



Cnr Port Road & Station Place
Hindmarsh SA 5007
PO Box 151
Welland SA 5007
t (08) 8340 5900
f (08) 8340 5992
hia.com.au

16 December 2022

John Stimson
Planning System Implementation Review
GPO Box 1815
ADELAIDE SA 5001

Attention John

HIA submission on the Expert Panel Discussion Papers

The Housing Industry Association (HIA) appreciates the opportunity to provide the following comments regarding the below mentioned discussion papers.

- e-Planning System and the PlanSA website Reform Options
- Planning, Development and Infrastructure Act 2016 Reform Options
- Planning and Design Code Reform Options

We recognise the efforts of government for instigating a review into the state planning system and acknowledge the resources required to conduct a thorough investigation. Consultation between the building sector and respective governing bodies ultimately leads to better outcomes and we encourage the Expert Panel to continue open dialogue with us.

Having a high functioning planning administration system is of utmost importance to the residential construction industry. The influence this has on housing supply and affordability cannot be underestimated.

Our industry is currently facing many challenges including rising material costs, a constrained labour market, product supply delays and broader “cost of living” issues such as rising interest rates.

It is therefore imperative the building industry is not further hindered by unnecessary delays attributed to inhibiting assessment processes. Time that is wasted through double handling and inefficient procedures ultimately has a detrimentally impact on the housing sector.

A major priority of the Panel should be the review of assessment pathways offered under the Planning and Design Code (herein referred to as the P&D Code).

“Fast tracked” approvals through Deemed-to-Satisfy consents have been limited since the inception of the portal, with streamlined applications reduced in number. We believe the planning reform, completed in 2021, should have delivered a more efficient system.

Pressures on building professionals can be reduced by ensuring the PDI Act, the P&D Code and the portal are functioning well. We remind the Panel this review is a chance to implement an improved system that delivers economic benefits to this state and assist affordability through policy.

Legislation that inhibits housing affordability should either be rejected or amended.

HIA would like to thank the Panel for the opportunity to provide feedback on the above-mentioned papers. Our comments listed in this letter are based on a suite of HIA Policy statements aimed at improving statutory planning processes, increasing the timeliness and transparency of decision making.

Relevant HIA Policies attached to this submission are as follows.

- Planning Reform
- Delegated Development Assessment
- Principles of a Good Planning System
- Infrastructure Charges and Levies on Residential Development
- Truth in Zoning

Please do not hesitate to contact myself on 8340 5900 or at [REDACTED] for any further information.

Yours sincerely

HOUSING INDUSTRY ASSOCIATION LIMITED

[REDACTED]
Stephen Knight

HIA Executive Director – South Australia



HOUSING INDUSTRY ASSOCIATION



Housing Australians

Submission to the Expert Panel for the Planning System Implementation Review

Response to the following discussion papers

- **E-PLANNING SYSTEM AND THE PLANSA WEBSITE REFORM OPTIONS**
- **PLANNING, DEVELOPMENT AND INFRASTRUCTURE ACT 2016 REFORM OPTIONS**
- **PLANNING AND DESIGN CODE REFORM OPTIONS**

December 2022



contents

ABOUT THE HOUSING INDUSTRY ASSOCIATION	2
INTRODUCTION	3
1. E-PLANNING SYSTEM AND THE PLANSA WEBSITE REFORM OPTIONS	4
1.1. USER EXPERIENCE	4
1.1.1. ADMINISTRATION	4
1.1.2. WEBSITE RE-DESIGN	5
1.1.3. MOBILE APPLICATION FOR SUBMISSION OF BUILDING NOTIFICATION AND INSPECTIONS	5
1.1.4. ON-LINE SUBMISSION FORMS	5
1.1.5. INCREASE RELEVANT AUTHORITY DATA MANAGEMENT	5
1.1.6. INSPECTION CLOCKS	5
1.1.7. COMBINED VERIFICATION AND ASSESSMENT PROCESSES	5
1.1.8. COLLECTION OF LODGEMENT FEES AT SUBMISSION	6
1.1.9. AUTOMATIC ISSUE OF DECISION NOTIFICATION FORM (DNF)	6
1.1.10. BUILDING NOTIFICATION THROUGH PLANSA	6
1.1.11. REMOVE BUILDING VERIFICATION	7
1.1.12. CONCURRENT PLANNING AND BUILDING ASSESSMENT	7
1.2. INNOVATION	7
1.2.1. AUTOMATIC ASSESSMENT CHECKS FOR DTS APPLICATIONS	7
1.2.2. 3D MODELLING FOR DEVELOPMENT APPLICATION TRACKER AND PUBLIC NOTIFICATION	8
1.2.3. AUGMENTED REALITY MOBILE APPLICATION & ACCESSIBILITY THROUGH MOBILE APPLICATIONS	8
2. PLANNING, DEVELOPMENT AND INFRASTRUCTURE ACT 2016 REFORM OPTIONS	9
2.1. PUBLIC NOTIFICATIONS AND APPEALS	9
2.2. ACCREDITED PROFESSIONALS	9
2.3. INFRASTRUCTURE SCHEMES	9
2.4. LOCAL HERITAGE	10
2.5. DEEMED CONSENT NOTICES	10
2.6. VERIFICATION OF APPLICATION	10
3. PLANNING AND DESIGN (P&D) CODE REFORM OPTIONS	12
3.1. CHARACTER AND HERITAGE	12
3.2. TREES	12
3.3. INFILL	13
3.4. CARPARKING	14
4. OTHER ITEMS IMPACTING THE PLANNING SYSTEM	15
4.1. LIVABLE HOUSING STANDARD (LHS)	15
4.1.1. ADMINISTRATION	15
4.1.2. APPROVED SUBDIVISIONS	15
4.1.3. LOCAL AND STATE HERITAGE ISSUES	15
4.1.4. DWELLING ADDITIONS	16
4.1.5. FLOOD OVERLAYS	16
4.1.6. HARD POROUS SURFACES	16

4.1.7. TREE PLANTATION	16
4.1.8. ELEVATED BUILDINGS	16
4.1.9. LAND THAT REQUIRES SIGNIFICANT MAINTENANCE	16
4.1.10. EXISTING DISABILITY PROVISIONS	17
4.2. ENERGY EFFICIENCY REQUIREMENTS	17
4.2.1. COST BURDEN AND ITS RELATIONSHIP TO PLANNING	17
4.2.2. MISCONCEPTION OF ENERGY RATINGS	17
4.2.3. FUTURE ENERGY OUTCOMES	17
4.2.4. FURTHER INVESTIGATION	17
4.2.5. NATIONAL ADOPTION	18
4.3. PLANNING POLICY - OVERLAYS	18
4.4. DTS/DPF PROVISIONS WITHIN THE P&D CODE	19
4.4.1. GENERAL POLICY: DESIGN IN URBAN AREAS – DTS/DPF 17.2 AND DESIGN DTS/DPF 11.2	19
4.4.2. GENERAL POLICY: DESIGN IN URBAN AREAS – DTS/DPF 19.1 AND DESIGN DTS/DPF 13.1	19
4.4.3. GENERAL POLICY: DESIGN IN URBAN AREAS – DTS/DPF 20.2	19
4.4.4. GENERAL POLICY: DESIGN IN URBAN AREAS – DTS/DPF 22.1	19
4.4.5. GENERAL POLICY: DESIGN IN URBAN AREAS – DTS/DPF 34.2	20
4.5. TERMS AND DEFINITIONS	20
4.6. OTHER MATTERS	21
CONCLUSION	21
HIA POLICY: PRINCIPLES OF A GOOD PLANNING SYSTEM	22
HIA POLICY: PLANNING REFORM	25
HIA POLICY: DELEGATED DEVELOPMENT ASSESSMENT	29
HIA POLICY: INFRASTRUCTURE CHARGES AND LEVIES ON RESIDENTIAL DEVELOPMENT	31
HIA POLICY: TRUTH IN ZONING	34

