

18 December 2020

Sigourney Irvine
Senior Policy Officer
Environment Protection Authority Victoria

By email: urbanstormwaterbpem@epa.vic.gov.au

Dear Sigourney Irvine,

UDIA Victoria Submission: Draft Urban Stormwater Management Guidance

The Urban Development Industry of Australia, Victoria Division (UDIA Victoria) is a non-profit advocacy, research and educational organisation supported by a membership of land use and property development organisations, across the private sector and Victoria's public service. We are committed to working with both industry and Government to deliver housing, infrastructure, and liveable communities for all Victorians.

UDIA Victoria congratulates the Environmental Protection Authority (EPA) on the preparation of the draft Urban Stormwater Management Guidance (Publication 1739). The guidance package represents a considerable body of work that advances the collective understanding of the potential risks of urban stormwater runoff. In acknowledging their General Environmental Duty, the UDIA Victoria membership is appreciative of the addition of this work to the state of knowledge on this important component of our urban system, and the intent of the guidance to help improve the management of urban stormwater in Victoria. UDIA Victoria share the EPA's commitment to supporting minimisation of the risk of harm to human health and the environment through good environmental practice.

Further, we commend the EPA for the format and legibility of the guidance package. The background information consultation guide is a very useful summary of the intent and key elements of the initiative, and the Draft Guidance itself we found to be informative and visually engaging.

Key Issues

This submission is structured around two key themes:

- **Guidance Intent and Implementation.** UDIA Victoria is concerned at the potential for the guidance to take on a level of weight in local and agency level decision-making that it is not intended to have at this point. We seek clarity on how it is to be implemented in practice.
- **Impact on Cost and Development Feasibility.** UDIA Victoria urges the EPA to ensure that any process to advance the status of the guidance through its implementation into the Victorian Planning Provisions, or other form of adopted policy or practice note, is informed by a thorough economic appraisal which reflects the potential impact on development (and ultimately housing) affordability.

Each of these key issues is now addressed in more detail.

Guidance Intent and Implementation

The guidance package makes it clear that it is not intended as any form of compliance, control, requirement or other form of objective that has statutory weight in the decision-making arena. More

specifically, the guidance is couched as primarily an educational resource for developers, technical consultants and other stakeholders in the development industry, to help build knowledge around stormwater flows, understand risk, and assist with the design and evaluation of stormwater assessments.

UDIA Victoria is highly supportive of the EPA's intent with this work – as part of the broader engagement undertaken with industry reference groups over the past 1-2 years in advance of the new environmental laws coming into effect on 1 July 2021 – to become a proactive organisation as opposed to. Our members are supportive of this educational focus.

However, the guidance could be interpreted as setting baseline objectives for stormwater management performance. For example, on Page 7 of the Guidance it states:

Metrics to assist you to evaluate risk of harm

The following table is an additional tool to assist in evaluating risk of harm. Performance against the objectives in Table 1 can be used as a signal of the level of risk of waterway values being lost or impacted. EPA regards development that does not meet those performance objectives as presenting a high risk of harm.

Table 1 then includes the following Indicator and Performance Objectives:

<i>Indicator:</i>	<i>Flow reduction</i>
<i>Performance Objectives:</i>	<p><i>50 – 90% reduction in mean annual total runoff volume in priority areas for enhanced stormwater management (Note: 2, 3, 7)</i></p> <p><i>25% reduction in mean annual total runoff volume in areas that have not been identified as priority areas for enhanced stormwater management (Note: 2, 3)</i></p>

Taking the 25% reduction Performance Objective, it is unclear how this objective would relate to existing, established and well documented and enforced stormwater management practices already in operation, for example the development services schemes applicable within Melbourne's various catchment areas, and which are tightly applied through precinct structure planning in the growth areas. Our members are experienced with this system, which is tried and tested, has evolved in accordance with existing, largely scrutinised policy and legislation, and is effectively governed such that drainage solutions are not approved unless they demonstrate best practice.

The guidance may be targeted more at smaller scaled operators or those with less experience dealing with the catchment management and water authorities and existing regulatory and legislative requirements surround stormwater management. If this is the case, this could be made clear in the guidance, together with a statement acknowledging these existing practices and that a large proportion of the industry is already adequately meeting its stormwater management obligations.

Acknowledging that it may take some time to observe what is 'reasonably practical' in terms of a baseline level of stormwater flow, it is probable that this body of work will ultimately influence any Department of Environment, Land, Water and Planning review of the Victorian Planning Provisions. Our members' experience is also that once guidance such as this is in the public domain, it can begin to take on a level of weight in decision-making processes that it does not statutorily have, or intend to have. Given the myriad of policy, guidance, regulatory and legislative requirements already applicable to new development, UDIA Victoria is concerned that the messaging around the Draft Urban Stormwater Management Guidance is unclear on its role and direct relevance to development proposals.

