA is grateful that GANSW and DPIE have responded to our early expressions of concern and have committed to establishing several working groups with stakeholders including industry to help shape the drafting of the SEPP. UDIA and our members look forward to engaging closely with DPIE and GANSW as active contributors to the working groups. It is our hope that this work will make it possible to implement final policies that bring an overall improvement to the planning system in NSW.

SUBMISSION APPENDIX: ADG AMENDMENTS

UDIA offers the following comments to the proposed amendments to the Apartment Design Guide and SEPP 65 as outlined in Appendix A of the EIE.

<p>A1.1.2 Housing supply, feasibility and affordability</p>	<p>The ADG supports housing quality but how is it specifically supporting housing supply? How is it streamlining the assessment and approval process, without resorting to ‘tick-a-box’ compliance? How is it resolving the conflicting directions between council assessment officers, design review/advisory panels and the consent authority, and how is it supporting the assessment of solutions that do not take the ‘tick-a-box’ approach or have unique contexts that require f</p> <p>How is housing affordability being specifically addressed in any way?</p> <p>How is the financial feasibility of apartment developments being specifically addressed in any way?</p>
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<p>Table A5 – Summary of proposed changes to the Apartment Design Guide In relation to urban design & site planning</p>		
<p>Proposed Design Criteria</p>	<p>Added costs in red</p>	<p>Comments</p>
<p>Table A5 1. Contribution to place Require development to demonstrate a consideration of Country and positive contribution to place, local character and planning aspirations (local strategic planning statement [LSPS], local housing strategy [LHS], LEP, DCP, local character statements) as well as integration with urban and natural systems.</p>		<p>Although a positive initiative, this should not be an additional requirement, it should be incorporated into existing requirements. More detail is needed to properly assess the impact of this provision, and clear guidance will be necessary.</p>
<p>Table A5 2. Landscape and greening Consolidate objectives. Increase min. deep soil zones as a % of site area (a fixed minimum % within the range being considered below):</p> <ul style="list-style-type: none"> • < 650 m² min. 14–18% • 650–1500 m² min. 14–18% 		<p>NOT SUPPORTED. The current ADG Part 3E Deep soil zones is effective and already provides accepted Design guidance which encourages larger deep soil zones for sites over 650sqm.</p> <p>There is SUPPORT for amalgamating this with Part 3E with Part 4P, Planting on Structures.</p> <p>The industry, including landscape architects, have repeatedly expressed concern about deep soil, landscape and the misconception that the current ADG Deep Soil Objective 3E-1 of ‘healthy plant and tree growth’, ‘residential amenity’</p>

<ul style="list-style-type: none"> • 1500–3000 m² min. 14–18% • > 3000 m² min. 21–25% • Allow a pro-rata reduction in the targets if retail, commercial and entrances on the ground floor > 85% of the building footprint. <p><u>Existing Criteria:</u></p> <ul style="list-style-type: none"> • 7% of site area for all projects • Minimum width of deep soil zones depending on site area. • Guidance allows for dispensation for sites in CBD locations or with non-resi uses on ground floor 		<p>and ‘management of water and air quality’ could not be achieved on structure when there are many examples that disprove that. The key benefit of deep soil is the retention of existing significant trees or established planting.</p> <p>Increasing the minimum percentage of deep soil is prescriptive without considering alternative ways to achieve Objective 3E-1. It will result in deep soil zones being placed where they maximise ‘tick-a-box’ compliance and not where they provide the greatest increase in overall amenity or respond to contextual considerations. If landscape percentage targets (including deep soil) are increased, or new ones such as Tree Canopy Coverage introduced, a combination of deep soil and landscape on structure must be an acceptable solution with no increase in the current minimum percentage of deep soil that contributes to the overall target.</p> <p>The current exemptions (to allow NIL deep soil) should remain for all typologies listed under the current Design Guidance however achieving Objective metrics e.g. landscaped area and tree canopy coverage could all be allowed as Planting on Structures. The proposed pro-rata reductions also needs to be tested and clarified as Ground Floors generally only have 50-60% active uses and so no building will qualify above 85% - buildings with ground floor retail and commercial also usually require podiums for loading and services so will be unable to comply with 85% of the building footprint.</p> <p>It is also noted that the deep soil percentage range is the same for sites 650sqm – 3,000sqm which defeats the purpose of having different site size requirements.</p> <p>Increased basement levels and excavation depths when this should be minimised wherever possible as it is the least adaptable beyond the first level, and adds significant time and cost to dwelling delivery.</p>
<p>Table A5 3. Building form Introduce a new criterion for towers (including any part of buildings of nine or more storeys) of:</p> <ul style="list-style-type: none"> • maximum gross floor area (GFA) of 700 m². • adjust existing design criteria and guidance to a maximum eight units per core per floor. 		<p>NOT SUPPORTED. The Proposed Design Criteria is too prescriptive, generic, is not related to amenity outcomes and does not allow a flexible response to site context or building configuration.</p> <p>It discourages the provision of amenity, daylight and more generous circulation space in corridors. For example positive changes could have been that common corridor GFA above 1.2m width minimum, and any wintergardens responding to environmental factors, would be excluded from GFA calculations.</p> <p>Flexibility is needed for floorplate areas, assessed against objectives and criteria such as impact on amenity, environmental performance and visual appearance, and so the 9th storey is not penalised. If prescriptive floorplate limits were imposed a range of heights and incentives would need to be reviewed, related to building height and slenderness ratio, with increasing proportionality with height (note Parramatta Council has controls that could be reviewed for appropriateness).</p>

