Submission to the South Australian State Planning Commission / Department of Planning, Transport and Infrastructure

Draft Planning and Design Code
Phase Two (Rural Areas) and Phase Three (Urban Areas)

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ABOUT THE HOUSING INDUSTRY ASSOCIATION

The Housing Industry Association (HIA) is Australia’s only national industry association representing the interests of the residential building industry, including new home builders, renovators, trade contractors, land developers, related building professionals, and suppliers and manufacturers of building products.

As the voice of the residential building industry, HIA represents a membership of 60,000 across Australia. HIA members are involved in land development, detached home building, home renovations, low & medium-density housing, high-rise apartment buildings and building product manufacturing.

HIA members comprise a diverse mix of companies including residential volume builders, small to medium builders and renovators, residential developers, trade contractors, building product manufacturers and suppliers and allied building professionals that support the industry.

HIA members construct over 85 per cent of the nation’s new building stock.

The residential building industry is one of Australia’s most dynamic, innovative and efficient service industries and is a key driver of the Australian economy. The residential building industry has a wide reach into manufacturing, supply, and retail sectors.

Contributing over $100 billion per annum and accounting for 5.8 per cent of Gross Domestic Product, the residential building industry employs over one million people, representing tens of thousands of small businesses and over 200,000 sub-contractors reliant on the industry for their livelihood.

HIA exists to service the businesses it represents, lobby for the best possible business environment for the building industry and to encourage a responsible and quality driven, affordable residential building development industry. HIA’s mission is to:

“promote policies and provide services which enhance our members’ business practices, products and profitability, consistent with the highest standards of professional and commercial conduct.”

HIA develops and advocates policy on behalf of members to further advance new home building and renovating, enabling members to provide affordable and appropriate housing to the growing Australian population. New policy is generated through a grassroots process that starts with local and regional committees before progressing to the National Policy Congress by which time it has passed through almost 1,000 sets of hands.

Policy development is supported by an ongoing process of collecting and analysing data, forecasting, and providing industry data and insights for members, the general public and on a contract basis.

The Association operates offices in 22 centres around the nation providing a wide range of advocacy, business support services and products for members, including legal, technical, planning, workplace health and safety and business compliance advice, along with training services, contracts and stationary, industry awards for excellence, and member only discounts on goods and services.
Introduction

HIA advocates that once land is zoned for residential purposes, there should be no further environmental constraints requiring further investigation. Such constraints can have numerous negative impacts for the development industry, such as; reducing lot yield after zoning or constraining good design that is cost effective whilst sensitively maximizing a sites full development potential.

HIA’s position regarding these matters is provided in the following HIA policies (Refer – attachments A and B):

- Truth in Zoning, and
- Planning Reform

Strategic planning processes must be robust and developed with sufficient rigor that unnecessary regulatory barriers to industry do not exist as part of the statutory implementation. Such barriers create poor planning outcomes including approval delays that slow the supply and delivery of housing to the market at an affordable price.

A good planning system must have planning efficiencies integrated within the system. Planning efficiencies and their associated benefits are best achieved via a streamlined planning system that provides for the reasonable development of land in accordance with the Zone.

Excessive Statutory Planning Controls May Hinder Residential Building Productivity

An important element that enables the residential construction industry to perform productively and allow housing supply to keep up with demand is clear and efficient statutory systems and processes, such as minimal approval triggers and streamlined approval pathways. It is imperative these elements of the planning system are appropriately justified and not overly burdensome. Streamlined and efficient planning processes that allow assessments and determinations of development applications to be carried out in a timely manner provide much needed opportunity for the industry to proceed with confidence in terms of, to mention a few; obtaining finance and assessing a sites development feasibility with a high degree of accuracy.

A clear understanding of the interdependency and role of the strategic and statutory planning systems play an important role in establishing an overall efficient planning system. HIA consider this is best achieved when the strategic planning is utilised, in part, to address broad planning matters not applicable to only one development type and statutory planning is utilised to implement clear assessment and determination systems and processes based on the specific objectives that derive from strategic planning. When broader policy objectives are intended to be achieved as a result of strategic planning these should not translate into approval triggers in the form of Overlay control as appears to have occurred in the Draft Planning and Design Code.

Whilst HIA acknowledge that the South Australian planning reform is comprehensive it is questionable whether it will deliver much needed process improvements and achieve a clear and efficient statutory system as the Draft Planning and Design Code, Phase Three (Urban Areas) October 2019 appears to be heavily weighted toward excessive statutory planning control that if implemented will be a hindrance to residential construction productivity.

The application of so many Overlays per a Class of Development is not considered desirable and brings into question the weight of the primary planning control, being the Zone, compared to secondary controls such as Overlays. It is submitted an unintended consequence of the Draft Planning and Design Code may be that Overlays undermine the purpose of the Zone and stifle the Zones ability to deliver effective development outcomes as it is intended. Deemed-to-Satisfy provisions in many instances would become unattainable and whilst technically provided for as part of the planning system will not be a practical reality.
HIA submit this is an undesirable outcome as part of a lengthy planning reform process and that Overlay requirements must be reviewed with the aim of a significant number being withdrawn as approval triggers. Rather what is intended to be addressed by having an Overlay as an approval trigger may be more suited to being redrafted into less prescriptive control such as being incorporated as part of local or regional policy, thereby not triggering the need for an approval to be applied for though in a more sensible and practical manner forming part of an applications assessment and determination criteria.

