

UDIA NSW SUBMISSION ON 2017 DRAFT HUNTER REGION SIC PROPOSED APPROACH

2018

INTRODUCTION

The Urban Development Institute of Australia - NSW Division (UDIA NSW) is the State's leading property development industry body. We represent over 500 organisations from the public and private sectors. Our members include developers, planners, engineers, academics, regulators, and leading professional advisors. A quarter of our members are based in regional NSW. Our extensive Committee and Regional Chapter structure involves more than 150 of the development industry's key players in policy formulation, and our Hunter Chapter is an active participant in our work.

UDIA NSW welcomes the opportunity to offer comment on the Draft Hunter Region Special Infrastructure Contribution Proposed Approach (**draft Hunter SIC**), released in December 2017.

For many years, UDIA NSW has been calling for the current Draft Lower Hunter Special Infrastructure Contribution (**Draft 2011 SIC**) to be reviewed, and we were pleased that the NSW Government recognised the importance of addressing infrastructure contributions in the Hunter by launching the current process.

We appreciated the opportunities for consultation with the Department of Planning and Environment (**DPE**) over the past 18 months as it developed the proposed approach now on exhibition. This has involved UDIA's committee and members' participation in stakeholder workshops, attendance at briefings, documentation review, preparation of responses and provision of feedback in an effort to ensure DPE has a detailed understanding of the issues surrounding developer contributions and infrastructure provision in the Hunter Region, and their interrelationship with land and housing supply. The time commitments by UDIA members have been significant.

It is well known by government, industry and the broader community that addressing housing affordability is critical to the success of NSW. It is also broadly recognised that a key element to solving the affordability crisis is the promotion of housing supply in strategic locations close to employment. UDIA NSW encourages the creation of a positive regulatory environment for development, and an equitable system of taxation and charges. As noted above, we advocate for affordable, connected and liveable communities delivered through the following three main themes:

- Sufficient supply
- Timely and affordable infrastructure
- Better planning

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Consistent with this, UDIA NSW supports initiatives that will reduce the uncertainty and improve timeframes associated with the development process. Doing so will assist in the supply of residential housing lots and employment lands at a price the market can afford.

It is encouraging that DPE has sought comment on the proposed approach to the draft Hunter Region SIC, but it must also be understood that the SIC is only one component of addressing the region's housing and employment needs. In order for strategic landuse planning to be effective, it is essential that sufficient funds are dedicated to the provision of the enabling infrastructure necessary to achieve the Government's intended aims and objectives. A clear plan for the delivery of infrastructure must be embedded in statutory plans, ensuring that the identified infrastructure is beyond the regional infrastructure that is reasonably expected to be funded through the annual budget process.

Further, it is imperative that other government policies and initiatives are consistent with the aim of increasing the supply of housing and jobs.

In relation to supply, there are a significant number of potential housing lots and employment land development sites within strategically located Hunter areas that are unable to deliver due to either a lack of infrastructure or insufficient capacity within existing infrastructure. These sites are stalled because it is not financially feasible for the developer to fully fund the significant upfront costs of providing that infrastructure, particularly in relation to regional road infrastructure.

UDIA NSW's *Building Blocks* document highlights the enabling infrastructure needed to unlock many of the region's infrastructure-constrained residential areas. This information has been provided in confidence to the Department over the past year. We are currently working to finalise an update, a copy of which will be shared with the Department soon.

In addition to a review of the draft 2011 SIC, UDIA NSW has advocated strongly and consistently for the introduction of an integrated growth infrastructure plan for the Hunter. A Hunter Integrated Infrastructure Plan (**HIIP**) would provide the blueprint for unlocking vast amounts of zoned land in the Hunter, adding to supply and assisting in alleviating housing affordability problems.

We are pleased that DPE has released the draft Hunter SIC in conjunction with the exhibition of two related documents, namely the Draft Greater Newcastle Metropolitan

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Plan (**draft Metro Plan**) and Transport for NSW's Draft Greater Newcastle Future Transport Plan 2056 (**draft Transport Plan**). We have made concurrent submissions to those two draft Plans, and attach copies of those submissions here.