		<p>Limiting the number of units limits flexibility to vary the mix throughout the building height. It can also result in more environmental impacts, for example 1 tower x 12 apartments rather than 2 towers x 6 apartments where the additional core would add to the overall building mass on the site, increasing the building footprint and overshadowing impacts, potentially decreasing the area available for landscaping and communal open space.</p> <p>This is an example where prescriptive controls have clearly adverse impacts because it doesn't relate to clear objectives and holistically considered improved outcomes.</p> <p>Less optimised floorplates will lead to increased construction costs and negatively impact housing affordability and housing diversity.</p>
<p>Table A5 4. Building separation Require minimum building separation distance for towers of 25+ storeys of 30 m between habitable rooms. Note: minimum building separation distance for 9–25 storeys: 24 m between habitable rooms (as existing).</p>		<p>NOT SUPPORTED. Building separation needs to be much more flexible to respond to site context, dimensions, required setbacks and whether alternative configurations can achieve the same or improved amenity, environmental performance, privacy and visual appearance. The ability for building forms/ windows to be offset, rotated, angled, modelled and screened to minimise direct parallel building lengths achieving the minimum 24m separation, already provides sufficient ways to achieve the desired amenity and objectives.</p> <p>This would have detrimental impact on constrained sites and may make some sites unable to achieve the intended GFA/FSR and anticipated density. Combined with 700sqm GFA floorplates the entire tower would require 24m separation as increasing the setback above 25 storeys will make the floorplates even less practical.</p>
<p>Table A5 5. Mixed use development and street activation Allocate 40% of ground floor space for non-residential use in R3 and R4 zones, and centres.</p>		<p>NOT SUPPORTED (CLARIFICATION REQUIRED). A set minimum percentage is too prescriptive, will be inappropriate for many sites, and should be a local zoning matter. It will undermine the SEPP objectives to improve diversity and accessibility by minimising the potential to provide highly desirable ground level apartments for families, the elderly and those with impaired mobility. Occupied residential dwellings provide better ground floor activation, surveillance and street safety than empty tenancies which will achieve the opposite effect.</p> <p>Non-residential uses could be encouraged up to 40%, but should not be mandated, and must consider a site's retail commercial analysis to allow for a more contextual solution.</p> <p>Clarity is also sought for:</p> <ul style="list-style-type: none"> - Meaning of 'centres' in addition to the R3 and R4 zones noted - Does 40% ground floor space refer to the percent of total ground floor GFA, for example in a podium, or just below that part of the building facing the primary street frontage? <p>It is likely to result in vacant tenancies, negatively impacting affordability due to on-costs, and will impact resident and strata fees.</p>

