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Planning and Design Code – Phase 3 consultation draft

The Housing Industry Association (HIA) appreciates the opportunity to provide the following comments regarding the Planning and Design Code – Phase 3 Consultation Draft. HIA commends the South Australian Planning Department and the State Planning Commission for undertaking planning reform with a view to streamline Development Approvals and improve regulatory planning law as a whole. HIA advocates the final draft of the Planning and Design Code (herein referred to as the Code) should support the housing industry through practical solutions and principles that reflect the general public's expectations.

Below are a list of dot points HIA would like to bring to your attention, the objective of our feedback is to inform the state of imperative issues that require careful consideration before the Code is adopted in Phase 3 areas of South Australia.

- **General Development Policy: Design in Urban Areas – DTS/DPF 17.2**

  Dwellings with a frontage to a public street have an entry door visible from the primary street boundary.

  Having a building that is easy for both occupants and visitors to use is part of good design practices. The function of a dwelling relates not only to the built form but also its position on the property. While front door legibility may seem like a practical solution to provide guidance for people who do not ordinarily enter the premises, it is not the only means on how direction can be provided. A multitude of examples can be found within the Adelaide Hills region where visitors are not hindered in finding their way to a house should the front door not be visible from the street. Indeed the entrance point to many grand houses are observed by entry gates rather than doors. As this clause currently reads, dwellings located on large allotments may be exempt from using the deemed-to-satisfy pathway (herein referred to as DTS) simply because the front door cannot be observed from the front of the property. In addition to this, many suburban owners are blocking street visibility with 2.1m front fences. It's possible this

DTS provision is null and void by the fact owners may choose to increase security using structures exempt from approval.

If guidance is required for visitors, **the wording within this clause should be changed from entry door to entry "point"**; the intent of the performance outcome is still maintained without unfairly inhibiting those who happen to live on a large anchorage size or for people who wish to legally block their front elevation from street view.

- **General Development Policy: Design in Urban Areas – DTS/DPF 22.1**

  Residential development incorporates soft landscaping with a minimum dimension of 700mm and 30% of any land between the primary street boundary and the primary building line. ***(excerpt)***

  The Code now stipulates a minimum dimension of 700mm for soft landscaping, changed from 500mm. Although the amendment appears minor, the consequences can have major cost implications for residential development. Where land divisions are created to minimum allotment sizes, landscape coverage often comes down to 1 or 2%. Increasing the minimum dimensions will almost certainly result in major cost implications effecting design outcomes and building footprint should the applicant use the DTS pathway, especially for development located on corner blocks. We ask you to consider the consequences of requiring an additional 200mm of landscaping verses the fast tracking of applications, **especially when a 500mm dimension would likely be accepted under a performance assessed pathway** to align with nib walls of garages. In addition, changing the percentage of soft landscaping in front of the primary building line from 25% to 30% provides an unnecessary barrier to fast tracking applications when it's probable the lesser of the two still achieves the planning objective. Analysing the intent of the Code verses the likely delays for the same outcome, we request the DTS be changed back to allow 500mm widths and 25% coverage.

- **General Policy Design in Urban Areas – DTS/DPF 34.2**

  Battle-axe or common driveways satisfy (a) and (b)
  (a) are constructed of a minimum of 50% permeable or porous material
  (b) where the driveway is located directly adjacent the side or rear boundary of the site, soft landscaping with a minimum dimension of 1m is provided between the driveway and site boundary (excluding along the perimeter of a passing point).

  The wording within the Code has changed to include battle-axe development as part of the DTS pathway. The 1 metre dimension listed in (b) is above and beyond standard soft landscaping requirements for battle-axe allotments and will severely hinder the streamlining of such applications. **Commonly approved soft landscaping widths are 500mm along the side of driveways** leading to rear allotments. This resolution achieves an appropriate amenity response and should be included as part of a DTS solution rather than a fixed 1 metre width for both battle-axe development and common driveways. This change of policy

will **hinder infill targets as outlined in the States 30 Plan for Greater Adelaide** which requires 85% of all new housing to be built in established urban areas by 2045.