Housing Industry Association contact:

Stephen Knight
Regional Executive Director - SA
Housing Industry Association
Cnr Port Road and Station Place HINDMARSH
Phone: 8340 5988
Email: [REDACTED]

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

Three discussion papers have been released by the Expert Panel (herein referred to as the Panel) on the state planning system and the major elements which it is comprised of, namely

- e-Planning System and the PlanSA website Reform Options
- Planning, Development and Infrastructure Act 2016 Reform Options
- Planning and Design Code Reform Options

HIA acknowledges the extent of work the government has undertaken and support the need for an independent review into the Planning system.

We agree the review is an effective way to ensure continual improvement within the planning system, it is our belief that outcomes resulting from this review have the potential to create a better planning system for our members and the general public.

It is important such a review understands competing priorities and ensures planning authorities can take a holistic approach when enforcing planning objectives, recognising a balance between economic and environmental factors.

The system must be robust and developed with sufficient rigor to eliminate unnecessary regulatory barriers for industry. A fully considered system is one that is user friendly and easy to comply with.

A review must analyse cost/benefit outcomes for any proposed change and accomplish sensible planning provisions in line with consumer affordability. The purpose of a review should be to improve development efficiencies so that changing social patterns and evolving technologies are considered.

Our industry is currently facing many challenges including rising material costs, a constrained labour market, product supply delays and broader “cost of living” issues such as rising interest rates. It is therefore imperative the building industry is not further hindered by unnecessary delays attributed to inhibiting assessment processes. Time that is wasted through double handling and inefficient procedures ultimately has a detrimentally impact on the housing sector.

We encourage the Panel to thoroughly investigate assessment pathways as part of their review. “Fast tracked” approvals through Deemed-to-Satisfy consents have been limited since the inception of the portal, with streamlined applications reduced in number. We believe the planning reform completed in 2021 should have delivered a more efficient system, we were disappointed with the following aspects.

- the introduction of additional planning policy overlays, some without proper consultation.
- an e-planning portal that required major modifications after its inception.

Pressures on building professionals can be reduced by ensuring the PDI Act, the P&D Code and the portal are functioning well. We remind the Panel this review is a chance to implement an improved system that delivers economic benefits to this state and assist affordability through policy.

This submission provides a response to the three discussion papers, our comments listed within are based on a suite of HIA Policy statements aimed at improving statutory planning processes, increasing the timeliness and transparency of decision making.

There are four sections within this submission, one for each discussion paper and a final section summarising issues relevant to planning. The purpose of our response is to clarify our position on topics covered in the three papers as well as other matters closely related.

1. E-PLANNING SYSTEM AND THE PLANSA WEBSITE REFORM OPTIONS

1.1. USER EXPERIENCE

1.1.1. Administration

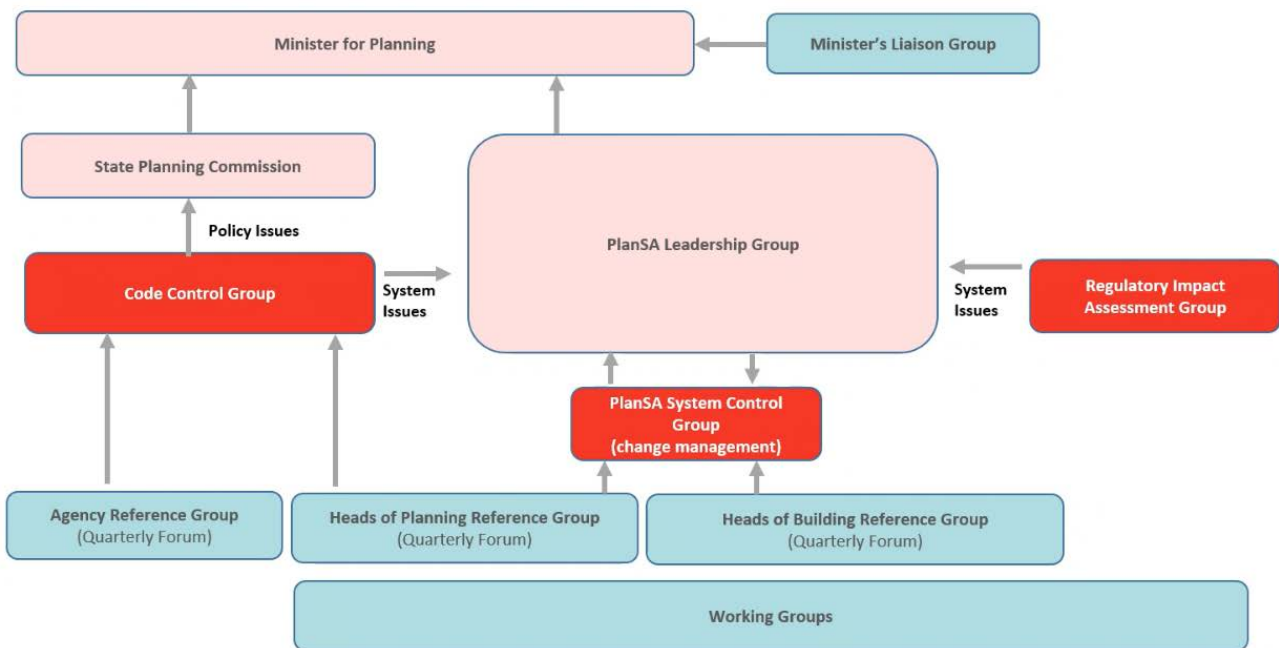
By and large, the implementation of the ePlanning system has a great deal of promise; HIA supports the e-Planning process for lodgement and assessment of planning approvals (refer to the attached HIA Policy *Planning Reform*). It is vital that the improvements required to make the system fully functional are made with consideration to feedback from the building sector.

While it is recognised work is being systematically undertaken by the department in accordance with their system enhancements schedule, delivering better results requires specific assistance through internal reference groups such as *Heads of Building* and *Heads of Planning*.

These groups consist of experts in their field and provide excellent information pertaining to system improvements.

To maximise the influence of these groups, a hierarchy of responsibility should be implemented. Work performed at this level should be received at higher levels of management and not left with the chairperson to be the sole judge of importance.

Although a hierarchy of control had been facilitated (shown below), it is our understanding these levels of administration are not enforced.



Having a functional reporting mechanism is critical in getting industry feedback passed onto the appropriate levels within government. The hierarchy depicted above should either be enforced, or a new effective model of information collation be introduced.

1.1.2. Website re-design

The principle behind the website are sound, however, user experience would be enhanced by having a collection point for public feedback. Such information could be presented to relevant department groups and/or Heads of Reference Groups for review.