It is also concerning to HIA that there remains a lack of detail around Subzones particularly with regard to the rigour that will be required to implement a Subzone. HIA strongly recommend that the implementation of Subzones proceed with caution and with extensive industry consultation as there is potential for very fine grain planning control to be included that may serve only a small vocal sector with a special interest.

HIA is keen to understand the process and degree of rigour as to how Subzones will prepared and how it is intended Subzones will add value when an application is being assessed and determined. It must be clearly demonstrated to industry how Subzones will contribute to productivity and improved decision making.

Infill Code Requirements - All Residential Development

New code requirements significantly exceed current Res-code for infill development built form.

This has the effect of increasing complexity and cost to construction. This will have an impact on the ability of first home buyers and South Australian families to afford to purchase land and build a home.

If the demand for new homes were to fall, as predicted then this will have a knock on effect on the wider community and the state’s economy. Note more than 60,000 people are employed in building and land development and construction in South Australia activity accounts for around 8% of the States GDP.

OF PARTICULAR CONCERN-:

DTS/DFC 14.1

Window area of 2sq/m minimum is overly prescriptive and could have impact on energy efficiency and design. Minimum room width of 2.7m could have impact on internal design and overall built width will have a negative impact on narrow blocks.

RECOMMENDATION

- Remove this requirement.

DTS/DFC 14.2

Requirement for entry door to front elevation to address the street is too prescriptive and will preclude different design options.

RECOMMENDATION

- Remove this requirement, or offer an Alternative Design Solution based on Objectives agreed to by industry.

DTS/DPF 15.1

Primary living rooms to incorporate a window with an external outlook is problematic particularly for row houses on narrow blocks.

BCA requirements for light and ventilation can be achieved with vented skylights / roof windows.
RECOMMENDATION
- Remove this requirement, or offer an Alternative Design Solution based on Objectives agreed to by industry.

DTS/DPF 17.1
Ground level finished floor level to be 300mm above top of kerb level is unnecessarily restrictive as it will preclude many homes from the DTS pathway of assessment. For example many development sites are located on sloping land which results in a significant number being on the low side of the road and have in place engineered provisions for appropriate stormwater drainage.

RECOMMENDATION
- Remove this requirement, or offer an Alternative Design Solution based on Objectives agreed to by industry.

DTS/DPF 18.1 (a) to (d) Garages and carports facing the street
This provision in effect no longer allows the option of building a home with a double garage on a 10m wide block.

This option is one of the most popular with entry level house land purchasers and no longer allowing this option, unless they are able purchase a wider block of land at a substantial cost increase will effectively lock many families out of home ownership.

RECOMMENDATION
- Remove this requirement, or offer an Alternative Design Solution based on Objectives agreed to by industry.

DTS/DPF 18.2
With the requirement for 3 minimum design features to the front elevation from 4 possible alternatives for single story dwellings, it is likely that streetscapes will become repetitive. This is an unnecessary measure to predetermine dwelling appearances without due consideration for quality design being achievable without a regulated number of features / materials. For two storey dwellings the same principle applies, even though there are more options available. It should not be left to planning rules to determine what the appearance of a house should be. Market driven forces will determine whether a home design is appropriate or desirable. Dictating front elevation features can also have an effect on internal layouts and functionality of the design.

RECOMMENDATION
- Remove this requirement, or offer an Alternative Design Solution based on Objectives agreed to by industry.

DTS/DPF 20.1
Private open space requirements minimum dimension for 4m does not match rear setback requirements.

Private open space requirements for 300sq/m sites of 60sqm is a significant increase over the current res-code.

RECOMMENDATION
- Minimum dimension for POS should be reduced to 3m to match rear setback requirement;
- Minimum POS area for all sites should be – 24sqm.

DTS/DPF 21.1
Requirement for soft landscaping see table (a) is too great an area, note for 201sqm site more than 40sqm required, particularly as this is added to hard paved areas needed in POS. This will significantly
impacted on size of dwellings currently allowed in Res-code. For (b) 25% will be difficult to achieve for narrow sites. This requirement could mean that new home owners will be required to buy larger (wider) blocks to meet this requirement. There is no consideration for the effect of stormwater infiltration on the structural integrity of the house or neighbouring properties.

RECOMMENDATION
- Remove this requirement, or offer an Alternative Design Solution based on Objectives agreed to by industry.

DTS/DPF21.2
These requirements do not take into consideration the effect of trees on the structure of the house and neighbouring properties nor the consequences of multiple trees from the addition of trees to those existing on the street verge or on nearby properties. Future tree requirements on nearby developments could also impact on the structure of the home. There is potential for possible significant consequences for insurance, litigation and structural failure to be considered with mandating planting trees in close proximity to homes and other buildings.

RECOMMENDATION
- Remove this requirement, or offer an Alternative Design Solution based on Objectives agreed to by industry.