<p>Table A5 6. Clarify ground floor ceiling heights Clarify ground floor ceiling heights for all non-residential uses (habitable rooms only) to 4.2 m.</p>		<p>NOT SUPPORTED. The definition of ‘habitable room’ is too broad and could include a lunch room or building managers office. It also doesn’t recognise that building structure and services is inappropriate to be resolved prior to development consent and that the ground level is much more complex than a typical residential level.</p> <p>A predominant minimum Ground level floor to floor height could provide more flexibility however this will still conflict with existing LEP heights which predominantly do not currently allow sufficient capacity for residential floor to floor heights, rooftop communal areas, lift overruns or sufficient allowance for properly draining external areas.</p> <p><i>This would impose significant cost to development and reduce affordability by reducing the achievable dwellings if it results in loss of building storeys and ability to achieve the intended GFA/FSR.</i></p>
<p>Table A5 7. Ground Floor Activation Require all ground floor apartments facing a street to have direct access to the street</p>		<p>NEEDS FLEXIBILITY. The Benefit is positive but discretion is required for locations where this may not be possible or desirable, such as steep streets or where deep soil/ landscape targets are prioritised, for example a fully landscaped setback rather than individual paved courtyards and entries.</p>
<p>Table A5 8. Car parking As a minimum, retain the link to the lower of rates in <i>Guide to Traffic Generating Developments</i> (RTA 2002 or its replacement, the <i>Guide to Traffic Impact Assessment</i>) or council rates, and supplement this with:</p> <ul style="list-style-type: none"> • a reduced minimum parking rate and/or a maximum parking rate that applies to a list or map of locations that meet certain criteria, and/or • an ability by applicants to reduce the parking rate by undertaking certain actions • as set out in Table A4 above. <p><i>“Parking rates need to be reviewed. Currently they do not take into account public transport amenity or alternatives, and this is contributing to development costs and oversupply of parking.”</i> <i>“enable greater flexibility in relation to... car parking rates”</i></p>		<p>NEEDS FLEXIBILITY. The Benefit to reduce car dependency and increase flexibility in relation to parking rates is generally positive but practicalities must be considered to avoid negative impacts.</p> <p>This must be more flexible and carefully applied according to the specific site location and local market considerations. Resident demand for car parking in many areas is high and reflected in sales rates – if they were not necessary or desired, and there was no demand, they would not be built. Limiting car parking could discourage apartment living for those who rely on cars such as shift workers, families, and those with reduced mobility, undermining the objective to deliver housing diversity and provide housing close to employment. Customer demand for car parking is expected to remain, which can also put pressure on unrestricted street parking, resulting in negative impacts on local neighbourhoods and visitor parking.</p> <p>The overall provision for car parking needs to be holistically considered including:</p> <ul style="list-style-type: none"> • Support for reduction in visitor parking, for locations close to public transportation, but analysis must be based on existing operational infrastructure, not proposed infrastructure (which may not be timely delivered). • Other alternatives such as car sharing and adaptive travel plans have the potential to significantly reduce car parking however they also have practical limitations • More analysis is needed to understand the practicality of ‘unbundling’ car spaces to avoid serious negative impacts that reduce attractiveness of apartments for diverse households. Pilots projects should be undertaken in specific locations to test this initiative properly before implementing broadly.