1.1.3. Mobile application for submission of building notifications and inspections

Allowing notifications through mobile devices is supported by our members and would aid correspondence with relevant authorities.

1.1.4. On-line submission forms

Should remain as is.

1.1.5. Increase relevant authority data management

A critical component to Development Application (DA) management is the timely response to amendments and/or addendums. "Self-servicing" changes ought to be investigated further, but only allowed where formal requests from DA applicants are registered. This control should also extend to relevant authorities in the private sector, giving planning and building certifiers the same opportunity as their council counterparts.

1.1.6. Inspection clocks

Prescribed assessment times are listed under regulation, they outline the period in which a relevant authority must assess an application. While they can be observed on the portal, there are no consequences should they be exceeded.

We would request the state enforce stricter administration of timeframes and attach penalties to relevant authorities who breach legislative requirements. Otherwise, the portal ought to generate automatic approvals for applications when timeframes lapse.

1.1.7. Combined verification and assessment processes

Assessment process

Although the PDI Act allows for consents to be assessed in any order, the portal only provides a linear process for applications i.e. Planning Consent followed by Building Consent.

It would be most advantageous to give applicants the opportunity to run concurrent assessments (performed simultaneously).

Safeguards for consistency already exist through the issuing of Development Approvals (permission to build), both planning and building consents can be observed prior to the final endorsement of plans.

Verification process

The building industry have experienced significant delays through the lodgement process, this typically occurs when planning authorities make multiple requests for information instead of one. The reasons for doing so are to avoid time clock limitations.

The portal was designed to be a more efficient system. Administration behaviours as described above contradict this, defeating the intent.

HIA strongly advocates that the verification process is either combined into planning assessment or better controlled through the introduction of “information requirements” under the PDI (General) Regulations – Schedule 8.

1.1.8. Collection of lodgement fees at submission

Lodgement fees should either be obtained at the planning assessment stage or at verification stage, provided control measures as previously described are enforced.

1.1.9. Automatic issue of decision notification form (DNF)

A DNF can include planning, building or final (Development Approval) consents, each of these able to be observed as the relevant authority finalises the consent. Having an automatic final DNF makes sense once the other two consents are complete.

Although this places more responsibility on accredited professionals, HIA believes this sector can handle such obligations.

1.1.10. Building notification through PlanSA

Allowing different avenues to achieve the same outcome is crucial. Notification receipts that are obtained only through the portal is fraught with danger, particularly in cases where internet delays are experienced.

Notifications (by law) must be made within a certain time. If the portal is off-line, an applicant may not have the capacity to fulfill their duty.

Notifications ought to be received through telephone and emails as well as registered via the portal.

Building notifications have become very problematic for builders. The planning system allows private building certifiers and councils to nominate the number of notifications required on a Development Application. This has led to an inconsistent approach to audit inspections by relevant authorities.

As an example, a dwelling application can attract anywhere between 3 to 10 check points during the construction depending on which council area its located in. Common inspections include footings, wall/roof frames and completion. Others such as wet areas, brickwork or trenches are nominated sporadically.

This leads to industry confusion and, ultimately, a reluctance to correspond. Worst case examples apply to notifications being rejected by council on the basis they are not evident on the Decision Notification Form. The planning system should support consistent outcomes by providing adequate guidance for decision making (refer to the attached HIA Policy *Principles of a Good Planning System*).

In addition to this, requests for notification are being inappropriately applied. This has been observed predominantly for notifications associated with designated building products (as read below) associated with ACP's

“Commencement of provision of a completed checklist in relation to the installation of a designated building product”

When builders are asked to provide notification on items not part of the build, it leaves them perplexed and bewildered. The system is further frustrated when notifications cannot be removed from the portal, even if they are incorrectly applied.

Giving relevant authorities discretion to pick and choose notifications can create a feeling of mistrust between community and local government. A non-notification (breach) can lead to a financial penalty, this process would appear to incentivise councils to increase the number of inspection check points.

HIA believes a set number of inspections ought to be applied to certain classes of building work outlined below

- Class 1 buildings (Dwellings) – no more than 5
- Class 2 buildings (apartments) – 5
- Class 3 to 9 buildings (commercial and industrial buildings) – 5
- Class 10 buildings (garages, sheds) - 1

Not only must notifications be consistent for each class of building, but they must also be consistent across Development Applications containing of multiple buildings. There are circumstances where large residential projects have a huge disparity of notifications between councils. In instances where more than one dwelling is proposed, some councils will ask for the minimum while others will request multiple inspections per house.

This is not a fair outcome.

HIA believes If an expectation level of 66% for Class 1 (residential) buildings work is set under legislation, observed under Practice Direction 9 – council inspections Appendix 1, then the same criteria should applied for applications involving more than one building. Elaborating this point further, an application that contains 9 dwellings needs to attract 6 inspections (66%).

On this basis, it would be fair that all large projects which consist of four or more buildings attract one notification per house, acknowledging this will provide enough opportunity for councils to meet their minimum obligations.

1.1.11. Remove building verification

Verification should be removed so that the assessment processed is one.

1.1.12. Concurrent planning and building assessment

Having a concurrent process allows for a streamlining of applications, the current law makes provisions for this.

The portal must be improved to reflect Regulation.

1.2. INNOVATION

1.2.1. Automatic assessment checks for DTS applications

An automatic system check has merit and could resemble that of the previous complying pathways (ResCode development). One solution is to introduce a regulated scheduled checklist, a document completed by applicants when utilising a DTS pathway.

Acknowledging building certifiers have the legal right to approve “planning” DTS development, the checklist could act as an instrument that qualifies planning consent.

Such a document would reduce double handling, negating the need for planning certifiers to act, meaning a faster turnover of applications without compromising the system.

1.2.2. 3D modelling for development application tracker and public notification

The portal is restricted to certain formatting when accepting documents i.e. word, PDF, Jpeg

More involved software is available to the building industry, like BIM, and it would be wise to further develop the portal to allow a greater array of platforms including 3D modelling.

1.2.3. Augmented reality mobile application & accessibility through mobile applications

Investment in this area could only benefit end users.

2. PLANNING, DEVELOPMENT AND INFRASTRUCTURE ACT 2016 REFORM OPTIONS

2.1. PUBLIC NOTIFICATIONS AND APPEALS

Under Regulation, the public may receive notice where an application is determined as “performance assessed”. Such notices should be restricted to the elements within that proposal which are non-compliant. For example, an application involving a conforming house and a non-compliant garage should only have the garage placed on notice.

Councils are ignoring notification restrictions and sending entire applications out to consultation. This can lead to unnecessary public comments on pre-determined aspects of the proposed development. This frustrates the process, contributing to unwanted delays.

Education and guidance from PlanSA are required on this matter.

The scope of notified parties must reflect the scale of development. Boundary wall notifications should only require notification to those directly affected i.e. the neighbour. In some circumstances, the number of notification recipients appears excessive.

Where the intent of planning principles matches the proposed development, the Panel ought to investigate the need for any notification. Each zone lists several uses, yet developments that align with them are not always excluded from notification. We question whether some of the delays experienced are really needed.

2.2. ACCREDITED PROFESSIONALS

HIA encourages professionals in the planning and building realm to be intertwined.

Building level 1 certifiers have the ability, under law, to verify DTS planning consents. HIA supports this process.