In addition, driveways under this clause are required to be constructed with a minimum 50% permeable or porous material. It appears this clause may be in the wrong section and is more pertinent to water sensitive urban design. This requirement is onerous considering surface treatment of water is already addressed under DTS clauses 36.1 and 36.2. Because of this duplication, we believe the clause should be removed. At the very least, **this DTS should not be applicable for projects that constitute less than five dwellings** (inclusive of battle-axe development), replicating the directives listed for common driveways in DTS/DPF 36.1 and 36.2.

- **General Development Policy: Design in Urban Areas – DTS/DPF 36.1**

Residential development creating a common driveway / access that services 5 or more dwellings achieves the following stormwater runoff outcomes:

(a) 80 per cent reduction in average annual total suspended solids
(b) 60 per cent reduction in average annual total phosphorus
(c) 45 per cent reduction in average annual total nitrogen.

We appreciate your feedback on this matter and commend the proposed alteration of this DTS to exclude projects of less than five dwellings. We are still concerned about the ramifications sediment control principles have on medium sized projects (5 to 20 dwellings) and large scale projects (above 20 dwellings). **Our estimates suggest a $35,000 burden is placed on applicants who wish to comply under this DTS for medium sized applications**, approximately $11,000 for a pump station and $24,000 for a gross pollutant trap. Considering a budget bottom line for such developments, placing the DTS directive may render them unfeasible. We are yet to be provided with hard scientific facts to justify this provision and still maintain our original position that applications involving less than 20 dwellings need not comply with these provisions nor those within DTS/DPF 36.2.

- **General Policy Design in Urban Areas – PO 28.5**

Universal design features are incorporated to provide options for people living with disabilities or limited mobility and / or to facilitate ageing in place.

Universal design has been referenced within each draft consultation and although we did not make comment to it previously, industry acceptance of the matter has substantially shifted since the release of the Code. In July of this year the Australian Building Codes Board (ABCB) facilitated a consultation Regulation Impact Statement (RIS). It was conducted by the Centre for International Economics and looked at the implementation of adopting minimum requirements for accessibility within the National Construction Code (herein referred to as the NCC). Their summary unequivocally rejects the notion as it currently sits, noted on page 11 of the RIS as shown below.

"Based on the preliminary evidence gathered for the Consultation RIS, **the costs associated with including an accessible housing standard in the NCC are estimated to outweigh the benefits** under the central estimates for all of the Options tested."

Considering it is doubtful full universal design features as listed in the accessible housing standard will be adopted under building regulation, it is only right to remove this requirement from the Code at this late stage. Should the intent of this objective simply be the provision of disability facilities, access requirements are already listed within the NCC. We believe this to be sufficient without the need to incorporate objectives into the Code.

- **Suburban Neighbourhood Zone – DTS/DPF 7.1**

  (a) Dwellings, except where the dwelling is located on a central site within a row dwelling or terrace arrangement, incorporate side boundary walls on only one side boundary that satisfies (a) or (b): adjoin or abut a boundary wall of a building on adjoining land for the same length and height

  (b) does not:

  (i) exceed 3.2m in height from the lower of the natural or finished ground level. ***(excerpt)***

Much of the Code is based on facilitating a consistent outcome. Providing directives centered on natural or finished ground levels may create a disparity in the built amenity, especially in areas that undulate. The matter is further complicated through the approval process, actual ground levels are only determined at the completion of building consent. A wall height may differ up to 100mm pending the termite management system used in conjunction with the choice of perimeter finish. Such variations not only effect the finished ceiling height but also the process undertaken by the relevant authority to administer compliance. The best solution is to have the wall height taken from the "top of footings", this provides certainty for clients and a unified approach to the built form.