<p><i>“Revised car parking rates to ensure these are well-matched to local area needs and not oversupplied.”</i></p> <p><i>“Basement car parking can add considerably to development costs, and has an adverse design impact on streetscapes due to large car park entrances and conflicts between vehicles and pedestrians.”</i></p> <p>NOTE: To become a mandatory consideration for all developments. Regulation will give weight to whatever is the lesser.</p>		
<p>Table A5 9. Bicycle parking and mobility storage</p> <p>Specify new bicycle parking and mobility storage requirements including number of bicycle spaces per unit, bicycle visitor parking, and access to bicycle parking:</p> <ul style="list-style-type: none"> • studio and 1-bed units – 1 secure space • 2-bed units – 2 secure spaces • 3-or more bed units – 3 secure spaces 		<p>NEEDS FLEXIBILITY. The Benefit to support active transport and accessibility is positive however the metrics are too prescriptive and too high overall. It should be flexible to respond to different locations where bicycle and mobility scooter users are less or more predominant due to geographical or demographic features. It must also be clear that bicycle parking can be accommodated as racks and group cages rather than Type 1 lockers.</p> <p>More detail on the proposed rules for mobility scooter parking “near the entrance to the unit” is needed. How will this condition apply in apartments above ground floor? Is this meant to be external (e.g., in a common area) or within the apartment? If external, will charging points be required, and will these be metered to private apartments or common property? Does the scooter need parking near the unit entrance, plus a (basement) parking space?</p> <p><i>Any cost savings from reduction in car parking in basements will be negated with increased requirements for bicycle and apartment storage.</i></p>
<p>Table A6 – Summary of proposed changes to the Apartment Design Guide In relation to residential amenity</p>		
<p>Table A6 1a. Solar access</p> <p>For the avoidance of doubt, clarify that design criteria are mandatory.</p> <ul style="list-style-type: none"> • An increase to the range of hours in which a development may achieve solar access is being considered, subject to design testing and industry feedback 		<p>NOT SUPPORTED. The proposal to extend the hours of measured solar performance is positive however strict mandatory controls are not supported and there is a broad range of issues and impacts which do not appear to have been properly considered.</p> <p>More detail is required to understand the percentage of apartments now required to satisfy solar requirements. Any flexibility arising from the increased range of measured hours will be negatively offset by the application to a ‘greater number’ of apartments, limiting east and west facing single-aspect units, and the proposed mandatory nature of the provisions.</p>

<ul style="list-style-type: none"> • it is proposed to increase the range of sunlight access hours that comply, balanced with application of the requirement to a greater number of apartments. • limit the extent of facade glazing to reduce solar heat load • reduce the number of east-facing and west-facing single-aspect units to avoid the potential for apartments to overheat 		<p>Strict mandatory numerical controls are contrary to the objectives to provide increased flexibility and does not take into consideration a sites context, topography or orientation; contrary to the intent of the SEPP to respond to place and context and provide housing diversity.</p> <p>The requirement for predominantly north facing apartments will lead to a larger number of cores and narrow frontage through-apartments, notwithstanding current purchaser preference for single sided apartments which have wider frontages and potentially wider balconies. However the way solar access is measured discourages full width balconies, since living rooms need to be brought forward to the façade to obtain solar access onto the glazing, and the proposed reduction in glazing area will make it even more difficult to comply.</p> <p>Limiting single aspect east and west facing units is not required as single aspect units are already controlled by natural ventilation requirements and solar control can be addressed with appropriate shading. Building, and hence unit orientation, should result from individual site conditions and outcomes. Many sites are not suited for buildings to be oriented lengthways east-west as this can lead to overshadowing issues to the south. Therefore, maximising apartments oriented within 15 degrees of north may conflict with other solar access and amenity considerations.</p> <p>Overall the change will lead to higher development and construction costs and lower housing affordability by limiting design solutions but providing no additional amenity, limiting the potential to achieve the intended GFA/ FSR/ dwellings though prescribed solutions with unintended outcomes, and prescribing solutions that are more costly to deliver.</p>
<p>Table A6 1b. Shading and glare control</p>		<p>NOT SUPPORTED. The described Benefit is positive but the Guidance is too prescriptive rather than performance based and it is unclear whether this would only apply to completely unshaded glazing to specific aspects.</p> <p>No glazing below 1m is overly prescriptive and should only apply to the quantum of unshaded glazing on the primary exposed façades. A tall but narrow full height window could perform better than the same amount of glazing oriented horizontally but provide greater privacy or outlook amenity.</p> <p>A limit of 50% glazing is only appropriate in certain specific circumstances such as unshaded glazing. Otherwise this provision would also conflict with sliding doors to balconies and the limit of 50% of sliding door widths to living rooms and bedrooms facing onto a balcony would be unacceptable to residents and provide no real benefit. As BASIX is also being amended why is overall thermal comfort and the environmental performance of dwellings/ buildings not the performance measure/ objectives to be met through innovative responses?</p>

