



28 November 2008

Mr Sam Haddad  
Director General  
NSW Department of Planning  
GPO Box 39  
SYDNEY 2001

Dear Sir

**Re: Affordable Rental Housing Policy**

UDIA NSW refers to the Department's targeted consultation for the development of its Affordable Rental Housing Policy. The opportunity to comment is appreciated, however the one week timeframe within which to provide a submission is disappointing, particularly in light of the Government's expedited review of development levies.

**Introduction**

UDIA NSW recognises that the policy proposals being put forward by the Department are in general terms an extension of existing provisions within State Environmental Planning Policy 70 (SEPP) and SEPP 10 but contends that the timing of these amendments appear to be somewhat naive to the prolonged market constraints in NSW and Sydney in particular. This was reflected directly in the timing of the briefing given to industry stakeholders by the Department on this policy on the morning of Friday 21 November 2008, and the briefing given to a similar group of stakeholders in the afternoon of that same day by the Government on its review of the widespread negative impact that development levies have had on dwelling production and housing affordability in NSW.

UDIA NSW has an in principle objection to the application of levies and the proposed expansion of existing contributions schemes at time of record low dwelling production in NSW and a review of the impact of levies and contributions schemes by the Government is unconscionable. This policy reflects the lack of a consistent narrative by the Government in regard to levies and scant acknowledgement of the role of levies in contributing to the aforementioned market conditions.

The Policy lacks a clear identification of what it aims to achieve by articulating specific objectives and desired outcomes. The Policy has demonstrably been developed on the basis of a perceived need to provide an unspecified volume of affordable housing for an unspecified number of persons. In this regard it is difficult for the industry to understand what the Government understands hopes to achieve. UDIA NSW believes that the Policy would benefit significantly from a clear identification of the following:

- how many affordable housing dwellings are needed;
- how many affordable housing dwellings are currently being produced;
- the success of the current framework in delivering affordable housing; and
- the projected production of affordable housing on the basis of the proposed framework.

UDIA NSW has however taken the opportunity to provide feedback on a number of initiatives within the policy and would welcome the opportunity to expand on the comments and recommendations made.

### **Ensuring Viable Affordability**

The draft Policy proposes that stakeholders who wish to develop accommodation for the purpose of affordable housing, must, pursuant to a mandatory condition of consent, provide that accommodation for at least 80% of the development for a period of at least ten years. There will also be a restriction on title that will prevent the registration of a strata plan for these dwellings within the ten years.

UDIA NSW contends that these provisions will make it particularly difficult for developers to establish and maintain a viable development. The registration of a strata plan for only 25% of the accommodation presents a range of constraints to the ongoing operation of the development. This scenario seems to provide no recourse for tenants who are experiencing difficulties with their accommodation in contrast with those third party avenues affordable to tenants in strata titled accommodation.

The Department of Planning would also be aware that the decision of a developer to lease rather than sell accommodation confers a significant and complex tax liability, particularly when there is a split between selling and leasing of the dwellings. UDIA NSW contends that this situation would only be exacerbated should the developer hold the dwellings for a period of time with the intention of selling a future date.

### **Incentives for New Affordable Housing**

The draft Policy proposes that stakeholders who develop affordable housing projects will have their development contribution payments deferred while the accommodation remains as affordable housing. The Department have advised that once the housing is used or sold for a non-affordable housing purpose, the developer is liable to pay the deferred development contribution levies. This provision is marketed as an incentive for scheme participation.

Development contributions plans are developed on the perceived basis of a demand for infrastructure and facilities and the cost is shared between the users of these facilities as an upfront contribution payment. The proposed incentive of deferral of contribution payments infers that there will be no additional demand for facilities created by the affordable housing project and therefore no payment is required. This inference applies only when the accommodation is considered affordable, once the project is sold, the demand for facilities then materialises, and the contribution payment must be made.

The proposed prohibition or deferred payment of development contributions for affordable housing is contrary to the very principles that underpin the creation of contributions plan, including the nexus between the supply of new dwellings and demand for infrastructure and facilities, and the apportionment of costs between

users for the provision of the infrastructure and facilities. UDIA NSW is not opposed to the use of incentives for affordable housing development, but contends that the use of contribution provisions that have manifestly failed to provide a context for housing affordability is questionable. The proposed provisions compromise the integrity of the Government's contributions framework and the certainty it seeks to provide for the development industry and therefore UDIA NSW recommends they be removed.

### **Affordable Housing Contributions for Developments Creating Demand for Affordable Housing**

The use of affordable housing contributions raises the cost of providing housing and impacts negatively on affordability. The use of contributions more broadly in Sydney to capture the uplift in value have manifestly succeeded in constraining development where it is needed and significantly raising the cost of new housing for the community. The expansion of this philosophy is questionable.

The industry is indeed interested in whether the application of levies through SEPP 70 is the most effective, equitable and efficient vehicle for delivering affordable housing. UDIA NSW contends that the availability of affordable housing is a responsibility of the broader community, and therefore the costs should be shared amongst a much broader base of contributors than those who are buying new accommodation.

UDIA NSW is concerned that the draft Policy is particularly ambiguous in specifying which developments the affordable housing contribution would apply to. The draft Policy suggests that they would apply to 'developments creating a need for affordable housing'. If the Department chooses to pursue this Policy in the knowledge of the systemic problems with the levy framework, there must be more clarity in regard to where levies would apply, and how the contributions are being utilised.

### **Conclusion**

UDIA NSW appreciates the opportunity to comment on the draft Policy but expresses deep concern that on the basis of the potential significant implications of its implementation, greater opportunity for consultation was not provided. UDIA NSW is also concerned that this policy appears at odds with the Government's review of development levies and their impact on housing affordability.

UDIA NSW contends that the Department have not clearly identified the objectives of the policy, and the desired outcomes from its implementation and have therefore manifestly failed to articulate a justification for its application on a housing market that is in significant stress. The stakeholders who are contributing to the scheme via contributions are entitled to be given an appreciation of the measure of its success.

UDIA NSW has provided comments on some of the more technical aspects of the draft Policy but remains strongly opposed to the expansion of affordable housing contributions. UDIA NSW strongly recommends that the Department of Planning consult more extensively with industry in developing its Policy before applying the proposed provisions.