Importantly, the application of an infrastructure contribution should support the provision of the enabling infrastructure necessary to meet the aims and objectives of the strategic land-use plans. It must also be at a rate that is reasonable and affordable. The Hunter Region SIC should provide a mechanism for government to partially recover some of the cost of providing enabling infrastructure. By ensuring the Hunter Region receives an equitable share of the State Budget, the additional enabling infrastructure requirements would be minimised and hence the quantum of any SIC would be kept to a rate that would not adversely affect the supply of housing.

It must also be understood that, to be effective, a review of infrastructure contribution rates cannot be done without also taking into consideration the cumulative effects of the various other local, state and Commonwealth government fees, charges, levies and policies that apply to urban development.

This submission focuses primarily on the Lower Hunter service catchment area component of the proposed approach.

We offer the following recommendations, which are detailed in the body of our submission. We look forward to ongoing consultation with DPE on these issues.

RECOMMENDATIONS:

- 1. The residential contribution rate should be reduced.
- 2. The industrial contribution rate should be reduced.
- 3. Road area should be excluded from the NDA calculation for industrial land.
- 4. The residential contribution should be payable at lot sale settlement.
- 5. The industrial contribution should be applied to the building development on subdivided lots.
- 6. The Hunter UDP should be strengthened to be utilised as an effective tool in identifying infrastructure needs.
- 7. A Hunter Integrated Infrastructure Plan should be developed.
- 8. An alternative approach should be implemented to the Hunter SIC, possibly based on a precinct model.
- 9. An infrastructure loan scheme should be implemented.

BACKGROUND

COMMENTS ON THE CURRENT 2011 DRAFT HUNTER SIC

The Hunter Region is currently operating under a draft SIC since 2011. UDIA NSW has consistently advocated for a review of the existing approach to infrastructure contributions in the Hunter. In ongoing communications with DPE since the release of the 2011 draft SIC, UDIA NSW has outlined the following concerns:

Cost and Revenue Bases

The infrastructure list in the 2011 draft SIC is largely considered by the development industry as an RMS 'wish list' for funding a backlog of regional road works. The nexus of the road works to any particular development is considered marginal at best. The road infrastructure items included on the list have created a cost base that is considered excessive. It is also considered that the 2011 draft SIC approach sets too narrow a revenue base as it only applies to identified Urban Release Areas (**URA**s). With the cost base being set too high, and the revenue base too narrow, the 2011 draft SIC is simply unaffordable.

The current approach is also considered inequitable as it allows smaller subdivisions in nearby or adjoining areas to URAs to deliver lots to the market cheaper than URAs because they are not required to pay any SIC.

The 2011 draft SIC applies a contribution rate of \$72,000 per hectare of net developable area. UDIA NSW has consistently argued that the 2011 draft SIC rate is too high, particularly when combined with other local, NSW and Commonwealth fees, charges and levies which cumulatively form a significant blockage to supply.

Voluntary Planning Agreements

The high rate of the 2011 draft SIC has created a system whereby, in most instances, the developer of a site within a Lower Hunter URA elects to enter into negotiations with DPE on the terms of a Voluntary Planning Agreement (**VPA**) regarding the quantum of SIC payments to be made for that particular development. The negotiations are done on a site-by-site basis which is a time consuming and costly process for all parties involved, with no certainty on the outcome.

Developers are generally forced down the VPA path because the 2011 draft SIC rate is too high, making the project unfeasible. The VPA negotiation process generally results in the developer receiving credits for certain aspects of the development, resulting in a reduced cash payment component.

There is no program or schedule that identifies the timing and delivery mechanism for any of the identified infrastructure. Consequently, even though a developer may enter into a VPA, there is no guarantee the development will proceed because there is no commitment by Government to the timing and delivery of the enabling infrastructure.

It is widely agreed between developers and DPE that the VPA negotiation process is costly and inefficient and should be avoided in favour of a better-designed contribution program.

Summary

The currently operating 2011 draft Lower Hunter SIC plan:

- is set at a contribution rate that is too high to be supported by the Hunter market;
- is a time consuming and expensive process adding unnecessary costs to the development process;
- creates inequity where developments outside an Urban Release Area are not required to make any contribution;
- creates a high level of uncertainty as to the quantum of the contributions payable;
- provides no detail or commitment as to the timing or delivery mechanism for the required special infrastructure.