DTS/DPF 22.1
Connection of retention rainwater tanks to 80% of roof areas for row dwellings could be difficult and costly to achieve depending on roof design. Connection to all toilets and the laundry cold tap or hot water service will add a significant extra cost over existing requirements, particularly for two storey construction. Requirement for tanks up to 5000l capacity will add significant extra cost over existing mandatory 1000l tanks. Increased tank sizes could be difficult to accommodate in private open spaces, for example 300 sqm sites with 24sqm POS already accommodating clothes lines, hot water services, air conditioning units and BBQ, and soft landscaping will also now have to include a 3000l rainwater tank. Hammerhead dwelling requirements for 50% of all driveway and paving to be permeable is excessive and will add significant cost.

RECOMMENDATION
- Reduce roof area for row houses connection to RWT to 50%;
- Retain current requirement for 1000L RWT only;
- Hammerhead dwelling requirement for 50% permeable surfaces to be for driveway only.

DTS 22.2
Developments for as few as 5 dwellings requiring stormwater management systems that minimise the discharge of sediment, suspended solids, organic matter, nutrients, bacteria and litter to the stormwater system to the following levels (a) 80% reduction in average annual total suspended solids, (b) 60% reduction in average annual total phosphorous (c) 45% reduction in average annual total nitrogen is an extremely onerous requirement for small scale developments . Not only is there a significant cost for the design but also the filtration system required takes up a large amount of area and has a substantial cost . These systems require common spaces that are not available in, for example, row house developments .

RECOMMENDATIONS
- These types of storm water management systems should not be required for developments of less than 20 dwellings.

DTS 23.1
Proposed minimum internal garage widths of 3.2m (single garage) and 6.0m (double garage) and length 6.0m, exceed current builders designs and exceed Australian Standards.
This requirement will increased the built area, at extra cost and increase the built width of the home which will be problematic on narrow blocks.

An extra 400mm internal width to the garage will impact on the entry and adjacent front room sizes (bedroom / study) and could make those rooms unworkable from a design and functionality perspective.

**RECOMMENDATION**
- Remove this requirement, or offer an Alternative Design Solution based on Objectives agreed to by industry.

**DTS 23.3**
Sites with a frontage of 12m or less to have access point to road of maximum width of 3.2m is too restrictive and does not allow for a double garage due to insufficient manoeuvring room.

**RECOMMENDATION**
- Remove this requirement, or offer an Alternative Design Solution based on Objectives agreed to by industry.

**DTS 24.1**
An area of 3sq/m for the storage of waste, with an unobstructed continuous path to the street for small allotments could impact on the size of the home and design layout.

To maintain POS requirements and provide a clear continuous path through a garage of 800mm wide may not be achievable for a narrow site, therefore requiring a wider frontage (larger block of land at significant extra cost) to accommodate.

**RECOMMENDATION**
- Remove this requirement, or offer an Alternative Design Solution based on Objectives agreed to by industry.

**Additional Information Requirements**
Code requirements for overshadowing diagrams, landscaping plans, acoustic reports etc. are onerous and costly.

**RECOMMENDATION**
- Requirements to provide additional information / reports should not exceed current Res –Code requirements.

**Practice Guidelines**
The absence of practice guidelines to assist assessment for Deemed-to-Satisfy applications makes it extremely difficult to comment on the design code.

Uncertainty on what variations will be allowed and under what circumstances is concerning to industry assessment practitioners, investors, land owners builders and developers.

**RECOMMENDATION**
- A further review of the code after amendments from the submissions have been made should include a review of a comprehensive suite of practice guidelines for Deemed-to-Satisfy provisions.
General Comments

Development in Rural Zones
In the Rural Zone, Rural Intensive Enterprise Zone and Rural Shack Settlement Zone. Only minor residential structures are “accepted development” and “Deemed-to-Satisfy”.

Proposed new homes will need to be performance assessed. This is an unnecessary and onerous provision.

RECOMMENDATION
- New homes in these zones to be accepted development and assessed under Deemed-to-Satisfy provisions.

Public Notification in Adjacent Zones
Public notification is required for essentially minor variations to the Design Code and appear to exceed current ResCode requirements. This will incur a significant cost and add time to the assessment process. Public notification is also required where the site of a proposed development is adjacent to a zone boundary. This will result in unnecessary public notification where two similar zones meet. Where a dwelling is proposed on a boundary of a Suburban Neighbourhood Zone and a Residential Neighbourhood Zone, public notification will be required despite the consistent residential themes.

RECOMMENDATION
- Public notification only to be required where development is on the boundary of zones that are in conflict with each other.

Building Heights
There is a clear inconsistency regarding height limits of development and how and when height limits will trigger public notification. In some parts of the Code, heights are referred to as “2 building levels (over 9m) in height whilst in other areas the height limit is referred to as “building exceeding 2 building levels (over 9m) in height, and again at another location it is described as “3 levels and 12 m”.

RECOMMENDATION
- References to building height should be expressed in a consistent manner.

Setback from Boundaries
Throughout the Code, reference to building setbacks to boundaries is not clearly defined and open to different interpretations.

