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Department of Planning Transport & Infrastructure
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Via email: DPTI.PlanningEngagement@sa.gov.au

To whom it may concern

Planning and Design Code in the Outback

HIA appreciates the opportunity to provide feedback on the Planning and Design Code in the Outback.

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. 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.

To meet the objectives will require a significant component of the performance outcomes to be met by deemed-to-satisfy requirements. This does not appear to be the case with many of the performance outcomes having no deemed-to-satisfy requirements applicable and those that do, particularly where residential builders are concerned, have impractical and costly solutions.

Examples of concerns to builders are:-:

- The likelihood of increased time delays for approvals. Currently, residential builders using the Rescode can gain Development Approval within 4-5 days, with 10 days mandated, yet even with the best case scenario, under the new system deemed-to-satisfy is 15 business days. Those applications that do not meet deemed-to-satisfy requirements will be directed to the assessment pathways with the very minimum of 25 working days for approval.
- Significant extra information required at application, landscaping plan, overshadowing diagrams, external colour selections, water sensitive urban design assessment, details of waste storage with no deemed-to-satisfy requirements applicable.
- Energy efficiency design requirements over and above NCC requirements with orientation, heating and cooling load and solar access performance outcomes, with no deemed-to-satisfy requirements applicable.
- Sites with frontage of 20m or less are only allowed one access point to the road of no more than 3.5m width.
- Screening required for plant (airconditioners) visible above the roof line.
• Screening required for plant (airconditioners) visible above the roof line.
• Setback and private open space requirements that exceed the current Rescode reducing the size of the building envelope.

We understand that the codes for regional and metropolitan areas will be based on the Outback Code and if that is the case there is cause for alarm.

HIA is also concerned that Planning Private Certifiers are having issues with councils refusing to issue Development Approval (DA).

There is an urgent need to change the current regulations to remove the need for a council to issue DA, especially where a development has been Privately Certified for Planning and Building.

The role of the Building Certifier is to ensure that the plans he approves are consistent with the Planning Approval and as such the Building Certifier is in the best position to issue a DA.

Removing the right of council to issue a DA does not remove their right to appeal in the event they consider a Private Certifier has overstepped the mark.

It is imperative that this proposed arrangement be implemented into the Planning Reform system to ensure certainty and efficiency in the process.

There is much to commend in the Planning Reform proposed with potential benefits such as the introduction of the centralised e’portal for Development Applications however, positive initiatives such as this are likely to be outweighed by overly descriptive and arguably unnecessary and subjective code requirements.

One of the overarching principals of the Planning Reform process should be that any new initiatives should not come at the cost of a negative impact on housing affordability.

To ensure this is achieved, a Cost Benefits Analysis should be undertaken as a priority to identify the impact of the Outback Code on residential building and land supply.

Yours sincerely

[Signature]

Stephen Knight
EXECUTIVE DIRECTOR
South Australia
HIA is the leading industry association in the Australian residential building sector, supporting the businesses and interests of over 60,000 builders, contractors, manufacturers, suppliers, building professionals and business partners.

HIA members include businesses of all sizes, ranging from individuals working as independent contractors and home based small businesses, to large publicly listed companies. 85% of all new home building work in Australia is performed by HIA members.

Introduction
The Planning and Design Code in the Outback (design code) is written such that it is rather prescriptive and may not provide adequate opportunity for land use and development applications particularly as they relate to a Dwelling to be designed and constructed in a manner that is capable of responding to the site and surrounding site conditions. The strategic drivers for this design code are not clearly explained nor why ‘deemed to satisfy’ (DTS) provisions are not more readily available. Greater use of DTS provisions for a dwelling seems eminently sensible, as the number of applications for a dwelling (or matters ancillary to a dwelling) are relatively low in the setting of land not within a council area compared to other parts of the State that are within a council area and also generally low in term of impact or creating adverse amenity potential. Industry is welcoming of DTS provisions as such provisions offer a degree of flexibility that, to the optimum extent possible, allows both the applicant and the determining authority to achieve their objectives.