Unfortunately, this type of endorsement lacks stimulus and is often impeded by councils prior to the issuing of Development Approval. It can be an expensive process for all involved, mainly because of time lost.

Although advice from PlanSA over the years has been consistent (decisions issued by certifiers ought not be challenged), councils view their “duty of care” above this opinion.

HIA believes a clear direction on this matter is needed. Our suggestion of a regulated scheduled checklist as previously described is one course of action that can remediate the problem. Other considerations in relation to this matter are found in HIA Policy statement *Delegated Development Assessment*.

2.3. INFRASTRUCTURE SCHEMES

Schemes are often developed with Levies and Charges in mind which significantly affect new housing affordability, they are (in effect) a tax on new homebuyers. Up-front charges against a new development are the least efficient way infrastructure costs may be recovered.

The costs of broader *community, social and regional infrastructure* should be borne by the whole community and funded from general rate revenue, borrowings or alternative funding mechanisms. Any agreement between developer and regulatory should cater for this (Refer to the attached HIA Policy *Infrastructure Charges and Levies on Residential Development*).

Where up-front infrastructure levies are the only mechanism available (in lieu of other workable solutions), a statutory planning instrument should be prepared at the time of the land approval in a manner that is transparent and consistent across the state.

Levies which are applied by Government for state-based items of infrastructure should be established and collected in the same manner as those collected by local government and expended in the same area from which they are collected.

Any funds not spent should be refunded to the property owner of the development, either as soon as the decision is made or at the expiry of the specified time frame.

Other considerations in relation to this matter are found in the attached HIA Policy statement *Infrastructure Charges and Levies on Residential Development*.

2.4. LOCAL HERITAGE

Determination of some local heritage issues are dealt with by the local authority as they see fit. This process can be held in house, subjective and without challenge.

HIA recommends recognised independent experts provide opinion at council level from both public and private sectors, and that their opinion holds weight.

HIA does not support the commencement of Sections 67(4) and 67(5).

2.5. DEEMED CONSENT NOTICES

Notices are rarely applied, partly because of appeal rights held by council. Where appeals do proceed, delays can outlast the assessment itself. It is an ineffective form of legislation; applicants are fearful of damaging existing professional relationships held with planners.

Where a timeframe is exceeded and a notice is forwarded to council, consent ought to be automatically granted with no avenue of appeal. Conditions of consent can be applied to address any outstanding issues.

Providing automatic approvals would relieve applicants of lost time and rightfully achieve the objective of the Act.

2.6. VERIFICATION OF APPLICATION

Councils are using verification as an opportunity to assess the application in detail, thus overriding the allotted timeframes and causing unnecessary delays through multiple correspondence with the applicant.

To avoid time clock pressures, planning authorities have been known to treat the verification stage as an avenue for assessment, include references to the Planning and Design Code.

As a result, several planning requests are forwarded to the applicant where one would be sufficient.

HIA believes this method of assessment breaches the intent of the PDI Act - s119(5)(c) which directs the relevant authority to make only one request for information. There is no punishment to the relevant authority for breaching this limit.

The verification method should run concurrently with the planning assessment. Where timeframes are exceeded, DNF's may be issued with conditions of consent.

Otherwise, a standard criterion (list) for information should be placed within regulations as previously suggested.

3. PLANNING AND DESIGN (P&D) CODE REFORM OPTIONS

3.1. CHARACTER AND HERITAGE

The assessment process is varied between councils, some providing “in house” decisions while others seek comment from external sources. Consequently, application time management is difficult for applicants to schedule and can lead to miscommunication with the relevant authority.

Above all, consistency is needed on both administrative procedures and final outcomes reached by character/heritage field experts.

Because the topic is subjective and heavily based on opinion, the principles required to achieve compliance constantly change. This makes it difficult for applicants to have compliant plans in the initial instance. Inconsistency is evident not only between councils, but also individual experts responsible for casting decisions.

To remove doubt, pre-determined compliance could be administered in the same vein as an outlined consent. Having a *pre-lodgement verification* would help the situation (refer to the attached HIA Policy *Delegated Development Assessment*).

Consistency can be achieved by having a standard set of guidelines or criterion on which character and heritage is based upon, managed through a designated checklist adopted through regulations and/or gazette.

As another matter of concern, the current system does not allow for future character or historic proposals; applications which may (in time) themselves become heritage listed.

3.2. TREES

A strong focus under the P&D Code was to provide amenities that foster canopy regeneration, requiring applicants to plant at least one tree alongside new houses (contained on site).

Data collected by the government suggested the Adelaide region was losing tree coverage, resulting in warmer ground level temperatures and (in turn) higher energy use.

What has not been clearly articulated is the affect surrounding tree coverage has on thermal heat gains for buildings, in particular the reduction of solar radiation required as part of energy efficiency star ratings.

Evidence provided by the Department within a 2020 report entitled “Cost and Benefits of Urban Tree Canopy Options” claimed tree canopy coverage reduced household energy bills. Unfortunately, this reference came from an unreliable source that is no longer accessible to the public.

The consequences of urban tree canopy policy have not been thoroughly understood, nor the dramatic affect it has on housing designs and their footings. Several factors that have not been adequately addressed since the adoption of the P&D Code include the following.

- **Conflict of objectives.** The General Development Policies “Design in Urban Areas – Performance Outcome (PO 4.1)” and “Design – Performance Outcome (PO 4.1)” implores housing proposals maximise sunlight into buildings, yet the Urban Tree Overlay produces an outcome that reduces natural light due to shading.

- **Logistical difficulties in achieving compliance.** Authorities are under resourced to enforce planting, let alone maintenance
- **Tree effect on neighbouring properties.** It is recognised that trees negatively impact housing, undermining footings due to root invasion. The locality of mandatory trees on neighbouring allotments is not considered under the P&D code, meaning their positioning has the potential to adversely affect surround land and property.
- **Housing affordability in suburban neighbourhoods.** Engineers are now designing all footings to resist “tree affect”, regardless of the existing site conditions.

Because engineers are unable to determine tree proximity on neighbouring sites, particularly within new subdivisions, engineers maybe required to design footings over and above what be required at significant extra cost.

Acknowledging tree planting activities are difficult to administer, negatively influence affordability and can reduce the lifetime of a building, HIA believes mandatory tree planting should be administered on government property and not that of the rate payer. With this said, the tree canopy off-set scheme ought to be revoked.

3.3. INFILL

South Australia needs a balance between greenfield development and urban infill. By definition, infill can consist of either high, medium or low density, each of which have different zoning requirements.

Guidelines associated with design needs to reflect the government’s commitment to the 30-year strategic plan. In addition, PlanSA and all other government departments and statutory land owner stakeholders should be encouraged to investigate infill land development opportunities.

Most importantly, guidelines for large subdivisions ought to be developed through master planning. Negotiation procedures between public and private sectors must be consistent and timely yet have enough flexibility to account for local conditions in conjunction with other regulatory provisions, such as those nominated in the upcoming NCC 2022 series.

On a smaller scale, HIA supports governments implementing private certification processes in subdivision. Although South Australia does allow for this within its regulations, it is largely misunderstood and underutilised.

Education material for the building sector on this matter would be beneficial.

Regional Plans, currently in the preliminary stage of engagement, should be created with the assistance of the private sector. This is the best way to ensure infrastructure and development reflect market trends, consumer demand and supply provisions specific to rural areas.