RECOMMENDATIONS
- Reference to setbacks from boundaries should be expressed in a consistent manner.
- Setbacks should be measured from the main wall to the boundary and should not include eaves, porches or porticos.

Site Coverage
ResCode allows for 60% maximum building site coverage in residential zones. Design Code references 50% maximum for some zones.

RECOMMENDATION
- Maintain 60% maximum site coverage.

Schedule of Fees
Industry has not been advised of proposed development application fees, referral fees etc.
RECOMMENDATION

- Fees should remain as currently scheduled.
- Increases should only be in line with CPI adjustments.

Master Planned Developments

Major developments of new residential “greenfield sites” should be included in the Greenfield Suburban Neighbourhood Zone.

New homes within these developments should be exempted from requiring development approval via the PDC assessment / DTS pathway and classed as accepted development under the PDC and should be approved via a Building Surveyor/Private Certification system.

The design outcomes should be negotiated at the precinct structure stage thereby negating the requirement for duplicating the approval process through the developer/council/DPTI pathway. This streamlining of the process will reduce red tape and time and provide a more cost effective solution.

RECOMMENDATION

- Major master planned developments should be included in the Greenfield Suburban Neighbourhood Zone.
- Dwellings should be approved via a Building Surveyor/Private Certification system similar to the Victorian Urban Growth Zone.

Land Division

Minor land divisions should be dealt with via the Deemed-to-Satisfy pathway. Res code allows for complying land division to be approved when it lines up with res code approved dwellings. The proposed Design code requires a performance assessed pathway for land division which is a step backwards from the current circumstances.

RECOMMENDATION

- Minor land divisions should be dealt with via the Deemed-to-Satisfy pathway.

Public Notification and Site Signs

The prompts for public notifications are excessive and will contribute to lengthy delays and additional red tape. The requirement for statutory site signs will increase costs and administration for builders and developers particularly for small scale developments. They will also potentially increase the number of frivolous objections from people who may have no real impact from the proposed development.

RECOMMENDATION

- The requirement for public notification should not exceed what currently exists.
- The requirement for mandatory site signs should be removed.

Overlays and Referrals

General comments regarding overlays are included in the introduction. In addition to these comments, it is imperative that Deemed –to-Satisfy provisions should be included in the assessment process. Overlays, as proposed in the Design Code, influence a significant part of the Adelaide urban area and for some councils cover the whole council region. In which case there is no pathway for Deemed-to-Satisfy approval, pushing developments into the assessment process when in reality this may be completely unnecessary.

For example where the accepted development and Deemed-to-Satisfy criteria don’t apply to many forms of residential development where the Character Area Overlay and/or the Historic Area Overlays apply. Proposed development in these areas will require performance assessment whereas they are currently dealt with as either complying or category 1 notification.
RECOMMENDATION

- Overlays should not be listed as exceptions when assessing whether a development can proceed to Deemed-to-Satisfy. Compliance with Deemed-to-Satisfy requirements within the overlay should trigger a Deemed-to-Satisfy assessment.
- Amendments should be made to the overlay provisions in order avoid unnecessarily increasing the number of residential developments that require complex and costly performance assessment.

Extra Cost to Residential Construction as a Consequence of Design Code Requirements

To meet Deemed-to-Satisfy requirements will require significant extra cost to the construction of residential homes.

The costs indicated below have been provided by Adelaide builders who have estimated the additional costs based on their standard home designs.

Costs will vary based on individual sites and home designs however these prices would be indicative for a significant number of Adelaide homes. It is clear to industry stakeholders, developers, builders and designers that the impact of additional cost to construction will be substantial.

- Extra footing costs due to Deep Soil Zone tree effects - $4,200 - $9,800;
- Increase rainwater tank and reticulation to all toilets and laundry cold tap/hot water tap from 1,000L to 2,000 – 5,000L - $2,000 – $4,300 (will vary from single to double storey);
- Increased internal garage width and length - additional built area 4 sq/m - $3,600
  (Based on $900/square metre rate);
- Street façade mandatory minimum design features - $1,425 - $2,215;
- Mandatory council inspection, builder admin, access to site etc. - $250 - $500;
- Certificate of occupancy, builder admin, access to site etc. - $320- $600;
- Provision of overshadowing diagrams, landscape plans - $750 - $1,500;
- Site signage (if applicable ) - $600;
- Row houses will require additional waste storage areas within the building 3 square metre - $3,600 (Based on $1,200/square metre rate);
- Row houses will require a light court to provide light and ventilation to habitable rooms
  (No provision in DTS for vented skylights). Based on extra 8 square metre (ground and first floor) @ $1,200/square metre - $9,600.

Note - Development Application fees, (lodgement, assessment, referral, inspections etc.) have not been provided by the department. Early indications are that there could be a significant increase over existing.

Builders re-design of standard designs to meet new requirements training of staff, upgrade to IT and software will incur significant time and costs.

Note - this is supposed to be a quicker method of lodgement/approval but may well take longer due to extra work required to provide additional documentation.
Note - that the DTS/DPF 18.1 and DTS 23.3 provisions effectively disallows a double garage on a block of less than 12m wide. A double garage on a block of this size or smaller (commonly 10m wide) is a popular purchase for young families and first home buyers. Subject to the new Design Code requirements, this type of home will only be allowed on a wider block, 12.5m or greater which will be at a significant price increase over the 10m wide land size option - $20,000 - $30,000 extra cost.