When it comes to considering how any new guidance is translated into policy, regulation or legislation, UDIA Victoria would recommend the following matters for consideration:

- That a sliding scale of flow reduction targets be introduced, rather than moving straight to a minimum 25% reduction, for example commencing at 10% and increasing on the basis of close monitoring and industry engagement;
- That pilot projects be considered, including on government land, where the new initiatives are delivered and tested for their efficacy in meeting overall stormwater flow and quality objectives;
- That the guidance (and future policy, regulation and guidance), make it clear what parts of the metropolitan footprint it is applicable to. For example, it is currently unclear whether the guidance is suggesting that precinct structure plans in Melbourne's growth areas be 25% more efficient again, or that stormwater be conveyed through these areas under existing procedures and approval processes, where it is treated at a single large site that has been specifically identified for this purpose;
- That the guidance make a distinction between greenfield and infill development in established areas. We assert that greenfield areas are largely taking care of themselves from a stormwater management perspective, and will continue to do so and meet best practice, even as density increases. It could therefore be construed that the 25% flow reduction objective is a doubling up of expectations on future development when this standard may be being achieved already; and
- That any changes to current practices and expectations of the industry be subject to a thorough economic appraisal before being implemented. Please refer below.

Impact on Cost and Development Feasibility

The cost implications of regular additional policy requirements being introduced to the development sector on an ongoing basis is a fundamentally critical issues facing our members, and more broadly the affordability of housing within the state of Victoria.

UDIA Victoria research released in July 2020 – *The Hidden Cost of Housing* – assesses the relationship between housing affordability and government policy, taxes, charges and levies. The research finds that government charges cost up to 34% of a local homebuyer's purchase price of a new residential lot or dwelling, depending on the circumstances of the homebuyer and the property they are buying. The research report concludes that the current system is not conducive to housing affordability, which is heavily reliant on development to be commercially viable. The report recommends a whole-of-government approach be adopted in the process of introducing new policy requirements, to ensure the total range of cost drivers impacting on housing is assessed in this context before new policy is enforced that could exacerbate Victoria's housing affordability issues. A copy of the research report, *The Hidden Cost of Housing*, is attached to this submission for your information.

UDIA Victoria has observed a steady reduction in the amount of net developable area associated with Precinct Structure Plans over the past decade, which in part is due to increasing land takes associated with different forms of open space including encumbered land for drainage purposes. This has had a direct implication on the affordability of developing land.

UDIA Victoria is concerned that the implications of achieving the Performance Objectives specified in the draft Urban Stormwater Management Guidance on the viability of developing land, in terms of cost and/or land take, could be the difference between development occurring in accordance with local and metropolitan strategic guidance or not.

We acknowledge that it is a self-compliance requirement for government that a Regulatory Impact Statement be prepared before the adoption of any new legislation, one of the roles of which is to understand the expected impacts (benefits and costs) of policy options and to determine a preferred option.

However, even before this occurs, and given our comments above regarding the tendency for guidance to indirectly start influencing decision-making processes (even where there is no intent for it to do so), UDIA Victoria urges the EPA to carry out some economic analysis on the per lot or dwelling cost of complying with the 25% or 50-90% flow reduction objectives in the guidance. This would be a helpful informant in development of the guidance and its eventual progression into policy or controls that will be applied to development in the future. UDIA Victoria would be pleased to provide an industry perspective on this and offer a selection of our members for the EPA to engage with more closely across a range of development and technical settings if this would be of benefit.

Conclusion

UDIA Victoria congratulates the EPA for completing this significant, data-led exercise, which is a valuable and welcomed addition to the state of knowledge around stormwater management and potential risk. Our members are at the coal face and work through ever increasing regulation which strives to increase the quality of development and infrastructure outcomes. Rising standards and calls for more policy and regulation with financial implications need to be carefully weighed and balanced. Our issues with the Draft Urban Stormwater Management guidance are focused towards how the guidance is interpreted and implemented, bearing in mind the potential additional implications of land development and housing affordability.

UDIA Victoria looks forward to further engaging with you and your team and welcomes a chance to meet and discuss our submission in greater detail. Please contact Hyatt Nidam, Engagement and Communications Manager at hyatt@udiavic.com.au to arrange a suitable time to do so.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'A Gaedke'.

Angela Gaedke

Acting Chief Executive Officer

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Attachments:

1. UDIA Submission to City of Melbourne Affordable Housing Strategy
2. UDIA Victoria Submission regarding Strategic Redevelopment Areas ICP
3. The Hidden Cost of Housing