The affordability overlay needs thorough revision. Although it is not mandatory, the dispensations allowed under the policy do not give enough incentive for most projects to use it.

Simply through feasibility, larger scale projects are better positioned to accommodate affordable development. HIA believes applications over 100 developments (rather than 20) are better suited to this policy provided the required percentage rate of new homes is measure on an adequate sliding scale; The current percentage rate is not attractive to investors

It would also be beneficial for the panel to investigate the uptake (sale) of affordable houses/units to eligible persons; information provided to us suggests this number is extremely low and that the policy is not working.

Furthermore, the sociodemographic configuration of South Australia and the variance between house prices from suburb to suburb are not considered.

3.4. CARPARKING

Where carparking aspects within applications are placed on public notification, the Office of Architecture and Design (ODASA) are providing feedback that appears contradictory to the objectives of the P&D Code.

It has also been found their advice is also inconsistent from site to site, and that the principles in which they base their arguments will alter pending the project.

With regard to electric vehicles, the upcoming version of the National Construction Code (herein referred to as NCC 2022) already makes provisions for vehicle charging; there is no need for additional legislation.

4. OTHER ITEMS IMPACTING THE PLANNING SYSTEM

4.1. LIVABLE HOUSING STANDARD (LHS)

At the beginning of October, the ABCB released a full version of NCC 2022 for public viewing. Most of the content had previously been disclosed in earlier drafts, however the final version provided insight into the South Australian variations.

It was observed that no exemption or further explanation notes were provided for the Livable Housing Standard (LHS). It is understood this standard will now be adopted for South Australia; the timing of its implantation is still to be determined by the government.

It is one of the first forms of building legislation that has an impact on both building assessment and planning assessment. This poses a range of complexities for planning assessment pathways and the system. Below are a range of issues that have yet been determined but will have a huge implication on the planning system.

4.1.1. Administration

LHS will impact floor plan configurations assessed under Planning Rules, this includes positioning of amenities (toilets), widths of corridors and exterior entrance pathways. Acknowledging NCC provisions are administered by building surveyors and not planners, Development Applications are likely to need considerable modifications under Building Rules where Planning Consent hasn't complied with LHS requirements.

This will waste time and money for the industry. To ensure consistency is achieved across all consents, it is essential that the State Government consider exempting livable design features for Development Applications that are lodged for Planning Consent prior to the adoption of LHS (currently scheduled for 1 October 2023).

4.1.2. Approved subdivisions

Corporations that invest into large subdivisions do so through careful analysis of expenditure and yield, the layout of allotment boundaries are done with reference to 'design and construct' propositions. This process is dependent on satisfying all relevant legislation and can take years, even decades, to execute.

LHS threatens the viability of recently approved subdivisions and projects that are partially complete, particularly medium density developments with high finished floor levels and restricted garage access. Governments (being all governments or relevant authorities) should provide certainty in the application of planning controls on residential land (refer to the attached HIA Policy *Truth in Zoning*)

To ensure contractual obligations and client expectations are not breached, it would be wise for the State Government to assess major sites and confirm their compatibility with LHS.

4.1.3. Local and state heritage issues

Where it is proposed to alter and/or add onto existing buildings, clarity is needed on how local heritage issues will be addressed. The complexity of upgrading old buildings is not specified within LHS, many in Adelaide would require extensive work and financial output to make them access compliant.

It would be a fair outcome to have these buildings exempt from LHS provisions.

4.1.4. Dwelling additions

It is unclear if existing dwellings that support new additions will be required to comply with LHS, there is currently no guidance. Not only must the State Government examine this matter, but it should also determine the required level of compliance for dwelling additions where size limitation(s) make it unreasonable to meet all LHS provisions i.e. the supply of amenities.

A raft of concessions will need to be considered for both existing buildings and their additions pending floor configurations and available space.

4.1.5. Flood overlays

A large part of Metropolitan Adelaide is covered by flood mapping designated under the Planning and Design Code (P&D). The State Government will need to review how planning conditions integrate with LHS provisions within these zones, specifically step-free thresholds.

Concessions for continuous pathways ought to be legislated knowing that affected sites will be subject to flooding and that significant maintenance would be required on pathways after such events.

4.1.6. Hard porous surfaces

Performance objectives listed in the P&D outline the use of permeable surfaces to manage stormwater disposal, it is not uncommon in South Australia to use perforated hard paving to achieve compliance.

Understanding impervious ground surfaces are permissible under the LHS, concession on continuous pathway provisions should be provided where impervious paving is constructed in a manner that allows for immediate drainage; such surfaces are not continuous and must therefore be clearly defined as inappropriate.

4.1.7. Tree plantation

The Urban Tree Canopy overlay listed in the P&D covers most of Adelaide, it mandates tree planting activities on residential land for new housing. Where trees are situated adjacent continuous pathways, the implications of tree-effect (soil movement) must be taken into account.

Where tree planting activity is likely to cause maintenance issues on compliant paving due to root invasion or soil heave, concessions must be granted.

4.1.8. Elevated buildings

Building types that have elevated finished floor levels, such as transportables and modular (prefabricated) units, would require significant lengths of ramping to gain access to the entry door.

The costs associated with such ramping in many cases would be disproportionate to the building size and ought to be exempt from this requirement.

4.1.9. Land that requires significant maintenance

LHS provides housing design that caters for aging people. It should be recognised that some allotments are not suited to this (hence the term “downsizing”), specifically those that contain sizeable amounts of vegetation.

It would be pertinent for the State Government to examine whether LHS is to be consolidated across all South Australia or rather just for specific zones or areas.

4.1.10. Existing disability provisions

South Australia has disability provisions listed in the current National Construction Code for residential dwellings, this will remain under NCC 2022. It is appropriate for the State Government to perform a review of these provisions and determine if additional concessions for development affected by this criterion be established.

4.2. ENERGY EFFICIENCY REQUIREMENTS

7-star compliance is a significant change for industry, it affects documentation, construction methods and cost.

Upgrading buildings to 7-stars will be very different from previous upgrades. Double glazing elements will be needed for many houses to reach compliance, particularly those located in the Adelaide Hills. Furthermore, a new “net zero” energy target (carbon neutral) places greater importance on domestic items such as water heaters and A/C units.

4.2.1. Cost burden and its relationship to planning

HIA estimates construction costs for dwellings will increase between \$9,000 to \$13,000, having a detrimental effect on housing affordability. Interestingly, cost burdens will be dictated by how the land is used and (most importantly) its orientation, a critical component to planning outcomes.

Similar to LHS, building legislation crosses into planning policy yet has not been appropriately addressed in South Australia.

4.2.2. Misconception on energy ratings

Star ratings do not align with house emissions; a 10-star house does not produce a net zero outcome. Rather, it relates only to the heating and cooling elements. If the objective is to reduce emissions, renewable energy ought to be the focus. Dispensation for star ratings in rural areas is currently legislated through SA variations, it is obtained when a larger amount of on-site renewables are used. This makes sense and is better attuned to meet COAG targets in lieu of increasing the star rating.

4.2.3. Future energy outcomes.

The state is pushing hydro energy as a means of power supply for this state, we are heading towards a carbon neutral grid. In our opinion, this negates the need for passive design (building materials within the structure). Although this is proposed under a long-term strategic plan, star ratings will be of less significance in the future.