**Impact on Land Values**

A consequence of increased building costs and additional design requirements of the proposed Design Code will be a significant negative impact on the value of developable land.

For example, increased internal garage widths for a multi residential developable site could reduce the yield on the site by as much as one less dwelling per 10 dwelling site. A number of other new planning measures could have this same yield decreasing effect. The number of planning changes that add extra costs to construction along with a decreased site yield will lead to a fall in land values.

In the current economic climate, the retail price of a finished home will not change as this is consumer driven and Real Estate professionals have advised us that it is unlikely that sale prices will increase as a result of the new Design Code. For the developers, this scenario will mean that to ensure that the development is feasible, the land cost will need to be less.

The knock on effect will be people holding onto land in the hope of getting a certain price by today’s standards may after the implementation of the code achieve considerably less. This affects not just developers but many mum and dad investors who are relying on the sale of their family home to secure their future.

**Impact on Housing Affordability**

“Home ownership is the bricks and mortar that has helped Australia build a stable and vibrant society. As the opportunity to own a home in Australia becomes more challenging, and the type of homes many families aspire to is changing shape. Evidence shows that an overwhelming majority of Australians agree - home ownership matters”.

Recent independent surveys have shown that 81% of people think every day Australians should be able to own their own home, yet currently only 67% do, and this number is falling.

92% of renters aspire to own their own home but only 49% feel they will achieve it. 80% believe that owning your own home makes you more financially secure, and 71% are concerned that those unable to get into home ownership will face financial challenges in retirement and housing affordability is a top three concern after cost of living, healthcare and ageing.

Clearly, the priority should be to make housing as affordable as possible and therefore adding additional cost to building and development will only produce a negative outcome on this important imperative. Repeated requests to DPTI to undertake a Regulatory Impact Statement (RIS) on the consequences of the reform of the planning system, particularly the urban infill requirement of the code have, to our knowledge, been ignored. During the review process, HIA strongly recommends that those requirements of the code, that will cause a cost increase to construction be removed or amended.

**e-Portal**

The implementation of the e-Portal for application lodgement and the ability to readily source specific planning requirements for individual sites is an excellent imperative.

However, at this point, industry has not had the opportunity to “road test” the process, so it is too premature to be able to provide comment on its operation.
It is important that the current arrangement, where the system is pre-populated with data without significant user input prior to lodgement, needs to be maintained.

Collection of fees and recording of data for all referral agencies and other industry related entities including CITB, CBS licensing and recording and analysis of owner builder applications should be a priority.

Conclusion
HIA appreciates the opportunity to provide feedback on the Planning and Design Code for the Regions and Urban Areas and applauds the Department and Commission for the enormous amount of work done on the Reform of the Planning System.

We understand that the over-riding objective of the new planning system is to simplify the current system and rationalise the current plethora of often conflicting policies in a clear and concise way to encourage confidence in a streamlined and easily understood system. However, we are concerned that some aspects in this new Code will not contribute to this objective and could likely result in greater complexity, increased red tape and cost to residential building.

Our concerns are the Planning Commission and DPTI’s goal to achieve a target of 80% of applications to be assessed by the Deemed-to-Satisfy method is highly unlikely to be reached given the significant changes from the current ResCode to the proposed new Design Code.

Advice from major builders is that of their current standard home design and display homes, only between 10-20% will meet the new code Deemed-to-Satisfy requirements.

As detailed earlier, the added cost to construction to meet the new requirements for Deemed-to-Satisfy is significant and will have a negative impact on housing affordability.

It cannot be over stated that the consequences of adding further costs to the already over regulated and over taxed residential construction industry on providing affordable homes, particularly for young families and first home buyers is unacceptable.

HIA considers many of the proposed Deemed-to-Satisfy requirements as subjective and therefore unnecessary and in the absence of Practice Guidelines difficult to determine the overall affect however, it is clear that a significant amendment in line with the recommendations in our submission to the code is required to overcome our industry concerns.

At every opportunity during the reform of the States planning system, at Industry Liaison Group meetings, in our submissions and at every other opportunity, HIA has requested, as a priority, a Regulatory Impact Statement be undertaken to determine the full cost and effect of the planning reform and cost to residential construction, but this request, for the main part, has been ignored and any analysis undertaken has not been released to the industry.

Before the Planning and Design Code is finalised, a Regulatory Impact Statement should be a priority and any new provision that causes a negative effect on housing affordability should be removed.

HIA requests a review of the amended Code before it is implemented.

We appreciate the opportunity to review and provide comment on the Draft Code and would also be pleased to meet with the Department of Planning, Transport and Infrastructure staff and the Commission to provide further details and clarification on our commentary and possible solutions in our submission.

The HIA and the broader residential building industry supports improved design but, it is imperative that it should be driven by the market and consumer choice.
HIA also supports increased tree canopy, better stormwater and car parking management but, strongly argues that these are community wide issues and should not be solved by expecting first home buyers and South Australian families, trying to get into their own home, to foot the bill.