<p>Table A6 2. Natural ventilation</p> <p>a. Require ceiling fans for habitable rooms with 2.7m ceiling heights.</p> <p>b. all Increase natural cross-ventilation requirements to 70% of units and apply this requirement across storeys.</p> <ul style="list-style-type: none"> - This is intended to provide flexibility and encourage a greater proportion of tower apartments with natural cross-ventilation to offset lower-level apartments where building footprints are typically deeper 		<p>NOT SUPPORTED. The described Benefit is positive but it is questionable why the existing ADG needs to change, and where is the evidence base, when more flexibility was requested to allow for innovative site-specific solutions especially around the definition of ‘dual aspect’. The prescribed ways of achieving natural ventilation are already inconsistently interpreted, limiting in their application, and do not consider or allow for expert consultants to assess and confirm unique context and building solutions.</p> <p>Performance-based solutions that are evidence based should be the focus to achieve increased amenity – this will encourage innovative solutions that are responsive to site and location. Inclusion of ceiling fans could be part of an overall natural ventilation solution rather than just an additional cost/ requirement without any offset for their provision.</p> <p>The continuation of the prescriptive generic approach does nothing to reduce costs and increase affordability. It should also be noted that customer preference is stronger for wider frontage single sided apartments over narrow frontage through apartments.</p>
<p>Table A6 3. Liveable Housing targets through universal design</p> <p>The requirement for a specified Liveable Housing Australia level and percentage will be increased if NSW government research supports higher standards.</p>		<p>CLARIFICATION REQUIRED. The Benefit may be positive subject to the planned research outcomes and resultant rules. What is the timing of the research and ultimate provision and what level of adaptability is anticipated (e.g. Silver)?</p> <p>Part of the NSW government research should investigate how many adaptable apartments are actually adapted. UDIA members report no evidence that the elderly and those living with a disability are currently unable to find suitable apartment accommodation.</p> <p>The UDIA cautions against “specified” numbers without flexibility for site considerations if there is not an underlying demand.</p> <p>This provision has the potential to increase costs through larger apartment sizes due to increases in circulation and bathroom sizes.</p>
<p>Table A6 4. Apartment size</p> <p>No change</p>		<p>Increased flexibility to support housing diversity through departures from minimum sizes would have been welcomed. It is stated that variations to minimum sizes can be merit assessed under the current ADG, however in practice this has not eventuated and would now be virtually impossible to achieve given all the other ADG added requirements.</p>
<p>Table A6 5. Apartment layout</p> <p>Enable varying layouts to support different households, and people working or studying from home, by requiring 20%</p>		<p>NOT SUPPORTED. The Benefit is positive, but strict numeric controls to achieve this are not supported. More flexibility is required to allow for various solutions to achieve this.</p>