4.2.4. Further investigation

Acknowledging other states have concerns regarding the implementation of 7 stars, it would be prudent for the South Australian government to perform their own investigation into the relationship between planning and building requirements with regard to the 7-star model.

HIA does not discredit the need for sustainable development but believes the manner in which improvements are executed requires further deliberation and consultation. We have called on the government to postpone 7-star implementation based on this argument.

4.2.5. National adoption

Other states have accounted for extenuating circumstances regarding the viability and credibility of 7-star performance and have extended their transition periods as follows

- **Tasmania** will not be adopting 7-stars.
- **Northern Territory** will make limited changes to existing requirements, remaining at 5-stars.
- **Western Australia** will not be adopting 7-stars for houses until 1 October 2025 while apartments are scheduled for 1 October 2024.

4.3. PLANNING POLICY - OVERLAYS

Many Development Applications are removed out of the DTS pathway because of planning overlays. Although we understand the need for designated policy with regard to environmental or cultural factors, some overlays appear onerous.

The Hazard (flooding - evidence required) Overlay is a major inhibitor for DTS Development, it was introduced into the P&D Code without consultation. Although we were given the opportunity to comment on other flood hazard policies, this specific policy was delivered in hast and was a major surprise to us.

Governments need to be responsible for providing greater certainty when constraints are introduced to land through zoning. In applying planning and environmental controls, Governments should firstly verify and then disclose all known restrictions they intend to use. An ill-informed outcome can produce results that include unexpected delays and uncertainty around financial risk (refer to the attached HIA Policy *Truth in Zoning*). HIA feels this overlay has done just that.

HIA agrees with the principle of applying policy addressing flooding where needed, however, the Panel should explore ways in which very minor flooding does not trigger a performance assessed process.

Currently, Development Applications that do not have a finished floor level 300mm above the top of kerb or primary street boundary automatically fall outside the DTS pathway; a large portion of Adelaide is captured under this overlay.

Although it is acknowledged the state is currently examining the accuracy of flood mapping boundaries, outcomes from this work may take years to eventuate.

We believe resolutions can be reach within the DTS provisions by having higher thresholds for base compaction (fill) where allotments are below the street level. We suggest the following DTS/DPF criterion be added to Part 3 – Hazard (Flood Evidence required) Overlay, as highlighted in green

Habitable buildings, commercial and industrial buildings, and buildings used for animal keeping incorporate a finished floor level at least 300mm above:

- (a) *the highest point of top of kerb of the primary street; or*
- (b) *the highest point of natural ground level at the primary street boundary where there is no kerb; or*
- (c) *the predicted level of flooding*

4.4. DTS/DPF PROVISIONS WITHIN THE P&D CODE

Below are a list of DTS/DPF clauses HIA would like to bring to your attention. We believe making minor amendments to each of these will have a significant impact on the P&D Code's usability without compromising the performance objectives.

4.4.1 General Policy: *Design in Urban Areas – DTS/DPF 17.2 and Design DTS/DPF 11.2*

****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 (specified in PO 17.2) may seem like a practical solution to provide guidance for people who do not ordinarily enter the premises, it is not the only means in which direction can be provided. As an example, a multitude of buildings can be found within the Adelaide Hills region where visitors are not directed by a visible front door. To our knowledge, this does not create a logistical problem for visitors entering the property.

It is our opinion the wording within this clause should be changed from entry door to **entry "point"**; the intent of the performance outcome is still maintained.

4.4.2 General Policy: *Design in Urban Areas – DTS/DPF 19.1 and Design DTS/DPF 13.1*

**** a total area of soft landscaping of 25% is retained for buildings greater than 450m²***

We are concern about open space dimensions within residential allotments. Parcel of land over 450m² will not be able to facilitate minor domestic structures considered medium in size, this is with consideration to minimum site coverage and soft landscaping requirements.

For such examples, we suggest either site coverage or soft landscaping provisions are relaxed to allow greater flexibility in personal choices for outdoor recreation and storage buildings.

4.4.3. General Policy: *Design in Urban Areas – DTS/DPF 20.2*

****Each dwelling includes at least 3 design features within the building elevation facing a primary street, and at least 2 design features facing any other public road***

Stipulating design requirements within the Code not only has the potential to restrict innovation, but also foster urban amenities with repetitive streetscapes.

HIA objects to planning laws "designing" the appearance of a house. New market products and architectural philosophies ought to drive desirable appearances.

As a compromise, we recommend design features are reduced to **2** for primary streets and **1** when facing other public roads.

4.4.4. General Policy: *Design in Urban Areas – DTS/DPF 22.1*

****Residential development incorporates soft landscaping with a minimum dimension of 700mm.***

Dwelling site area (or in the case of residential flat building or group dwelling(s), average site area) (m ²)	Minimum percentage of site
>200-450	20%

****At least 30% of any land between the primary street boundary and the primary building line.***

HIA are concerned about open space dimensions within medium size residential allotments. It is possible a 450m² parcel of land supporting either a detached or semi-detached dwelling will not be able to accommodate minor domestic structures of medium size where Deemed-to-Satisfy limits (herein referred to as DTS) are applied.

HIA suggests the site coverage and soft landscaping provisions are relaxed to allow greater flexibility in personal choices for outdoor recreation and storage facilities. Analysing the intent of the Code versus the likely delays, we request the DTS be changed with a **5% decrease** in minimum landscaping percentages for sites that are between 200 and 450m².

This decrease should also be applied to the “30%” landscaping requirement in front of residential development, so that the excepted minimum becomes 25%.

Furthermore, a minimum dimension of 700 mm width is currently required for soft landscaping. We believe this is excessive, considering a 500mm dimension would likely be accepted under a performance assessed pathway.

HIA calls for the minimum landscape widths to be reduced to 500 mm.

4.4.5. General Policy: *Design in Urban Areas – DTS/DPF 34.2*

***Battle-axe or common driveways satisfy (a) and (b)**

(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).

HIA believes a 1 metre dimension listed in (b) is excessive for battle-axe allotments. Prior to the Code, landscaping widths were known to be approved at **500 mm** alongside driveways leading to rear allotments.

We believe a 500 mm width achieves an appropriate amenity response and should be considered as part of a revised DTS solution within the Code.

4.5. TERMS AND DEFINITIONS

Under Part 1 of the Code, guidance is provided to the relevant authority for administration purposes. Within this Part, it makes reference to Section 106(2) of the Act (PDI 2016) and minor variations.

HIA strongly encourages a generic term for “minor variations” be inserted into Part 8 so that it can be applied throughout the Code. Parts of a Development Applications that may be affected by minor variations include the following.

- Private open space – including communal
- Car parking – including undercroft, off street and driveway (slopes)
- Landscaping
- Allotment sizes
- All Setbacks
- Finished floor levels

- Materials – including window sizes
- Obscured glazing and screening
- room dimensions
- Floor areas – including internal and minor domestic
- Roof pitches
- Fixed plant and equipment
- Storage – including bins, internal
- water storage (tanks)
- Excavation.
- Public notifications requirements

To ensure minor variations are assessed with consistency by the relevant authority, HIA recommends each element has a set **±5% variance value** as a limit. While we understand values may create a substitute benchmark, industry often works to common dimensions i.e. whole numbers.