The design code sets clear direction for land not within a council area and whilst some may consider this to be a positive for planning as it creates certainty, on the other hand and in the opinion of HIA it is considered an opportunity may have been missed for a reasonable balance to be struck between planning certainty and planning flexibility. Whilst it is recognised there are some DTS provisions, these are predominantly within the Township Zone and in most cases appear to exceed National Construction Code requirements.

Though the need for and application of overlays is understood, it is questionable to what extent in instances where multiple overlays cease the ability for DTS to still apply to a particular development type is reasonable. For example, a primary zone such as the Settlement Zone becomes undermined and overlay/s become the quasi primary control. Though it is acknowledged, the aforementioned matters are not unique to this design code and may be considered outside the scope of what can be considered as part of this consultation process. Also, it is submitted further consideration could be given to classes of development that do not require notification due to their setting and adjoining land uses having a low likelihood of causing adverse amenity potential.
HIA comments on the Planning and Design Code in the Outback – Phase One January 2019 to be read in conjunction with the covering letter.

**SETTLEMENT ZONE**

**Land Use**

*Proforma Outcomes (PO)*

PO 1.1 For residential development – no deemed-to-satisfy (DTS) requirement applicable

**Built Form and Character**

PO 3.8 Overly prescriptive DTS and irrelevant to Outback Code

**TOWNSEND ZONE**

**Land Use**

PO 1.1 For residential development, DTS requirements should be provided

**Built Form and Character**

PO 3.1 DTS requirements should be provided
PO 3.3 Clearer definition required on what part of building measurements are taken from
PO 3.5 Clearer definition required on what part of building measurements are taken from
PO 3.7 Overly prescriptive DTS and irrelevant to the Outback Code
PO 3.10 DTS to provide more detail for where measurements are taken from (wall? eaves?)

**Design and Siting**

PO 2.4 No DTS re air-conditioners, satellite dishes, TV antennas provided

**Energy Efficient Design**

PO 7.1 to PO 7.3 DTS requirements should be provided
PO requires higher standard than the National Construction Code
Potential requirements for overshadowing diagrams, design of roofs to accommodate photovoltaic cells and solar hot water system are costly and unnecessary

**Fencing, Walls and Retaining Walls**

PO 8.1 DTS requirements should be provided
PO 8.2 DTS requirements should be provided

**Waste Storage**

PO 10.1 No requirement for detached housing as bins can be located in rear yard

**Transportable Buildings**

PO 11.1 DTS requirements should be provided
Water Sensitive Urban Design

PO 13.1  DTS requirements should be provided
PO 13.2  DTS requirements should be provided
PO 13.3  DTS requirements should be provided

On Site Waste Treatment Systems

PO 16.1  DTS as described will lead to delays in approval. Approvals should run concurrently with the planning application.
PO 16.3  DTS as described will lead to delays in approval. Approvals should run concurrently with the planning application.

Transport Access and Parking
Vehicle Access

PO 3.6  DTS requirement for sites with frontage to a public road of 20m or less, one access point to be no greater than 3.5m in width is too restrictive and impractical.

Access for People with Disabilities

PO 4.1  DTS requirements should be provided

Vehicle Parking Areas

PO 6.2  DTS requirements should be provided
PO 6.6  DTS requirements should be provided

Residential Liveability Table 1 – Private Open Space

Minimum dimensions should match the rear boundary setback requirement of 3 meters. The Private Open Space requirements should stay as per Rescode plus include the following:-

- Less than 301m² = 24m²
- Between 301m² to 400m² = 40m²
- Between 401m² to 500m² = 60m²
- More than 501m² = 80m²

The issues with the proposed “In the Outback Code” is for 300m² blocks would require 60m² which is detrimental as many allotments are 300m². This means the Private Open Space requirement would increase by 36m² i.e. to 60m².

Also proposed in this code is allotments with the site area of greater than 1000m² are required to have 20 per cent private open space i.e. 200m².