- **Stormwater Management Overlay**

With consideration an off-set scheme may be established under Section 197 of the Planning, Development and Infrastructure Act 2016, detention provisions have been included within the Code and are in addition to existing retention requirements. HIA believes the importance level placed on water re-usage on site is minor compared to the objectives of controlling peak flow created by stormwater inundation. We accept the capacity of existing public infrastructure to cope with stormwater may be effected by urban infill and suggest the priority of the code should focus on controlling output rather than water re-use. **We propose the stormwater Management Overlay is removed from the Code,** at the very least the DTS/DPF clause requiring 80% roof capture area be amended. The installation of plumbing fixtures is especially problematic for semi-detached and row dwellings designed with internal courtyards; good engineering design provides contingencies for relief within the building footprint through sump design. Stipulating the current catchment will not only result in

additional labour and material costs but also **increase the risk of water damage to property due to the complex design issues builders' face when facilitating an 80% capture.** If retention tanks are to remain as part of the Code, we maintain our position that the roof capture area be reduced from 80% to 50% for row dwellings and semi-detached buildings.

❖ **Urban Tree Canopy Overlay**

With consideration an off-set scheme is to be established under Section 197 of the Planning, Development and Infrastructure Act 2016, there are still questions unanswered relating to compliance under this overlay. Although regulated trees are identified within Regulation 3F(4)(b) of the Planning, Development and Infrastructure (General) Regulations 2017, tree species have not been stipulated as part of the overlay. It is difficult to determine if the solutions provided as part of the DTS are practical when it is unclear which type of trees are to be legislated. This is particularly concerning when evidence has come to light of buildings severely affected by the impact of trees (refer to link https://apple.news/Afy_GIooETgCCl_NUsBiDOg) and the tragic incident at Sterling (refer to link https://www.abc.net.au/news/2020-11-12/driver-killed-by-fallen-tree-in-adelaide-hills/12875328). It would be wise for the state to carefully review its position to determine where liability sits should structural damage occur because of tree planting activities.

Other issues not yet resolved include

- Tree set back distances from buildings or structures on proposed developed land **and** neighbouring properties.

- A potential conflict between PO 1.1 (Urban Tree Canopy Overlay) and PO's 4.1/4.2 within *Design* and *Design in Urban Areas* (General Development Policies). The objectives appear diametrically opposed; the General Development Policies rely on the provision of natural light yet the overlay produces an outcome which reduces natural light (through shading). What takes precedence and should further advice be sought to ensure objectives do not conflict?

Viewing the overlay released on the SAPPA training environment, it appears regional areas outside the metropolitan are to fall under the Urban Tree Canopy Overlay including Murray Bridge and Gawler. We do not believe this is the intent of "preserving and enhancement where practicable" as stipulated under the desired outcome (DO 1). Establishing a tree relies on diligent owners and climate conditions. Our data shows Gawler experiences 440mm of rainfall a year, Murray Bridge even less at 345mm, well short of Adelaide's 536mm. Country regions are penalised simply because they reside in dryer areas; there is an expectation that rural occupants simply accept the greater cost burden for tree maintenance. This proposal becomes even more challenging when observing the socio-economic environments and the pressures on existing water resources. HIA would argue

that it is **not practicable to enforce these requirements on regional areas of South Australia**.

There are some conflicting objectives within the planning reform (as a whole) that makes compliance difficult. Who will enforce planting, let alone maintenance, considering practice direction 9 - *council inspections 2020* reduces the minimum number of building audits on dwelling construction? Will the objective of tree canopy restoration and enhancement be achieved when the new plantation potentially has cover of just 2 metres, well short of coverage provided by existing significant trees? A policy that deals with a "greener" Adelaide can only be truly supported by the authority that regulates this provision. The logistical difficulties for individual allotments to support tree planting is onerous and any offset created should not only consider soil conditions and planting location, but also building function, water availability and the occupants ability to finance canopy growth within their own land.

- **Hazards (Flooding - General) Overlay**

There appears to be a large portion of Adelaide (particular south of the River Torrens) which has been mapped as "general" flooding, this is above and beyond existing maps within current Development Plans. HIA commends the Department and Commission for providing a DTS pathways within areas designated as light flooding but questions whether the extent of the mapping is too extensive. We are not aware of any details suggesting additional areas within metropolitan Adelaide should be mapped for flooding, even if it is only general. DTS 2.1 under this provision discusses having (on average) a minimum finished floor level 250mm above finished ground level. For clarity, the provision should be amended to include the term **finished *natural* ground level**, inclusive of the ground being cut.