Allowing the relevant authority to use minor variations provides much needed flexibility within the Code, having variance values associated with them will substantially reduce enquiries and lead to quicker assessment turnarounds. This ultimately saves time and money for all stakeholders.

4.6. OTHER MATTERS

HIA have concerns on other matters within our industry, namely

- The transparency of legal advice/documents received by relevant authorities specific to Development Applications.
- The difficulties experienced by applicants when changing nominated relevant authorities during the assessment process.
- Conflicting information between internal council referrals (sometimes experienced).
- Delays where Development Applications are without Certificate of Titles (often being settled).
- Delays associated with Septic approvals.

CONCLUSION

HIA believes the review of the state planning system should respond to long term policy principles set by the government. We welcome practical solutions that address policies aimed at facilitating a liveable city with greater housing choice, as identified in the states 30-year strategic plan.

The overarching criteria a review must consider is the community's capacity to embrace and apply the changes. Our industry, already hurting because of material shortages and a lack of tradespeople, is under enormous pressure. A balancing act must be performed by the government when instigating system changes and improvements for the purpose of clarity and building productivity.

Above all, the system relies on the speed of delivery and quality outcomes, the points we have raised are an effort to assist both. We implore the Commission come up with appropriate solutions based on an agreed position between industry and the government.

For further information on HIA National Policies, the following documents have been included within this submission. 1) *Principles of a Good Planning System*; 2) *Planning Reform*; 3) *Delegated Development Assessment*; 4) *Infrastructure Charges and Levies on Residential Development* and 5) *Truth in Zoning*



Principles of a Good Planning System

Policy Background

- In 2001, HIA launched a national position statement on planning systems, known as Better Living Environments. The position statement focused on three core tenants – flexibility, predictability and affordability. Within these tenants, various case studies and examples of good planning practices that would assist in the delivery of new land and housing were identified.
- Following Better Living Environments HIA has developed a series of policy statements that address individual elements of the planning system, covering issues such as ‘truth in zoning’, managing urban land supply, development contributions, subsidised affordable housing and more. Today these planning policy statements form the basis of HIA’s advocacy for an improved planning system.
- It was agreed there would be benefit in creating a statement that concisely sets out the fundamentals of a good planning system that can serve as a foundation statement on the planning system and the delivery of land and residential developments.

Policy Issues

- In the absence of other regulatory levers, the planning system is now seen as the panacea for any matter that governments believe warrants oversight, making the system extremely complex for all parties to navigate.
- Over the last decade, policy makers have sought to address a growing list of social and environmental issues that have not traditionally been matters for consideration in the planning system.
- A planning system must recognise the importance of delivering housing affordable outcomes. This can only be achieved where the planning system manages the zoning of land and the development of that land in a timely manner balancing the social, economic and environmental benefit of the whole community.

HIA’s Policy Position on Principles of a Good Planning System

1. Certainty

- a. The planning system must provide certainty to those utilising it.
- b. Planning codes and policy must be clearly written to provide certainty to the users and planning authorities of the items that are required to be addressed and the available scope for discretion in decision making.
- c. Assessment and determination processes must be reasonable, efficient and relevant to the zoning of the land and other known constraints on the land.
- d. The planning system should seek to eliminate repetition and duplication of information requests and assessments.
- e. Planning application requirements must not overlap or exceed building application requirements.

- f. Planning systems must support truth in zoning by facilitating the development of permitted land uses within each zone.
- g. Planning systems should not permit the retrospective application of 'new' requirements or constraints unless compensation is provided to property owners who lose a development right.
- h. Fees and charges for planning services should reflect the cost of assessment, be readily calculated and be disclosed prior to lodgement of any application.
- i. Planning codes and policies should not incorporate technical building requirements.

2. Consistency

- a. Policies developed to guide planning decisions must be written in concise language and be readily and consistently interpreted.
- b. The planning system should support consistency of outcomes by providing adequate guidance for design development and decision making.
- c. Planning design codes should be applied at the highest level (i.e. state government) to avoid ad-hoc design standards across individual local council areas.

3. Flexibility

- a. Planning codes and policy should include both performance objectives and prescriptive standards to provide a degree of flexibility and support changing housing market trends and innovation in housing design and technology.

4. Transparency

- a. The planning system should be transparent to the community and the development industry.
- b. Planning decisions should be easily understood and have limited potential for real or perceived intervention or influence.

5. Simple, clear processes

- a. The planning system should provide processes that do not create undue regulatory burdens for users.
- b. Information requirements should be concise, with clear obligations, steps and timelines for the provision of details to the planning authority by an applicant.
- c. Planning assessment and determination processes must be reasonable, efficient and relevant to the zoning of the land and type of development proposed.
- d. The planning and building systems must provide a single approval pathway for single dwellings and dual occupancy dwellings on land zoned for residential development.

6. Strategically led planning

- a. The planning system should embed a strategic approach to spatial planning which balances competing priorities and requires planning authorities to take a holistic approach to achieving planning outcomes, recognising a balance between economic, social and environmental factors.

7. Independent, merit based decisions

- b. Planning decisions should be made by informed, independent parties based on the merits of the application, compliance with any relevant statutory requirements and a sound evidence base.

8. Accountability for decisions

- a. Planning system should provide clear accountability for the decision making processes and the decisions made on behalf of the community.
- b. All planning decisions (zoning, subdivision, development) should be provided with a right of appeal to an independent administrative body.
- c. The planning system should not allow multiple planning authorities or agencies to be responsible for overlapping requirements or the duplication of requirements and approval obligations.

9. Outcome oriented decisions

- a. Decisions in an effective planning system must be focused on the outcomes, rather than details that have little bearing on the impact of development on the community.
- b. The planning system should facilitate:
 - i. The development of land in an economically viable manner in accordance with its zoning.
 - ii. The timely zoning of land for residential purposes based on a transparent strategic assessment involving all relevant agencies with clear roles and responsibilities for all stakeholders.
 - iii. Governments managing land supply, in consultation with the residential development industry, to ensure there is an adequate supply of land at each stage of the land supply pipeline.
 - iv. The delivery of public infrastructure that supports residential land zoning and development in a timely manner for the social and environmental benefit of the whole community.

10. Timely decision making

- a. Timely decision making means compliance with statutory timeframes where they exist, recognition of the importance of economic investment that results from development approvals and agreement between decision makers and applicants on a program to decision making.



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

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.



Delegated Development Assessment

HIA's Position Statement

1. HIA supports the introduction of delegated development assessment in planning to ease the burden on planning authorities and see improved performance of planning systems.
2. Suitable models of delegated development assessment could include but are not be limited to:
 - a. Pre Lodgment Endorsement – whereby a private sector planner would sign off on certain essential key elements of the planning application such as that the application complies with the planning scheme requirements, is complete and that affected parties have notified.
 - b. Assessment to Report Stage – whereby a private sector planner undertakes pre-lodgment endorsement and adds the notification procedure and undertakes to make a formal assessment and drafting of a report to Council officers or Council.
 - c. Full Approval Process – whereby a private sector planner undertakes the full planning process including full report writing and being empowered to make a decision and simply lodge the determined application (similar to the manner in which building certification occurs) with the local authority. Items which are able to be 'code assessed' are ideal for a full approval process.
3. All jurisdictions should ensure delegated development assessment is available to a planning authority (i.e. local councils) for any planning matters, including engineering works, requiring planning approval that are able or required to be code assessed. That is, any matter that is able to be code assessed by a Planning Authority should also be eligible for a suitably qualified planning, engineering or building professional to 'sign off' and issue the appropriate approval or report.
4. A request to amend a matter that has been code assessed using delegated development assessment should also be able to be assessed in the same manner.
5. State Governments should maintain a suitable list of private planning consultants that meet the requirements for undertaking delegated development assessment. Any consultant not acceptable to a council should be entitled to appeal that decision to either the State Planning Minister or the relevant State Appeals Tribunal.

