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Manager, Centres and Urban Renewal Branch  
Department of Planning and Environment  
Information Centre  
23-33 Bridge Street  
Sydney NSW 2001

To whom it may concern

**IMPROVING APARTMENT DESIGN AND AFFORDABILITY – STATE ENVIRONMENTAL PLANNING POLICY/ NO. 65 AND RESIDENTIAL FLAT DESIGN CODE REVIEW**

The Urban Development Institute of Australia NSW division (UDIA NSW) is a leading industry body representing more than 450 member companies. Our membership encompasses all sectors of the urban development sector, including major developers, planners and architects.

UDIA NSW welcomes the opportunity to comment on the review of State Environmental Planning Policy No. 65 – Improving Apartment Design and Affordability (SEPP 65) and the Residential Flat Design Code (RFDC).

UDIA NSW has previously commented on the Government's intention to improve SEPP65 and the RFDC. The ongoing inconsistency and inflexible manner in which SEPP 65 had been applied has been of particular concern. SEPP 65, in conjunction with RFDC, failed to provide guidance for design excellence via a merit-based assessment causing costly delays for developers and the intended homeowner. The urban industry is also concerned with the level of requirements being imposed on developers without regard to market demand. UDIA NSW would like to see a more flexible set of guidelines to assist developers to provide a product that is based on consumer needs and demands.

The release of the amended guidelines is a welcomed. This submission has utilised the expertise of our membership across all spectrums of the development industry, including the creation of a special sub-committee to dissect and analyse the document in its entirety. This submission focuses on two key themes.

**Theme 1: Design Quality and Layout** – focuses on unlocking the issues around SEPP 65 and RFDC by reviewing the nine new design quality principles. **Theme 2: Governance and Economic Viability** – discusses how the new guidelines will affect a developer's approach to administration affordability, unintended cost and overall impacts. Additionally, this section focuses on inconsistencies around SEPP65 and RFDC.

Urban Development  
Institute of Australia  
NEW SOUTH WALES

PO Box Q402,  
QVB Post Office NSW 1230  
Suite 2, Level 11, 66 King Street  
Sydney NSW 2000  
e [udia@udia-nsw.com.au](mailto:udia@udia-nsw.com.au)  
t 02 9262 1214  
w [www.udia-nsw.com.au](http://www.udia-nsw.com.au)  
abn 43 001 172 363

## **Theme 1: Design Quality and Layout**

The proposed amendments to SEPP 65 and RFDC will no doubt have the desired effect of improving the external and internal character and aesthetic quality in new buildings. UDIA NSW supports a flexible market place and resultant innovative and appealing design configurations.

UDIA NSW believes that to achieve a desirable context and neighbourhood character, the proposed amendments seen in SEPP 65 have been improved, by eliminating references to planning and design policies as the identifier of “desired future character”. This allows for the integrity of the building as good urban design to remain intact. UDIA NSW supports the continued use of a qualifying description of ‘desirable elements’ used in proposed amendments. This creates a better environment for design layouts to be flexible and appealing to the market.

The amendments to the future character of the building are a step in the right direction, however the proposed amendments do not adequately define scaling under the heading ‘*Built Form and Scale*’. Previously the description confused scale with height and bulk. UDIA NSW suggests that the department define scale by using the relationship between different proportions of the building.

The shift towards sustainable features in new homes has been driven by consumer demand. UDIA NSW supports the broadening of measures within SEPP 65 around sustainable design principles in resource, energy and water efficiency to provide a far more flexible framework for implementing a sustainable approach to new developments.

UDIA NSW is concerned that ‘Mixed Use’ under section 4J of the guidelines is too prescriptive and there may be grounds to consider alternatives based on consumer demands. The section constrains developers into providing for a range of non-retail uses in future apartments. Our concern is that empty shops and offices in apartment buildings may detract from the street landscape of the apartment buildings, creating ground level ghost towns in urban areas.

UDIA NSW has previously expressed concern that councils have been using SEPP 65 and RFDC as a statutory document to impose requirements of design layout. UDIA NSW supports the recommendation for councils to appoint design review panels to gain expert advice and help to tailor design solutions. UDIA NSW considers that employing design panels as suggested in the new guidelines would result in an increase in housing diversity; case in point – the introduction of family-sized units. This may increase the commercial viability of a building while encouraging a broader demographic in apartment occupancy in some areas.

In the interest of transparency and creating diversity, design panel decisions should continue to be monitored and measured for effectiveness. Our members are optimistic that refusals of development applications based on designs not meeting council requirements will become a distant memory for the industry and that councils will allow developers to operate within their markets of choice more prudently in the future.

## **Theme 2: Governance and Economic Viability**

UDIA NSW has previously raised concerns that any improper application of SEPP 65 and the accompanying RFDC may have the capacity to adversely affect the supply of unit dwellings to markets in NSW. The proposed amendments allow developers to approach a bullish property market while managing future risk. UDIA NSW believes that a performance-based approach is good for the industry as it allows developers to implement a design that complies and satisfies the market's commercial appetite for increased housing delivery.