We would be pleased to meet with the Commission and the Department of Planning, Transport & Infrastructure staff to provide further information or clarification.

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.
Australia-wide service + support

HIA represents the residential building industry nationally and helps members locally through its regional offices across Australia.

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Planning Reform

Policy Background

- Technical standards used for the construction of housing across Australia operate through a national building code. Yet each State and Territory presently operates under planning legislation which is not nationally consistent.
- The impact of state based planning legislation and local housing policies and codes on the housing sector is becoming increasingly evident.
- The cost of delays and the growing gap between the demand for, and the supply of, housing is in many cases directly related to inefficiencies in planning systems.
- State and local governments are seeking to address emerging issues, including some technical construction aspects, through their planning systems, rather than seek changes to the national building code.
- Improvements in the planning system can significantly reduce approval delays and therefore improve the supply and delivery of housing to the market at an affordable price.

Policy Issues

- Planning systems around Australia are characterised by complex and varied zoning controls, definitions and requirements in different council areas.
- The planning process is increasingly becoming complicated and unpredictable with varied requirements for housing, depending on its location.
- Growing planning systems are characterised by their complexity, lengthy approval times and requirements for design compliance at significant cost to industry and the home buying public including:
  - a significant increase in the number of proposals that now require planning approval;
  - greater opportunity being afforded to third parties to influence the decision making process;
  - an increase in the number of referral agencies and an increase in the time taken to process referrals;
  - a myriad of additional; issues imposed through local policies and codes coming into play – which at best are subjective and uncosted.
  - government’s continued monopoly in undertaking all development assessment work, accompanied by a shortage of skilled planning and associated staff, particularly at the local government level;
  - the rigid application of development standards that generally discourage housing mix and choice and limits the ability of the market to deliver accommodation types that suit demand.
- If the housing industry is to operate successfully in Australia, red tape and bureaucratic differences in the planning system need to be slashed.
- The core of reform should be based around predictability with the ability to clearly demonstrate that a proposal meets performance guidelines, legislated standards or codes.
HIA's Policy Statement on Planning Reform

HIA supports:

1. Consistent planning regulation, with standardised approaches to planning scheme layouts, appropriate levels of assessment for development types and clear frameworks for the introduction of changes which affect building fabric and design.

2. Planning performance being subject to a continual benchmark program that binds all levels of government to ongoing and consistent planning practice improvements – including the potential for them to be tied to national competition policy payments.

3. Mandatory Regulatory Impact Statements for new planning requirements. This includes a comprehensive cost benefit analysis with a particular emphasis on housing affordability by any level of government seeking to introduce new planning regulation recognising that there can be economic, social and environmental benefits from a proposal. The cost benefit analysis must be positive for any new planning requirements to be introduced.

4. Housing affordability as an objective in all state planning legislation, local and regional planning schemes.

5. Streamlining of planning systems which includes the use of:
   - standardised planning requirements;
   - prescribed third party notification and timely processes for referrals;
   - as of right approvals on complying residential approvals;
   - simplified referral processes;
   - the involvement of the private sector in the planning approvals process including necessary engineering approvals required following planning approval;
   - e-Planning processes for lodgement and assessment of planning approvals; and
   - the implementation of independent Development Assessment Panels (DAPs) or regional decision making bodies, where approvals are not determined by delegation.

   Further detail on each of these initiatives is outlined in Attachment A.

HIA does not support:

6. Technical regulation introduced through planning systems in particular, prescribed minimum requirements, which should be applied through the Building Code of Australia (BCA) or which are in conflict with existing standards in the BCA and Australian Standards.
Attachment A: HIA Planning Reform Principles

The following principles should be considered by governments for implementation to streamline planning systems.

There are a number of ways in which planning processes can be streamlined. As a basis for planning reform, lobbying around the following principles is considered desirable:

Model Planning Schemes
Consistency on all planning schemes is desirable and gives a sense of certainty to the industry and reduces red tape for both local government authorities and applicants.

HIA supports:

- The development of standardised or state planning schemes incorporating standard principles (format, zones, definition, etc.) as a way of providing certainty for all councils in their respective planning schemes.

As of Right Development – One Approval – Code Assess
If land is zoned for a certain purpose e.g. residential use, the community should have an expectation that it will be used for this purpose – in accordance with the guiding development principles established either by state or local government.

Where planning approval is required for housing in a residential zone, a simplified approval process should be available.

HIA supports:

- Standardised ‘as-of-right’ development as an appropriate approach for development of a routine nature to ensure only a single approval is required for housing development.
- If an application for development approval is not determined within the legislated decision making timeframe, including any extension of the period, then the application should be deemed to have been approved.

Third Party Objections
In all development proposals third party appeal objections and appeal rights which are available in some states can be a source of lengthy delay in the approval of developments, particularly when many proposals comply with Council planning schemes. Expansion of third party appeal rights which would exacerbate this problem is not supported.

HIA supports:

- If land is appropriately zoned for residential use, third party appeal rights should not apply for complying developments.
- Clarification of notification procedures on a state-wide basis to avoid subjective analysis by Council officers as to who is affected by a residential development.

