

Mr Sam Haddad  
Director General  
NSW Department of Planning  
23-33 Bridge Street  
SYDNEY

## **Re: Housing Code Amendments – UDIA NSW Submission**

The Urban Development Institute of Australia NSW (UDIA NSW) appreciates the opportunity to provide comment on the proposed amendments to the NSW Housing Code. In preparing its submission, UDIA NSW has consulted with its various Committees and Regional Chapters, which are resourced by many of the leading industry stakeholders. Accordingly, UDIA NSW believes it can provide constructive, evidence-based input into the development of the Code.

This submission provides a general comment on the Code, and more specific comments and recommendations on a number of aspects of the Code. UDIA NSW would welcome the opportunity to expand on any of the issues raised here.

### **GENERAL**

Generally, UDIA NSW welcomes the expansion of the Code to smaller lots. The housing market has been shifting in this direction, driven in part by upfront infrastructure and servicing costs placed on greenfield lot production.

NSW is playing catch-up to the other states in the use of code based assessment, so this initiative is welcome. This approach to development assessment allows councils to dedicate its planning resources to more complex DAs, rather than simple applications.

If code based assessment is used appropriately, it can be very effective in streamlining development assessment while ensuring the rights of existing residents are protected. The broad objective must be to streamline and improve assessment processes without compromising the quality and standard of built form.

UDIA NSW suggests that it could be argued that the Code has been prepared to allow for its sympathetic application in an infill and brownfield context. As such, UDIA NSW believes that there are controls in the Code that could be relaxed, including building heights, site coverage, etc, for an appropriately masterplanned greenfield context, without a loss of amenity or quality of urban form.

Given the broad intent to facilitate speedier assessment processes and therefore investment and construction, it is in the Government's interest to ensure that the take-up of the Code is widespread. It is recommended therefore that the Department of Planning commit to a further review of the new and expanded Code after 12 months, including the monitoring of take up rates across greenfield and infill locations.

## **RECOMMENDATION 1**

*UDIA NSW recommends that the Department of Planning closely monitor take-up rates of the Code amendments and commit to a 12 month Review process in consultation with industry.*

## **SPECIFIC COMMENTS**

### **Minimum Lot Size**

The process the Department has undertaken to develop the Code is such that its application is appropriate for widespread use, where the range of externalities and potential impacts have been accounted for in its design. In this regard, UDIA NSW is concerned by Clause 1.18 (2A) in the Code, which stipulates that complying development cannot be undertaken on a lot that is smaller in size than the respective Council's LEP.

There are many examples where the minimum lot size in a Council's LEP is higher than the scope provided by the Code, and as such will significantly limit the potential application of the Code. This runs contrary to the Government's objectives for the widespread usability and application of the Code, particularly in greenfield release areas.

## **RECOMMENDATION 2**

*UDIA NSW recommends that Clause 1.18 (2A) be removed from the Code to ensure a more widespread application of the Code.*

### **Height Controls**

The Code proposes a maximum dwelling height of 8.5m. UDIA NSW is concerned that this is too restrictive, particularly for two storey dwellings on sloping sites, and on larger rural lots.

UDIA NSW recommends that the maximum dwelling height within the Code be increased to 9.5m. The maximum height on ancillary structures of outbuildings should remain at 8.5m.

## **RECOMMENDATION 3**

*UDIA NSW recommends that the Code be amended to allow for dwelling height controls to be increased to a maximum of 9.5m.*

### **Lot Widths**

The provisions for the New Small Lots Code on Page 10 of the Discussion Paper are proposed to apply only to lots with a width between 6 and 10m. In the ACT, the Government's affordable housing program provides for small lots of 250m<sup>2</sup> with dimensions of 12.5x20m. This is one of the most popular lot types in a jurisdiction that is arguably delivering a more successful program of affordable housing and a regulatory framework that facilitates housing affordability.

Under controls proposed in the NSW Small Lots Code, this product type would not comply. UDIA NSW recommends that this be addressed by an amendment to the Code to allow for lot widths of up to 12.5m.

#### **RECOMMENDATION 4**

*UDIA NSW recommends that the Small Lots Code width standard being increased to 12.5m to allow for the inclusion of housing stock that is being delivered very effectively in other jurisdictions.*

#### **Bushfire Prone and Flood Prone Land**

UDIA NSW recommends that the Housing Code be amended to allow for the inclusion of bushfire prone lands under the assessment framework. A preliminary assessment by an appropriately accredited bushfire professional would be able to determine the relevant bushfire attack level of the lot and prescribe appropriate construction levels to comply with the Australian Standard – AS 3959-2009.

Similarly with flood prone land, a significant degree of preliminary work is undertaken to determine flood risk, and this guides the land use planning and zoning process. In terms of the application of the Housing Code on flood prone lots, the Code could provide that appropriate technical analysis be undertaken to determine whether the dwelling could be determined under the complying provisions, and whether special controls were required.

#### **RECOMMENDATION 5**

*UDIA NSW recommends that the Department investigate the application of the Code on bushfire and flood prone land, pursuant to the provision of appropriate process safeguards, as described above.*

#### **CONCLUSION**

UDIA NSW appreciates the opportunity to comment on the proposed expansion of the Housing Code. UDIA NSW is generally supportive to the direction of reform and policy development, and encourages the Government to expand the development of Code based assessment across the development sector.

Yours sincerely



Stephen Albin  
**Chief Executive**