<p>of 2 or more bedroom units to be 'family units', providing minimum 12 m² bedrooms for all bedrooms.</p>		<p>There should be flexibility for providing study areas instead of larger bedrooms, or to demonstrate with furniture layouts how a desk or desks could be accommodated within apartment layouts. Bedroom size is not always a high priority for customers, so this approach may be particularly ineffective, especially when bedrooms are not considered in many circumstances professionally appropriate environments to work at home and also have the disadvantage of disturbing other residents if it is a couple or shared room.</p> <p>Strict application will increase apartment size and costs and decrease affordability.</p>
<p>Table A6 6. Local planning considerations Develop specific criteria for responding to local housing strategies.</p>		<p>MORE DETAIL REQUIRED. More detail is needed in order to comment.</p> <p>Will additional reports be required? This could add costs to the planning process.</p>
<p>Table A6 7. Private open space No change to total area. Increase min. depth of private open space:</p> <ul style="list-style-type: none"> • studio units min. 1 m • 1-bed units min. 2 m(no change) • 2-bed units min. 2.4 m • 3+ bed units min. 2.4 m (no change). 		<p>The Benefit is positive, but this provision will increase costs and reduce affordability if there is no flexibility</p> <p>Locating A/C condensers and hot water units on balconies can save considerable costs in all developments including affordable housing situations. This should be an acceptable solution as long as they are well integrated into the design e.g. screened and incorporated into balcony storage and also excluded from the minimum required useable area.</p>
<p>Table A6 8. (4G) Storage Increase requirements to:</p> <ul style="list-style-type: none"> • studio units 6 m³ • 1-bed units 9 m³ • 2-bed units 12 m³ • 3+ bed units 15 m³ <p>Decrease the minimum amount to be provided inside the unit to one third (from 50%) (i.e. the remaining amount can be provided outside the unit).</p>		<p>CLARIFICATION REQUIRED. The Benefit is positive but could have more flexibility especially if more storage is to be accommodated in the apartment to relieve the pressure on excavated basements.</p> <p>Additional storage in bedrooms (above a minimum length e.g. 2.4m for Bedroom 1 and 1.8m for Bedroom 2 +) could be counted as storage where it results in a better apartment layout.</p> <p>Provision for a minimum of one tall cupboard (rather than just space for a cupboard) is positive, but flexibility is required to provide different storage dimensions if they are still well proportioned.</p> <p>Increased storage will require more basement space and put more pressure on deep soil and is likely to increase costs and reduce affordability.</p>
<p>Table A6 9. External noise & pollution Introduce new requirements for development on busy roads (as currently defined, i.e. > 20,000 vehicles per day) to supplement the Infrastructure SEPP.</p>		<p>CLARIFICATION REQUIRED. The Benefit is positive but needs clarification.</p> <p>There needs to a consistent approach across all LGA's and something which is workable. The current situation in Sydney has caused uncertainty within the industry.</p> <p>This may increase costs and reduce affordability if, for example, alternative natural ventilation requirements result, or if a City of Sydney-type of inflexible and non-evidence based approach is imposed.</p>

<p>recent local government best practice controls for development in noisy or poor quality – Assume this means that the City of Sydney controls for Alternative natural ventilation of apartments in noisy environments</p>		
<p>Table A6 10. Acoustic separation To support people working from home or studying:</p> <ul style="list-style-type: none"> • for 1 or 2-bed units, provide one acoustically separable area from the main living space • for 3+ bed units, provide two acoustically separable areas from the main living space. 		<p>CLARIFICATION REQUIRED. The UDIA questions why there is a need to double up the existing controls for acoustic separation when it is already addressed within the National Construction Code?</p> <p><i>This would likely increase costs and reduce affordability (e.g. requiring solid core doors and increased wall performance) if it is beyond the NCC requirements.</i></p>

Table A7 – Summary of proposed changes to the Apartment Design Guide In relation to common spaces and vertical circulation		
<p>Table A7 1. Communal open space</p> <ul style="list-style-type: none"> • Replace the site area metric (min. 25% of site area) with a unit mix / occupancy metric, subject to the delivery of specific requirements for communal space in apartment development, including: 		<p>MORE DETAIL REQUIRED. Moving to a more nuanced approach is positive, but imposing a metric is contrary to the objective of flexibility. More detail is needed to understand this provision, including the minimum size and accessibility from the street and what proportion can be internal or external. Incentives should be included to provide internal communal space by excluding it from GFA calculations if there is sufficient development envelope to accommodate it.</p> <p>Communal open space should focus less on prescriptive size, and more on function and quality of space. Rooftops and podiums, for example, can have useable function and communal activity, daylight, landscaping and value for the residence. Flexibility would consider proximity to public space and amenity on an individual site basis.</p> <p><i>Increased communal space requirements likely to add costs both for development and maintenance.</i></p>
<ul style="list-style-type: none"> • new specific requirements for communal open space and communal (internal) rooms to recognise the needs of apartment 		<p>MORE DETAIL REQUIRED. More detail required to enable comment.</p>