Referrals
Referral procedures by councils are causing delays and costs in the planning approval process.

A simplified referral process including the potential for a one stop shop process which allows for earlier consultation on issues is desirable with standardised time frames for responses and cooperative dispute resolution.
The housing industry expects certainty in the decision making process and believes that the consent authority should have the responsibility to weigh up conflicting referral responses and independently make a decision in the required statutory time frame.

HIA supports:

- A review of appeal and referral procedures by state and local governments.
- A standardised process for application referrals including time frames and co-operative dispute resolution.
- Consent authorities having responsibility for weighing up conflicting referral responses and independently make a decision.
- A third party being allowed to undertake the referral process independent from authorities.

**Private Certification (see HIA Policy Certification in Planning)**

Private involvement in the planning process, subject to clear pre-set rules and procedures, does not threaten the roles and responsibilities of Local Councils or similar consent authorities.

Private involvement in planning assessments can take a number of forms that can assist council. If undertaken carefully, private certification can free Council staff from non-discretionary duties, allowing more time for merit-based assessments.

HIA supports:

- The introduction of private sector involvement in development assessment processes, both on a formalised and informal basis. Practitioners should be subject to transparency and accountability requirements.
- Mandatory requirements that Councils must offer private certification as an alternative for proponents to progress planning applications in a timely and efficient manner.

**e-Planning**

Significant opportunity exists for streamlining the planning process through electronic processes. The supply of relevant information via local government websites coupled with the electronic planning application lodgement and issue of approvals is a way of reducing housing costs.

HIA supports:

- The development and application of electronic processes for the lodgement, viewing tracking and issue of planning approvals by local and state governments.

**Development Assessment Panels (DAPS)**

Independent Development Assessment Panels (DAPS) can assist the planning process by providing a balance between technical planning advice and local knowledge. They can also assist the planning process by providing independent decisions in a timely manner. DAPs can offer certainty and a consistent interpretation of planning codes.

HIA supports:

- The implementation of independent Development Assessment Panels as a means of improving the planning process as they provide certainty, consistency and transparency in the decision making process.
- The setting of clear thresholds as to which applications should be considered by a Development Assessment Panel.
Truth in Zoning

Policy Background

- The supply of land for housing development is influenced by zoning, subdivision approvals and the development approval process.
- Developers and builders face a range of barriers to building on residentially zoned land that can be applied at any stage of the land and housing supply pipeline.
- Many constraints affecting the supply of land for housing:
  - emerge in planning scheme requirements after land has been zoned for residential purposes;
  - have a layered approach and a cumulative effect on the development that can ultimately take place on a single parcel of land;
  - can quarantine or sterilise land from development at any stage of the process, despite being zoned for residential purposes;
  - can relate to the risk of natural hazards or to broader social or environmental concerns that are not specific to a single parcel of land; and
  - are being applied to zoned land retrospectively.
- Some constraints relate to mapping of natural threats such as anticipated threat of bushfire or sea level rise/inundation, threatened species identification.
- Others can be non-environmental and can include heritage matters, presence of easements and other design and development related requirements.
- While each is a potentially valid claim for land to be preserved or development to be managed in a specific way, in many cases the request by authorities to address these constraint is made at an inappropriate stage of the development process resulting in significant delays and additional costs.
- In some cases, this can result in highly valued residential land being removed from the land supply pipeline as no longer appropriate for development.
- The outcome is that despite land being residentially zoned the heightened level of uncertainty results in financial risk, additional costs, delays and ultimately a restriction on the supply of build ready land.
- Governments need to be responsible for providing greater certainty over when constraints are applied to land through the zoning, subdivision and development approval processes to ensure that land owners are aware of all potential matters that may affect the future use of that land for residential purposes at the earliest possible time.

HIA’s Policy Position on Truth in Zoning

1. Governments (being all governments or relevant authorities) should provide certainty in the application of planning controls on residential land.
2. In applying planning and environmental controls to land, Governments should firstly verify and then disclose all known constraints which they intend to apply and at which stages of the development process.
3. The key stages at which known constraints should be declared and applied by governments are:
   a. Designation for urban development;
   b. Zoned for urban development;
   c. Subdivision planning approval; and
   d. Registration of title and sale or redevelopment of lots.

4. The known constraints should only be applied by Governments at the designated stage in the development assessment process. (as set out in Attachment A)

5. If a constraint is missed, or unknown, by a government at an earlier stage of development, it cannot be retrospectively applied unless appropriate compensation is provided to the property owner for the reduced development rights.

6. All major constraints on land should be accounted for by the build stage (that is prior to stage 4: registration of title) leaving builders, and home buyers, to only account for site layout, setback matters and known environmental constraints as outlined in council planning schemes.

7. Requests from councils to apply constraints that have no foundation in state planning schemes or documents incorporated within planning schemes should be rejected outright.
ATTACHMENT A – Constraints on Land and their Application by Authorities

This attachment seeks to provide a list of constraints that are typically applied in the zoning, subdivision and planning approval processes and nominates the preferred stages in the land supply pipeline that HIA considers they should be identified or applied (if they are to be included at all).