The combined effects of the above have impacted the supply and consequently the affordability of housing lots in the Hunter. It is essential that any new approach to infrastructure contributions in the Hunter addresses all of these issues in order for it to be effective in increasing the supply of housing that is necessary to meet the needs of the region.

Unfortunately, the 2017 draft Hunter SIC Proposed Approach does not adequately address these issues. Once again, the cost base is too high, the revenue base is too narrow and the list of infrastructure is inappropriate, making the proposed Hunter Region SIC unaffordable, which will continue to force developers to negotiate VPAs on a site-by-site basis.

DISCUSSION OF THE PROPOSED APPROACH TO THE HUNTER SIC

The Draft Hunter Region SIC Proposed Approach consultation paper identifies three guiding principles for the Hunter Region SIC as follows:

- provide flexibility as to the way special infrastructure contributions can be made, including through monetary contributions or works-in-kind, such as land for infrastructure or delivery of infrastructure;
- allow for special infrastructure contributions to be adjusted as economic conditions change; and
- ensure that the level of special infrastructure contributions does not adversely impact housing affordability, feasibility and supply.

UDIA NSW agrees with the importance of these principles. In particular, the third dot point regarding housing affordability, feasibility and supply is a crucial element of the proposed approach to the Hunter Region SIC.

As stated in the consultation paper, the Hunter Region SIC is intended to be a partial cost recovery mechanism. This is in recognition that the Hunter housing market cannot support the addition of an unreasonably high SIC rate.

UDIA NSW contends that the proposed contribution rates for the Lower Hunter are unreasonably high. In order to ensure that the level of special infrastructure contributions does not adversely impact housing and employment land affordability, feasibility and supply, the government will either need to critically review the infrastructure list and/or the level of cost recovery sought.

Cost and Revenue Bases

The Hunter Region SIC proposed list of infrastructure is not supported.

As was the case with the 2011 list, the new list once again appears to be an RMS 'wish list' for funding a backlog of regional road works. Again, there appears to be no nexus of the road works to the identified development sites. Consequently, the items included on the list have created an excessive cost base.

And once again, the revenue base is too narrow, with the proposed Hunter Region SIC only applying to greenfield URA sites. With the cost base being set too high, and the revenue base too narrow, the proposed Hunter Region SIC remains unaffordable.

Contribution Rate - Residential

The draft approach proposes a Lower Hunter residential contribution rate of \$10,664 per lot or dwelling.

The current draft 2011 SIC approach is levied at \$72,000 per hectare of net developable area (NDA). As outlined in the above discussion regarding the current approach, this rate has proven to be too high for the Lower Hunter, forcing developers into the VPA negotiation process. From discussions with our members, we understand that through a VPA, developers are able to negotiate cash contribution rates well below \$7,000 per lot. The sites that are not successful negotiating a lower rate have mostly stalled.

The Hunter Regional Plan 2036 sets an annual dwelling target of 3,500. In 2014, the UDIA Lower Hunter State of the Land report estimated an annual shortfall of approximately 1,000 lots per year. We consider that the SIC has contributed in an inability to meet dwelling supply targets in the Hunter. Furthermore, there were only 1,800 lot sales for the year to Q3-17 close, which indicates the Hunter has continued to fail to meet dwelling supply targets.

Despite the impact of the current high SIC contribution rate, the proposed rate of \$10,664 per lot is higher than the current rate. The contribution rate is simply too high and will jeopardise development feasibility.

The residential contribution rate should be reduced.

Contribution Rate - Industrial

Part 3 of the proposed approach outlines that new subdivision roads are to be included in the calculation of Net Developable Area (NDA). We note that road area will not generate additional need for infrastructure, and the additional SIC attributed to inclusion of road area will negatively impact development feasibility.

We understand that a number of current Hunter developments do not include road area in the NDA calculation via schedule 6 of their VPA. We propose that this methodology is adopted and road area is excluded from the NDA calculation.

As outlined above we see very little nexus for any of the delivery infrastructure to Hunter development, particularly the catalyst employment developments outlined in Figures 4 and 12 of the draft Greater Newcastle Metropolitan Plan.

We also note that Lower Hunter (Greater Newcastle), Upper Hunter and Mid-Coast regions all carry the same industrial contribution rate. It is clear that there is no nexus to the infrastructure delivery list for the upper Hunter and Mid-Coast regions, and on this basis it appears that industrial contribution has been set at an arbitrary level.