<p>dwellers, particularly in higher density development</p> <ul style="list-style-type: none"> • providing covered communal space accessible from the street capable of hosting private or community events and activities, consisting of <ul style="list-style-type: none"> ○ 2.5% of GFA for non-residential uses ○ min. 250 m² for residential developments > 1000 m². (assume this is site area) 		<p>MORE DETAIL REQUIRED. The threshold for application of this provision is too low at 1000m². More detail is required to better understand this provision.</p> <p>How was 250m² determined and what does “access from the street” mean, is it required to be on the ground floor?</p> <p>Likely to add significant costs, especially for smaller apartment buildings, through reduction in saleable area. Could also impose difficulty on body corporates especially on sites with a high proportion of renters.</p>
<p>Table A7 2. Daylight and ventilation Introduce a new requirement to provide adequate daylight and natural ventilation to all common circulation spaces.</p>		<p>MORE DETAIL REQUIRED. The Benefit is supported in principle but in practice could lead to reduced design flexibility especially if this actually means cross-ventilation is now required. Considering the increased number and prescription of controls this is just additional requirement without and offset in flexibility or otherwise.</p>
<p>Table A7 3. Lift requirements Require a lift report to be submitted for development nine or more storeys or over 40 units.</p>		<p>MORE DETAIL AND CLARIFICATION IS REQUIRED. The Benefit is positive, but flexibility is needed.</p> <p>For example this could be encouraged if the additional area could be excluded from planning GFA.</p> <p>The straight application to projects over 40 units should be removed as it depending on building configuration, 40 units could be 4-5 storeys. The number of storeys should be the determining factor.</p> <p>Note that the requirement for additional clear distance in front of lifts will likely increase construction costs and reduce affordability.</p>
<p>Table A7 4a. Building access, common circulation and spaces Require access and circulation spaces to achieve Liveable Housing Australia silver performance level. Ensure equitable access from the street and to on-site facilities for all housing types (social, affordable, open market).</p>		<p>MORE CONSIDERATION REQUIRED. The Benefit is positive but more consideration is needed.</p> <p>Some sites are especially hard to provide at-grade access due to flooding and this should be taken into consideration when evaluating solutions.</p> <p>Promotion of through-site links needs to be balanced with prioritising the primary street network for movement and activity, safety and security and accessibility when there is already an acceptable block structure and distances.</p> <p>More detail required as to minimum corridor widths and clarity around relationship to other controls and guides for accessibility.</p>

		Increasing the number of apartments with universal access is likely to increase costs and reduce affordability.
Table A7 4b. Upgrade fire stairs to meet NCC common circulation requirements by providing hold-open fire doors and natural light to allow residents to access and use stairs daily.		<p>MORE CONSIDERATION REQUIRED. This Benefit is positive, but more consideration is needed.</p> <p>It has been suggested that over a certain height, open fire stairs inspire vertigo and are unlikely to be used. This should be verified with an appropriate fire consultant and may only be appropriate for buildings of a certain height. This consideration could be encouraged as an offset against some other provision.</p> <p>It may also raise safety , security and privacy concerns in some instances. This would conflict with current approaches for secure building access to only an occupant’s floor, especially for anyone tailgated into a building. Unwanted visitors can now easily gain access without any security check, detection or restriction.</p> <p>Likely to increase construction costs and reduce affordability as open fire stairs require larger spatial areas and upgraded finishes.</p>

**Part 5 Environmental Performance - Sustainability
(Table A8)**

<p>A8.1 (4U) Energy efficiency</p> <ul style="list-style-type: none"> • Provide a real-time energy use display or smart meter for each apartment. • Design energy systems to enable choice of energy suppliers. • Apply NABERS Common Property Energy requirements to common areas, with targets to be specified in the Design and Place SEPP. 		This provision will add development costs, likely add costs for residents, with no evidence of its benefits.
<p>A8.2 Energy efficiency – electric vehicles Specify a target (or general incentive through replacement rates) for EV charging stations and car spaces. (Target to be determined.) Require development to be EV-ready, providing sufficient power to the meter</p>		<p>While this aspiration is positive, the requirement is overly onerous for the timeframe.</p> <p>More detail is needed.</p> <p>Likely to add cost and energy consumption.</p>

