

Local Character Overlay Discussion Paper

UDIA NSW Response

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ABOUT THE UDIA

Established in 1963, the Urban Development Institute of Australia (UDIA NSW) is the leading industry group representing the property development sector. Our 500 members include developers, engineers, consultants, local government, and utilities. Our advocacy is focussed on housing the next generation in liveable, connected, and affordable cities.

EXECUTIVE SUMMARY

UDIA NSW recognises the important role of local character in the planning system. There has been some community concern in relation to local character and we welcome new guidance for councils as they plan their Local Strategic Planning Statements.

UDIA NSW welcomes the opportunity to comment on the Local Character Overlay Discussion Paper, which seeks to implement a new mechanism to protect local character, beyond the existing Development Control Plan controls.

We note the complexities of local character and the many facets that create local character. UDIA NSW supports measures to enhance local character through the implementation of a Local Character Statement in the Local Strategic Planning Statement. However, an Overlay in an LEP is not supported as it would effectively ‘turn off’ the complying development pathway, prolonging approvals for minor development, which arguably do not present a threat to local character.

In this submission UDIA NSW seeks to answer each of the key questions in the Local Character Overlay Discussion Paper, structure into four broad themes:

1. What is local character?
2. How do we best support local character?
3. Where should local character overlays be introduced?
4. What are the criteria for introducing local character overlay?

Local Character is a broad concept and made up of both ‘place’ factors and ‘people’ factors, planning controls are not well-suited to ‘people’ factors; however, planning controls are well placed to manage ‘place’ factors. In the NSW Planning system sound precinct planning and individual building controls can respond and create local character. We note the role of ‘heritage controls, which are more suited to preserving local built form character.

WHAT IS LOCAL CHARACTER?

Local Character can mean different things to different people.

UDIA understands that the Department of Planning and Environment’s Local Character and Place Guide defines Local Character as:

Character is what makes a neighbourhood distinctive and is the identity of a place. It encompasses the way it looks and feels. It is created by a combination of land, people, the built environment, history, culture and tradition including Aboriginal and non-Aboriginal, and looks at how they interact to make a distinctive character of an area.

Local character is distinctive, it differentiates one area apart from another. It includes the sense of belonging a person feels to that place, the way people respond to the atmosphere, how it impacts their mood, their emotional response to that place and the stories that come out of peoples’ relationship with that place.

Local character contains many different facets. It is important to understand character in a holistic way, which involves examining the relationship with people and the social,

environmental and economic factors of place. Global trends across these factors have shaped places over time and will continue to have a significant influence in the future. Local character should guide how to manage a changing urban environment so that any changes are sympathetic to the valued characteristics.

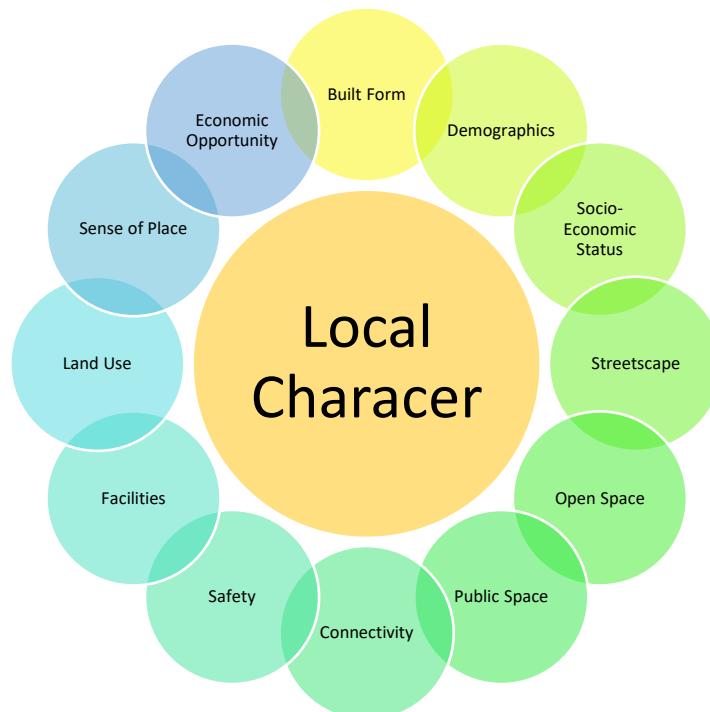
Department of Planning Local Character and Place Guide

This is a positive and welcome definition for local character for strategic visioning documents; however, it is not an appropriate definition for local character for statutory planning documents, or to create specific local character controls.