The proposed rate at \$38,232 per ha will detrimentally impact development of employment land in the Hunter region and should be reduced.

Timing of Payment - Residential

Given that the demand on infrastructure does not arise until the completed houses are occupied, UDIA NSW believes the payment of the SIC should not be triggered until as late in the development process as possible. Early payments must be financed, adding to the overall cost of delivery and impacting on project feasibility.

For residential subdivisions, the SIC payment should be at the settlement of the lot sales. This matches the approach to the collection of other outstanding obligations at the time of settlement, e.g., council rates, and matches the incoming policy on the collection of GST. Any risk to the Government is negated by the fact that settlement may not proceed unless the SIC payment is provided for.

Timing of Payment - Industrial

We note that the need for occupants of the development to use SIC funded infrastructure would not come until long after Subdivision Certificate as lots need to be sold, developed and occupied prior to infrastructure use. Due to the critical nature of employment land to support the regional economy and population growth, we propose that the industrial SIC is not applied at subdivision stage but is applied to the building development on subdivided lots. This matches the approach to Section 94 contributions currently employed by Cessnock City Council.

Summary

The proposed approach to the Hunter Region SIC:

• sets too high a cost base and too narrow a revenue base and thus remains unaffordable;

- creates inequity where developments outside an Urban Release Area are not required to make any contribution;
- provides no detail of the timing or delivery mechanism for the provision of the required special infrastructure; and
- will continue to force developers to seek to negotiate VPAs

PRINCIPLES TO GUIDE INFRASTRUCTURE FUNDING

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UDIA recognises the importance of infrastructure to support growth, and the need for new homebuyers to contribute to the funding of infrastructure which is necessitated growth. The Federal Government's Housing Supply and Affordability Reform Working Party examined charges imposed on developers and home owners and found:

some state and local governments were imposing infrastructure charges on developers (or purchasers in some instances) in a manner that lacked consistency, transparency, and predictability.

The HSAR Working Party recommended infrastructure charges should, at least, be:

- **efficient** charges should be for infrastructure required for the proposed development or for servicing a major development;
- transparent and accountable charging regimes should be supported by publicly available information on the infrastructure subject to charges, the methodology used to determine charges and the expenditure of funds;
- predictable charges should be in line with published methodologies and charging schedules (with clarity around the circumstances in which charges can be modified after agreement); and
- **equitable** where the benefits of infrastructure provision are shared between developers (land owners), the infrastructure charges levied on the developer should be no higher than the proportional demand that their development will place on that infrastructure.

UDIA NSW endorses these principles to guide infrastructure funding and recognises the principle of nexus underpins equity and efficiency.

The proposed approach to the Hunter Region SIC outlined in the December 2017 paper is neither efficient nor equitable, making it inconsistent with the Federal Government's HSAR Working Party guiding principles for infrastructure funding.

Further, as the proposed approach is unaffordable, unfeasible and will adversely impact housing and employment land supply, it is also inconsistent with the guiding principles set out by DPE. Over 70% of the current infrastructure list is comprised of RMS projects, many of which are regionally significant road upgrades and should form part of the annual state road budget. The inclusion of these road upgrades in the Hunter Region SIC infrastructure list makes the cost base too high. By having the SIC only apply to URAs, the revenue base is too narrow. All of these elements combine to make the proposed approach to the Hunter SIC counterproductive.

UDIA NSW makes the following recommendations to improve the proposed approach, some of which are discussed above, and the rest detailed below:

RECOMMENDATIONS:

- 1. The residential contribution rate should be reduced.
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- 6. The Hunter UDP should be strengthened to be utilised as an effective tool in identifying infrastructure needs.
- 7. A Hunter Integrated Infrastructure Plan should be developed.
- 8. An alternative approach should be implemented to the Hunter SIC, potentially based on a precinct model.
- 9. An infrastructure loan scheme should be implemented.

Urban Development Program

UDIA NSW strongly supports the current DPE initiative to establish an Urban Development Program for the Greater Newcastle Metropolitan Area. It is our view that the UDP should include, or be linked to a Hunter Integrated Infrastructure Plan. A UDP combined with a HIIP would provide a strong tool for government and industry in not only monitoring supply, but also for identifying blockages due to infrastructure provision and for prioritising infrastructure investment decisions.