- **Part 7 – Land use definitions and Part 8 – Administrative Terms and definitions**

Having an index of definitions within the Code provides good assistance to those using the document. There are some definitions that need special consideration as their interpretation may be in conflict with other legislation. *Residential flat building* provides for 2 or more dwellings within a building and includes group dwellings, row dwellings or semi-detached dwellings. The NCC outlines two separate classes of buildings where 2 or more dwellings can be located within one building, these are Class 1 (dwellings side by side) and Class 2 (dwellings one on top of the other). A clash could exist where domestic dwellings (class 1) nominated as residential flat buildings could be forced to utilise disability car parking, as required under General Development Policy Transport, Access and Parking PO 5.1, where specified within table 3 of each relevant zone; this policy stipulates compliance with "specifically marked accessible car parking places". Providing disability car parking spaces for class 1 building is primarily not advocated within the NCC, only applicable in South Australia where a project exceeds 20 dwellings. HIA would suggest amending the definition

for residential flat buildings, splitting it into domestic and commercial. Alternatively, **remove the word "accessible" from PO 5.1 as detailed above or add a further definition if the proposed intent holds a different meaning to *disability* access**.

The term habitable room now includes a description of "dedicated corridor/hallway", this may have been in response to confusion around thoroughfares through habitable rooms. While we are satisfied the definition of habitable room has been broadened, we feel the interpretation of dedicated may also need further clarification. We would suggest **adding an additional term to provide guidance and clarity stating *dedicated* relates to a corridor/hallway that has two side walls**.

- **Part 2 – zoning requirements for setbacks**

  Typical primary setback requirements listed within zoning DTS provisions are stipulated as either *the average of any existing buildings on adjoining sites having frontage*, or *the average setback to the building line of existing buildings on adjoining sites* or wording of a similar description. It appears allowances provided under the Residential (Res) Code, being an additional 1 metre in front of existing street setbacks as complying, has been ignored in the Code. **We would like to see this clause introduced as a DTS option within the zoning requirements**; no evidence has been brought to our attention suggesting this Res Code provision did not meet its intended purpose.

HIA believes planning reform should respond to long term policy principles set by the government. We understand and welcome practical solutions that address policies aimed at facilitating a green liveable city with greater housing choice, as identified in the states thirty year strategic plan. The overarching criteria that makes reform successful is understanding the community's capacity to provide and give. Our economy, already hurt by the recent coronavirus epidemic, is not thriving; a balancing act must be performed by the government when instigating new planning laws for the purpose of building productivity. Above all, the system relies on the speed of delivery and the quality of the product. The points we have raised are an effort to assist the state in achieving both.

With Homebuilder in mind, we would ask the Department and Commission to consider the complexity of the transition period. HomeBuilder funding has been extended to the 31st of March 2021, the implementation of Phase 3 may coincide with this date. Our concerns relate to agreed house designs (between client and builder) and assessment under the new Code. **To allow builders an opportunity to facilitate building designs in accordance with Code requirements, we would request the final code be released to the general public 2 months prior to its implementation.** This will provide builders an opportunity to negotiate appropriately with their clients. In addition to this, other transitional arrangements should be explored that will enable flexibility for house designs (or certain elements) to be assessed under planning law current at the time a building contract is signed. **The problems created by variations to cost and time may be averted if concessions are made for such applications.**

Information has come to light that no offset scheme for stormwater management has been scheduled for deliberation prior to the 18th December 2020 (due date for this submission). **In accordance with option 2 listed in the cost and benefits report into stormwater management, we would hope regard is given to the benefits an offset scheme can provide a community by designating contributions into a public realm**. It has been difficult to make a fully informed response when critical details are left outstanding specific to tree planting activities and stormwater management. We still maintain our original position that the final objectives and directives listed within the Code should come from an agreed position between industry and the state.

Do not hesitate to contact us regarding the points listed above.

Yours sincerely
HOUSING INDUSTRY ASSOCIATION LIMITED

Stephen Knight
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