The key function of the planning system is to control the built form of an area, it is not to control people who choose to live in an area. There is a risk that this definition transitions into planning for types of people including culture and socio-economic circumstances into the planning system. This is would be the antithesis to the vibrant multi-cultural communities that we are seeking to create.

An element of local character is that areas with similar built form can have radically different character, due to the residents of the area. UDIA points to the character in Newtown and Redfern having changed substantially over recent decades, although the built form in heritage areas have remained similar.

The UDIA has developed the following model for local character, which attempts to highlight some of the factors that influence local character, particularly related to the Department's definition. UDIA believes that strategic planning is able to influence some elements of local character; however, it is unable to define the 'sense of place' that individuals feels and needs to respond to the economic reality of the area.



HOW DO WE BEST SUPPORT LOCAL CHARACTER?

Do you think the inclusion of a standard approach to local character overlays within LEPs will be effective at balancing growth with supporting local character?

The proposed overlay would be a map layer within the SI LEP with a supporting standard optional clause to give weight to local character considerations. Do you think this is the right approach?

Vibrant Local Character plays an important role in ensuring precincts are liveable and desirable. However, there is also undesirable local character often created by uneconomic visions that lead to blight. The strategic plan for an area should clearly articulate the local character desired of an area and its future transformation and evolution, which should occur when councils discuss the objectives of an area.

The Council and Department should be clear with descriptive statements that outline the local character in the Local Strategic Planning Statement and any further Local Character Statement.

Many of the elements of local character sit within place-making through strategic planning. For example, safety could come about through providing sufficient lighting and street activation but needs to be balanced to ensure that it is economically viable, so there are not empty shops.

Similarly, the strategic plan of the area providing parks and public places will support the local character, without the implementation of an overlay. Therefore, a clear upfront strategic approach will enable local character to be supported, without moving toward the danger of planning people, instead of place.

Our understanding of local character and the best way to respond to local character was informed by the planning context created by Mr Gary White, Chief Planner. Mr White set out a way in which local character could be considered in the planning system, primarily through the LSPS:

“Expressions of local character through purposefully descriptive statements can enable us to bridge the gap between broader strategic intent and statutory development controls (which so often fail to communicate the principles on which they were founded), so we can express why we might need to do planning in a particular way. Articulation of local character creates context beyond floor space ratio, maximum height, and setback controls; and starts to convey a richer understanding of a place’s valued characteristics and the aspirations for its future. Through this narrative, or story of place, councils and communities can encourage development that’s better aligned to the strategic intent for a locality and send clear signals about the sort of development which might offend.”

“A strategic planning narrative, such as that provided by the LSPS, has a better capacity to describe and address the local character of a place, ensuring its consideration in planning decisions into the future”

Gary While, Local Character and Place Collection

UDIA considers this to be a best practice approach to local character, as it provides enough scope to ensure development sits within the contextual narrative of the area.

We note the work completed in St Leonards and Crows Nest, which placed local character at its heart through the Local Character Statement, which was a robust strategic document that considered the desired character while integrating planning controls and the precinct planning. UDIA considers this approach is more desirable, compared to an overlay.

WHAT WILL A LOCAL CHARACTER OVERLAY DO?

Are the functions listed above helpful in supporting local character?

Are there other functions that a local character overlay could deliver?

What are your thoughts on a “statement of consistency” for development applications to identify a proposal’s consistency with desired future character?