Hunter Integrated Infrastructure Plan

A key recommendation from UDIA NSW in its ongoing consultations with the NSW Government is that an integrated infrastructure plan should be prepared for the Hunter region as part of the strategic planning process for the delivery of transport, water, wastewater, energy and telecommunications. We stand by this recommendation and underscore its fundamental importance to achieving meaningful growth in the region.

Infrastructure is a key blockage to housing supply. There are particular challenges to infrastructure in the Hunter relating to coordination, specification and cost, and there is currently no framework for the collection, analysis and presentation of existing and planned network infrastructure capacity across network infrastructure providers within the Hunter.

- UDIA NSW commends the Department of Planning and Environment and Transport for NSW for consulting in the development of the draft Greater Newcastle Metropolitan Plan and the draft Greater Newcastle Future Transport Plan. The draft Transport Plan outlines initiatives and a sequencing pattern for the transport component of the overall infrastructure question for Greater Newcastle. Although the Transport Plan lacks real funding and delivery commitments, nonetheless it attempts to speak to the draft Metro Plan.
- Likewise, the Hunter Water Corporation has recently released its Growth Plan related to water and sewer provisioning for its Hunter service area.
- Energy (Ausgrid) must also produce a Growth Plan.
- Telecommunications (NBN) must also produce a Growth Plan.

Ultimately, all of these individual plans must reference and coordinate with each other. It does no good to provide for roads if water, sewer and/or power can't be delivered to support an area's growth. While the draft Transport Plan is welcomed and useful, UDIA NSW urges the development of a broader, coordinated and integrated Hunter infrastructure plan to unlock the region's potential.

UDIA NSW makes these vital recommendations for the successful development and implementation of an Integrated Infrastructure Plan:

- Governance: The Hunter Development Corporation (HDC) and the Department of Planning and Environment (DPE) should together be responsible to work with the relevant stakeholders and deliver an Integrated Infrastructure Plan for the Hunter.
- The Greater Newcastle Urban Development Program (UDP) should provide the critical detail needed to align infrastructure planning with housing needs.
- The Hunter Special Infrastructure Contribution (SIC) must be linked to and support the delivery of the Integrated Infrastructure Plan.

Integrated infrastructure planning will only work if the information is available publically on a full disclosure basis. It is critical that these plans are closely aligned to agency capital works programs and have the detail available to appropriately set regional infrastructure charges. With the oversight of HDC and DPE, the Hunter Integrated Infrastructure Plan can be flexible to assess and make necessary changes as the UDP reflects changes to the market.

Alternative Approach

To make the Hunter Region SIC more equitable, UDIA NSW believes there is merit in considering an alternative approach which is similar to the Section 94 model. Such an alternative approach could base contributions on a regional component and a sub-catchment/precinct based component (i.e., specific infrastructure required for the sub-catchment).

The regional component could include:

- Health
- Education
- Emergency services
- Regional arterial roads where there is a clear nexus to the development

The revenue base for the regional component should be applied to all development, including greenfield and infill, as infill development creates an equal demand to greenfield development for the regional items listed above. By broadening the revenue

base for those that contribute and excluding the specific items relating to individual precincts, the SIC would achieve a more equitable contribution that is fair, reasonable and proportional with an identified nexus.

The sub-catchment/precinct component would identify the enabling infrastructure items, which aren't included in S94 plans (i.e., major road upgrades specific for the precinct, major signalised intersections specific for the precinct, lead-in power, etc.), which are critical to enable the precinct to deliver lots to the market.

Some precincts may have higher or more-costly infrastructure requirements than other precincts resulting in a higher per-lot contribution. However, prospective developers looking at purchasing sites would ultimately factor this into due diligence cost estimates which would be reflected in the englobo value that the developer would pay for the site. This results in a more equitable distribution of costs whereby some precincts are not unfairly subsidising other precincts.

We are currently finalising our updated UDIA NSW Hunter *Building Blocks* document, which will provide an infrastructure list that could be used to form the basis of precinct-specific infrastructure plans. The *Building Blocks* document will also present infrastructure by LGA which could form the basis of the geographical precincts.