<p>board to enable vehicle charging at every car space, and delivering power supply to each car space for future conversion and adoption.</p>		<p>Instead of requiring power to the metre board, consider allowing cabling and space and capacity for future upgrade. The strategy should consider the more immediate issue of electric bikes and scooters and should also incentivise minimising energy consumption in the total building so power can be reallocated to EV as ownership increases.</p>
<p>A8.3 Heating and cooling infrastructure Require heating and cooling infrastructure (including condensers) to be located in a centralised location in the basement, on each floor plate, or on the roof, and integrated with the building design, using facade and roof elements to screen it from view.</p>		<p>This clause is about visual impact and has nothing to do with sustainability. It should be located with clause A6.7.</p> <p>Likely to add costs for centralised plant and would be a significant cost for affordable housing.</p>
<p>A8.4 (4V) Water management</p> <ul style="list-style-type: none"> • Introduce minimum WELS standards. • Require a strategy for on-site water re-use, including % of landscaped area for passive or recycled water irrigation. 		<p>This provision needs further clarification.</p> <p>A higher benchmark is likely to add costs.</p> <p>Typology-specific guidance would be required as on-site collection and re-use, while potentially suited to low rise with large roof space, doesn't suit towers with small roof footprints.</p>
<p>A8.5 Building and landscape maintenance Require a building and landscape maintenance plan to document maintenance regimes for the building structure, soft landscaping, waterproofing, plant maintenance, replacement and repair strategies (including common property) and material life cycles. Require the landscape maintenance plan to identify how landscaping will be periodically maintained after completion (5-year, 10-year planning).</p>		<p>This provision needs further clarification.</p> <p>Likely to add costs through preparation of maintenance plans and associated documents.</p> <p>Who is responsible?</p> <p>How would this be enforced?</p> <p>Timing: provision prior to OC would be most appropriate.</p> <p>The provision of a template could make compliance and approval easier.</p>

<p>A8.7 Environmental performance of materials Require development to reduce carbon footprint and contribute to net zero targets and the circular economy including:</p> <ul style="list-style-type: none"> • pursuing green building ratings • selecting materials with low carbon and embodied energy <p>Require carbon footprint and embodied energy of materials to be set out in a materials schedule documenting types, quantum, source, life span, embodied energy and recycled content of each material.</p>		<p>This provision needs further clarification.</p> <p>Likely to add development planning costs in the documentation.</p> <p>Would all materials be covered?</p> <p>Timing: How will this work when at the planning stage the building construction and actual materials are only generically proposed, whereas an actual system is subject to design development, budget, procurement and construction preferences?</p> <p>Any requirement would need to start in a simple staged way and ramp up over time as information becomes available and materials confirmed.</p> <p>Changes post-planning approval should not require a s.4.55 modification of consent, they should be able to be signed off by a certifier.</p>
<p>A8.7 Waste management</p>		<p>This provision needs further clarification.</p> <p>Potential to increase space requirements and therefore increase costs.</p>

<p>Clause 4 Application of Policy</p>		<p>Build-to-rent (BTR) is a specific type of development aligned with a service model and is not yet common in Australia. More research and information is required on what makes BTR feasible, what are the resident and tenure statistics, what are the key considerations and priorities for BTR residents before the ADG is just automatically extended to this new typology.</p>
<p>Proposed relationship to the Housing Diversity SEPP</p>		<p>The intention to include student accommodation, co-living and build-to-rent provisions into the revised SEPP 65 and Apartment Design Guide needs to be reviewed closely, particularly in relation to balconies where other amenity spaces are provided for tenants/residents.</p> <p>There are provisions for build-to-rent which differ for apartments (and rightly so as they are different products). However, affordable housing (AH) is essentially a BTR product (with subsidised rents) but doesn't fall under the current NSW government BTR definition so AH apartments are then required to adhere to ADG, which can result in increased costs and design constraints.</p>

	<p>Given AH is social infrastructure, generally developed by not-for-profit CHPs, and AH is generally not feasible without financial and planning subsidies/concessions, can there be discretion to use the minimum compliance according to BTR or ADG? Or design/planning concessions for the application of ADG for AH apartments?</p> <p>Similar, will AH in other building typologies (e.g., boarding houses) also receive design/planning concessions in the unified Housing Design Guide?</p>
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UDIA

Level 5, 56 Clarence Street
Sydney NSW 2000

PO Box Q402
QVB Post Office NSW 1230

P +61 2 9262 1214
F +61 2 9262 1218
E udia@udiansw.com.au

www.udiansw.com.au

ABN: 43 001 172 363