Background

This policy was previously titled Certification in Planning.

Rather than a threat private sector or third party involvement in development assessment should be seen as a means of improving a Council's development assessment performance.

Local Governments particularly those struggling with heavy workloads, in regional locations, or those unable to attract qualified staff should facilitate a process whereby suitably qualified professionals could assist the council to assess and potentially approve low risk development applications on behalf of the council.

Access to a pool of additional appropriately qualified professionals to undertake routine assessments of applications that meet codified requirements set by that council should allow more time for key staff to undertake more strategic activities such as policy development and assessment of more complex merit based development applications.

The introduction of 'code assess' measures by many state governments has led to a more objective approach to many simple applications.

It is this area of planning which could logically lend itself to the further introduction of delegated development assessment in planning – due to the simple nature of the applications with technical assessment measures.

Delegated Development Assessment could be easily integrated into applications for routine items that still require planning permission (fences, single dwellings and so forth) leaving authorities better placed to deal with applications that require more detailed assessment and strategic consideration.

Delegated Development Assessment is a process that enables suitably qualified persons to determine compliance of a matter with regulatory controls or standards.

Whilst there is wide scope for the private sector to assist with all aspects of the planning process, authorities are reluctant to introduce it as a valid part of the planning assessment process.



Infrastructure Charges and Levies on Residential Development

Policy Background

- Levies and charges applied to development to cover physical and social infrastructure significantly affect new housing affordability. They are in effect a tax on new homebuyers.
- Most states and territories, through the planning system, can apply a charge on new residential developments via an infrastructure development contribution scheme of some type.
- Over the last decade, the charges being applied through these infrastructure development levy schemes have become increasingly significant. This is partially due the large range and high quality of facilities being requested by authorities and in many cases a conscious decision to shift the majority of the upfront costs onto new developments.
- The levies are now so significant they are impeding orderly and affordable residential development from occurring and significantly adding to the upfront costs of new homes.
- State governments have recognised the negative impact levies have on residential development and introduced ways to slow increases through either standard development levies or capped development levies. However, there is no clear evidence this approach has lowered the charges payable and improved the final cost of a new home.
- Some councils are attempting their own approach to the levies which can result in more levies and varied amounts being charged.

Policy Issues

- Development charges and levies can encompass two types of infrastructure provision:
 1. *Development specific infrastructure* – being items which are directly attributable to new development, defined as those items that are necessary to create the allotment without which the development could not proceed, for example:
 - local roads;
 - drainage;
 - stormwater;
 - utilities provision;
 - land for local open space; and
 - direct costs of connecting to local water, sewerage and power supplies.
 2. *Community, Social and Regional Infrastructure* – being items of broader physical, community and social infrastructure which are ancillary to the direct provision of housing in a new development and support residents outside that development, for example:
 - headworks for water, sewerage and power supplies which may be part of a specific contributions plan;

- community facilities such as schools, libraries, child care facilities, medical centres and retail facilities;
 - district and regional improvements such as parks, open space and capital repairs;
 - social improvements such as library books;
 - public transport capital improvements;
 - district and regional road improvements;
 - employment services;
 - subsidised housing; and
 - conservation of natural resources.
- Levies for community, social and regional infrastructure are typically applied by either local and/or state governments through the planning system.
 - In many cases the levies are charged without the establishment of a nexus between the infrastructure item and the community who will benefit and use it, without transparency in the collection and without any consideration of the impact on housing affordability.
 - Levies of this kind are being viewed as a primary funding source for community, social and regional infrastructure, despite the benefits from that infrastructure being enjoyed by the whole community.
 - Whilst development specific infrastructure has a nexus with the allotment or building and directly benefit future home owners community social and regional infrastructure may have limited or no nexus with the population who will occupy the homes in a new development.
 - Many items of community, social and regional infrastructure end up in private ownership and are operated on a commercial basis once delivered, such as child care and medical centres. This represents a double charge for new home buyers.
 - Every dollar charged in infrastructure contributions adds multiple dollars to the end price of a home as a result of multiple factors including delays in the calculation and setting of the levies, the uncertainty of this process and associated risks, the delays in developments commencing and increased mortgage repayments by the developer and the homebuyer required over time.

HIA's Policy Position on Infrastructure Charges and Levies on Residential Development

1. *Development specific infrastructure* which provides essential access and service provision and without which the development could not proceed are considered to be core requirements for housing development and should be provided in a timely manner to facilitate affordable development. These infrastructure items within the boundaries of the development should be provided by the developer as part of the cost of development.
2. An up-front charge against a new development is the least efficient manner in which infrastructure costs may be recovered.
3. The costs of broader *community, social and regional infrastructure* should be borne by the whole community and funded from general rate revenue, borrowings or alternative funding mechanisms.
4. The imposition of up-front levies on new homebuyers for *community, social and regional infrastructure* is inequitable, discriminatory, inflationary and erodes housing affordability.
5. Where up-front infrastructure levies currently exist for *community, social and regional infrastructure* and until such time as these levies are eradicated in line with dot points 1-4 above:
 - The establishment and calculation should be identified by the authority and be embedded within a statutory planning instrument prepared at the time of approval of land for urban development;

- Governments should be required to prepare a full cost benefit analysis of the impact of any proposed infrastructure levy on housing affordability prior to any implementation;
 - The manner in which the up-front levies are costed should be transparent and cover capital and implementation costs only. All ongoing and maintenance costs should be recovered by means of an annual rate or charge and not permitted to be part of the levy calculation;
 - Any levies implemented should provide certainty and consistency for future development and home owners about the infrastructure to be delivered, costs to be funded and timing of delivery;
 - Levies should be collected at the latest stage of the development process, just prior to the creation of legal title or prior to occupation;
 - Once adopted levies should not be subject to any change or variation apart from defined cost of living increases or similar indexation to allow for inflation;
 - The amounts collected should be fully disclosed and reported to State Parliament annually and also reported by local councils to their own communities via annual reports.
6. Levies which are applied by Governments for state based items of infrastructure should be:
- Established and collected in the same manner as those collected by local government as established above; and
 - Expended in the same area from which they were collected.
7. Any funds which have been collected for infrastructure which is not subsequently provided within the planned timeframes should be refunded to the property owner of the development either as soon as the decision is made to eliminate the proposal or at the expiry of the specified time frame.



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.

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

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 landowners.

Constraints to be Identified when land is Zoned for Urban Development	
Environment and landscape overlays	Could include environmental significance overlay Vegetation protection overlay Significant landscape overlay
Heritage and built form overlays	Heritage overlay Design and development overlay Incorporated plan overlay Development plan overlay Neighbourhood character overlay

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:	<ul style="list-style-type: none"> • 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)