Infrastructure Seed Funding

Recent investments in Newcastle's revitalisation by the NSW Government are welcomed. Significant expenditures have been allocated to the major catalyst projects, including \$1.7 billion for the Hunter Expressway and \$650 million for Newcastle revitalisation including the Wickham interchange and light rail. These are significant investments and have underpinned the ongoing growth of the Hunter priority region.

It must be pointed out, however, that these investments are not supported by a consistent funding level commensurate with the relative population of the Hunter region. The Hunter is home to 9% of the NSW population, but on average over the past decade, has only received 4.9% of the state's budget allocation for transport, 2.7% for primary & high schools, 3.9% for TAFE buildings and 5.1% for hospitals.

These funding inequities have left local government and developers, primarily, to pick up the tab. We believe that many of the items included in the draft Hunter Region SIC infrastructure list are a backlog of RMS roads that should be on the NSW transport budget list. UDIA NSW understands the economic imperative of the efficient allocation of finite resources in funding decisions. That said, much more could and should be provided to support the economic development in the Hunter priority region.

Seed Fund Loan Scheme

UDIA NSW maintains its long-standing recommendation for an enabling infrastructure seed fund and/or loan scheme to support adequate housing supply. NSW Government should allocate up to \$100 million to establish a fund for delivering enabling infrastructure, including roads and intersections, to unlock housing release areas.

This fund could be accessed by developers or service providers to pay the up-front costs of delivering enabling infrastructure associated with new housing. The developer would repay the loan at the completion of sales.

A major blockage in the delivery of adequate housing supply is the up-front "peak debt" of building roads, water, sewer and power infrastructure.

Seed funding of enabling infrastructure (with payback) would bring housing to the Hunter market faster and at a more affordable price, by having a positive impact on peak debt feasibility of development projects. We conclude that a Special Infrastructure Contribution could be used to facilitate funding of lead in RMS and council road infrastructure to unlock stalled development. This would create a broader catchment of feasible development with the ultimate outcome of providing stability to the property market and regional economy through unlocking housing supply.

Attached is a previously submitted UDIA policy paper recommending a *Regional Infrastructure Investment Loan Scheme* which provides further detail on the regional benefit and proposed loan mechanism. As noted above, our updated *Building Blocks* document will identify some of the projects that could benefit from such a loan scheme.

The government would retain the ability to further prioritise housing delivery in strategic locations through the Housing Acceleration Fund or other government initiatives.

CONCLUSION

CONCLUSION

UDIA NSW appreciates the opportunity to offer input on the Draft Hunter Region Special Infrastructure Contribution Proposed Approach. We have advocated for a long time for a review of the current approach to infrastructure contributions in the Hunter, and we are encouraged that DPE has sought comment on the draft Hunter SIC proposed approach.

That said, we have had substantial, ongoing engagement with DPE which has involved our committee and members' participation in stakeholder workshops, attendance at briefings, documentation review, preparation of responses and provision of feedback in an effort to ensure DPE has a detailed understanding of the issues surrounding developer contributions and infrastructure provision in the Hunter Region, and their interrelationship with land and housing supply. The commitment and effort involved have been significant; unfortunately, those efforts appear to have been in vain as the proposed approach does not adequately address the issues identified with the existing approach.

The proposed approach continues to set too high a cost base largely through the inclusion of a list of outstanding RMS regional road upgrades, and sets too narrow a revenue base by only applying to greenfield URAs. The draft Hunter SIC therefore is unaffordable. It continues to create inequity where developments nearby or adjoining a URA are not required to make any contribution. Further, the ongoing lack of detail regarding the timing and delivery mechanism for the provision of the required growth infrastructure continues to undermine the whole process and, in our view will continue to force developers to seek to negotiate VPAs.

We acknowledge the premise behind the need for special infrastructure contributions, as a means to help accelerate housing supply. We have suggested a number of alternative approaches for consideration based on our detailed understanding of the Hunter region development industry.

In summary, UDIA NSW does not support the current draft proposed approach to the Hunter SIC.

We thank DPE for considering this submission and would welcome the opportunity for further discussion on the recommendations we have put forward.

Should you have any questions please contact UDIA NSW Hunter Regional Manager Elizabeth York via eyork@udiansw.com.au or 0434 914 901.

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The Urban Development Institute of Australia (UDIA) NSW is the state's leading property industry body. It advocates for better planning, timely and affordable housing, and the building of vibrant communities to increase and support local job opportunities.