UDIA NSW considers the addition of clause 6A – '*Development control plans cannot be inconsistent with Apartment Design Guide*', as a reasonable measure to help provide certainty for the industry. However, UDIA NSW cautions regulators in their application of the guide. The industry does not want to see a situation of over compliance, leading to a further over-regulated market. UDIA NSW recommends that measures be taken by regulators to ensure consistency across legislative instruments, so that they mirror up with the current amendments or consider the new clause *prima facie*.

The size of an apartment is linked to both the changing needs of the market and property economic cycles. We fear that a complex checklist may result in further delays. The guideline states that 70 per cent of the property needs access to sunlight. UDIA NSW is concerned that this will be difficult for many in the industry to achieve particularly in dense urban areas. It is our position that views should be an amenity factor in evaluating compliance when assessed against the orientation of a building. Simply put, it will be quite challenging for many to develop buildings that achieve an efficient design that also provides 70 per cent of apartments with direct sunlight for two hours per day. UDIA NSW recommends that this part of the guide be reviewed to overcome future hurdles.

UDIA NSW welcomes the removal of car parking requirements around transport hubs. However, the Institute believes the appetite for a car space for consumers purchasing a new or existing property has not changed. The market has indicated that due to the urban landscape of Metropolitan Sydney and within urban areas and with the lack of infrastructure for better connectivity around the State, buyers are still opting to pay more for a home to suit their needs. Part 3J of the guide requires many development companies to review the *RMS Guide to Traffic* in order to understand the parking requirement for sites within 400 metres of a railways station (outside the included local government areas) and sites within 400-800 meters of a railway station. UDIA NSW is concerned about a double up, and recommends that an alternative be specified for the guide to avoid any compliance or governance issues in the future.

Unfortunately the design guide in Part 4 should be reviewed. We have identified that some of the prescriptive requirements for the design of the building may present future issues for developers and body corporations: case in point, 4F - *Planting On Structure* - this section could emphasise the voluntary or non-prescriptive nature of maintenance obligations for body corporations, which may have a unfair impact on consumers.

## **Recommendations**

There are 83 performance criteria (excluding considerations in Section Two Primary Controls) and 302 acceptable solutions in the Apartment Design Guide. If design and planning consultants are required to submit compliance charts or tables this will add significant time and complexity to both preparing and determining development applications. UDIA NSW supports an even further reduction of red tape to help developers bring homes to the market quicker to meet housing demand.

We have found some parts of the Apartment Design Guide document are confusing and need further clarification; for example, 4G – *Universal Design*. This section needs simplification and clarification. Does the guide require universal apartments in 20 per cent of units in a block and a further currently unspecified percentage of units designed to allow for future adaption? Or is it one or the other?

UDIA NSW is concerned about the mixed-use requirements imposed on councils. An area should allow for a range of non-retail uses only if there is demand. Councils and developers both know their area and markets respectively. Both will work in proportion to the number of different inputs of the suburb of the dwelling to get the best social-cohesion output from the dwelling.

In respect to regional areas, UDIA NSW is concerned that the guidelines fail to capture developers and councils within these areas and questions whether other regional exceptions should be included in the Guideline. Currently there are different expectations for minimum apartment sizes, deep soil plantings and balcony sizes between Bathurst, Batemans Bay and Burwood. We suggest that an increase in regional examples within the Guideline would be advantageous for the industry in regional NSW outposts. Furthermore increased support for smaller regional areas to assess SEPP65 applications would boost the exposure, understanding and perceived applicability of the Guideline within regional locations.

UDIA NSW supports the new measures and standards for approval. The former refusal grounds were archaic and caused unnecessary delays within the development application process. Clause 30 in the new legislation is very workable and is supported by the industry. The department may however want to consider adding *Apartment Mix* to Clause 30 as standard that cannot be used as grounds to refuse a development application. Including *Apartment Mix* would remove the temptation of non-approval ideology on apartment mix and allow for market demand principles to be the sole determiner for a developer and the approval agency.

## **Summary**

UDIA NSW is pleased to provide this response to the SEPP 65 and RFDC guidelines. Our policy team is available at any time to clarify or expand on any of the information we have provided.

The Institute is supportive of the measures being detailed in the guidelines, however we draw the department to the concerns of reducing the level of requirements developers need to meet as they show no regard for market demand. UDIA NSW does not want unnecessary red tape, leading to increased costs being passed on to new housing that reduces housing affordability to new home owners. Nor do we want excessive and unfair costs placed on new apartment buildings.

Thank you for the opportunity to make this submission. For more information, please contact Kwabena Ansah, Manager, Policy and Research on 02 9262 12 14 or at [kansah@udia-nsw.com.au](mailto:kansah@udia-nsw.com.au).

Yours sincerely



Stephen Albin  
**Chief Executive**