The changing planning environment means that this is an indicative list that remains live and able to be adjusted over time. HIA policy position sets out the nature of the problem and industry’s preferred approach. The stages are intended to mirror the six stages of land development identified by the National Housing Supply Council (2010). For the purposes of this Policy they have been combined where appropriate.

### Stage 1 Designation of Land for Urban Development Zone

The constraints listed below should be identified prior to designation of land of urban development zone.

<table>
<thead>
<tr>
<th>Constraints to be identified when land is Designation for Urban Development</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Open space</td>
<td>Open space allocation including major regional open space parks already operational includes State and National Parks</td>
</tr>
<tr>
<td>Airports</td>
<td>Location of airports and environs, includes any future airfields</td>
</tr>
<tr>
<td>Roads</td>
<td>Freight and major road links</td>
</tr>
<tr>
<td>Major Infrastructure</td>
<td>Pipelines for utilities including gas and electricity</td>
</tr>
<tr>
<td>Facilities for renewable energy</td>
<td>Any area set aside for wind farms or similar.</td>
</tr>
</tbody>
</table>

### Stage 2 Zoned for Urban Development

The constraints listed below should be identified prior to rezoning any land from a general Urban Growth/Future Urban zone or rural zonings to a specific purpose zone, e.g. residential, public land, special purpose zonings.

Also at this stage planning scheme overlays or structure plans may be prepared which might also seek to apply a constraint on land e.g. identification of flood prone land, heritage areas, site coverage (density), slip, slope, subsidence and so forth. These constraints should also be declared at this stage to increase certainty for land owners.

<table>
<thead>
<tr>
<th>Constraints to be Identified when land is Zoned for Urban Development</th>
</tr>
</thead>
<tbody>
<tr>
<td>Environment and landscape overlays</td>
</tr>
<tr>
<td>Heritage and built form overlays</td>
</tr>
</tbody>
</table>
### Constraints to be Identified when land is Zoned for Urban Development

| **Land management overlays** | Erosion management overlay  
|                             | Salinity management overlay  
|                             | Floodway overlay  
|                             | Land subject to inundation overlay  
|                             | Special building overlay  
|                             | Bushfire management overlay  
|                             | State resource overlay  
| **Other overlays**          | Public acquisition overlay  
|                             | Airport environs overlay  
|                             | Environmental audit overlay  
|                             | Road closure overlay  
|                             | Restructure overlay  
|                             | Development contributions plan overlay  
|                             | Toll Road overlay  
|                             | Parking overlay  
| **Alpine areas**            | Framework for planning alpine resorts  
|                             | Sustainable development in alpine areas  
| **Biodiversity**            | Protection of habitat  
|                             | Location of threatened species  
|                             | Native vegetation management  
| **Sea level rise/coastal issues** | Protection of coastal areas threat of coastal inundation and erosion  
| **Bushfire**                | Bushfire planning strategies and principles  

### Stage 3 Subdivision Planning Approval

The constraints listed below should be identified prior to the subdivision planning approval for lot designs. These constraints are normally addressed through the subdivision application process, whereby relevant studies are undertaken before the issue of a subdivision planning approval, and potentially, relevant actions are required to be carried out before the completion of a subdivision to confirm or address the impact of these constraints on land.

### Constraints to be identified by Subdivision Planning Approval

| **Soil degradation**          | Use of contaminated and potentially contaminated land  
|                             | Erosion and landslip  
|                             | Salinity  
| **Noise and air**            | Noise abatement, air quality  
| **Water**                    | Wetlands and storm water planning.  
| **Heritage**                 | Heritage conservation  
|                             | Aboriginal cultural heritage  

### Constraints to be identified by Subdivision Planning Approval

| Layout of built environment | Neighbourhood subdivision site and context description and design response  
Lot design location and design of residential development  
Access and mobility management  
Integrated water management  
Utilities location  
Any design requirements for safety  
Cycling networks  |
| Location of commercial centres/public transport networks | Principal Public Transport Network  
Road system  
Waste and resource recovery  |
| Community infrastructure | Health facilities  
Education facilities  
Day Care facilities  
Recreation facilities  |
| Bushfire | Bushfire prone areas |

Where the ‘subdivision planning approval’ occurs after the civil works construction approval (and the required civil works are completed), the constraints in the table above should be identified during stage 2 (Rezoning).

### Stage 4 Registration of Title

Once lots are registered and sold any constraints that continue to apply to future development of the site should only be those related to the individual lot. These constraints should be clearly specified in relevant publicly available planning information available to the owner of that site. The following matters may be identified as the remaining issues for consideration in the design of a new building:

### Constraints that are considered acceptable if applied to an individual lot (or group of lots)

| Planning requirements relating to the individual allotment may include: | • Site layout and building massing  
• On-site amenity and location of facilities/utilities  
• Detailed design factors  
• Neighbourhood character considerations  
• Single tree removal requirements  
• Restrictive covenants  
• Any common property type infrastructure required as a result of creating more than one allotment including utilities and creation of common property  
• Minimum floor levels (for construction in flood prone areas)  
• Bushfire rating levels (for construction in bushfire prone areas) |