UDIA believes it is currently unclear how a local character overlay would support the responsible growth of a precinct.

The Local Character Overlay would define boundaries; however, how the controls would work is currently unclear and needs much further consideration, particularly in the context of an LEP. UDIA considers the LSPS and DCP to be best placed to support character considerations, which would be either intangible or built form related.

UDIA considers a statement of consistency with the desired future character to be fundamentally incompatible with controlling the built-form and particularly, with intangible character will lead to dispute. We believe the failure of this approach was illustrated through the Warringah LEP experience. The previous Warringah LEP required compliance with ‘desired local character’ statements, which did not allow for the evolution of character, and were arbitrary in their application. We understand the Department of Planning was keen to avoid a repeat of this experience.

WHERE SHOULD LOCAL CHARACTER OVERLAYS BE INTRODUCED?

UDIA’s view is that local character overlays are an inappropriate tool. However, UDIA must be explicit here as to the view of our members - if local character overlays in LEPs were to be introduced, they need to be introduced only in ‘exceptional circumstances’.

All places and areas have specific local character; it is therefore foreseeable that there would be political difficulties in deciding ‘exceptional local character’. It is likely that areas that do not have ‘exceptional local character’ will seek to form community groups to argue an area ‘exceptional local character’. The definition of ‘exceptional’ is discussed further below; however, we consider it would be a ‘rare and unique character that is not found in other parts of Sydney’.

Interstate Local Character Overlays tend to be focussed on heritage objectives, which are already accounted for through the heritage protections in NSW.

UDIA would seek the opportunity to have further discussions based on examples of council and department identified exceptional areas. UDIA understands the only example currently spoken about is Winston Hills, where we recognise unique character comes about due to the subdivision plan; however, a diversity of examples is needed to properly assess exceptionality.

UDIA has substantial concerns about the possibility of a local character overlay in a greenfield context. There is a risk that the overlay could introduce onerous requirements such as unreasonable or unrealistic tree preservation or minimising excavation necessary to deliver a greenfield community. The existing precinct planning process provides a sufficient protection of local character in a greenfield context.

WHAT ARE THE CRITERIA FOR INTRODUCING LOCAL CHARACTER OVERLAYS?

Are these criteria reasonable for determining and evaluating the result of adding a local character overlay?

Are these criteria appropriate for determining a local character variation or in exceptional circumstances an exclusion?

The criteria for introducing local character overlays seems to be reasonable on face value. However, it is critical that there is an understanding of the value judgements that underpin that character.

In relation to Table 1, *Proposed criteria and supporting information for a planning proposal to introduce a local character overlay*, in the discussion paper, we make the following comments:

- The council needs to justify that no other mechanism in the planning system could better support local character. These mechanisms include DCP controls and a character statement within the planning statement. UDIA believes that this requirement makes the local character overlay redundant, as the existing and new mechanism are effective.
- The Department should clarify what level of regulatory burden will be acceptable to preserve local character.
- The alignment to strategic context is critically important, and we recognise that integration with strategic planning is considered. UDIA is concerned that the changing strategic context could result in an area being locked in as 'character' for its character at a given time; however, as the character changes with changing people, it may lose its exceptional uniqueness.

In relation to Table 2, *Proposed criteria and supporting information for local variations and exclusions*, in the discussion paper, the comments above apply, but we also consider it might be helpful to enable as much of the code as possible, or tweak the applicability of the code, instead of removing a complying development pathway. The Department should clarify what is meant by 'compelling' and the threshold for 'compelling'.

CONCLUSION

UDIA NSW looks forward to working with the Department in promoting a sensible system for protecting and improving local character through sound strategic planning. UDIA strongly urges the Department to not introduce a Local Character Overlay, as it will be an ineffective tool relative to strategic planning.

Please contact Elliott Hale, General Manager, Policy, Media, and Government Relations, on 02 9262 1214 or ehale@udiansw.com.au to continue to discuss how we can collaborate on improving strategic planning in the State.

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