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3rd December 2018

Northern Territory Government
Department of Environment and Natural Resources
via email: environment.policy@nt.gov.au

HIA Submission: Draft environment protection legislation

On behalf of the Housing Industry Association (HIA) I am writing to provide you with our position in relation to the review and reform of the current environmental regulatory system. It is understood the draft Bill and Regulations will replace the existing *Environmental Assessments Act* and *Environmental Assessment Administrative Procedures*.

Overview

HIA is Australia's peak residential building industry association. HIA members comprise a diversity of residential builders, including all Top 100 builders, all major building industry manufacturers and suppliers as well as developers, small to medium builder members, contractors and consultants to the industry. In total HIA members construct over 85% of the nation's new housing stock.

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 and development industry.

As there are a range of HIA members that are involved in the matter of environment protection either as their primary business or carrying out work that requires environment protection to be considered and regulatory processes undertaken this correspondence does not attempt to address the breadth of views individual members may have with regard to this matter.

Using HIA communication streams such as Building News and eNews HIA will continue to inform our members of the new environment protection legislation and keep members up-to-date with future consultation timelines for the overarching environmental regulatory framework to enable members who are involved with environment protection matters to familiarise themselves with the new legislation and lodge their own individual response if desired.

HIA Submission

HIA supports planning reform as a means of ensuring planning and environmental regulatory systems remain modern and have the capability to appropriately respond to the on-going range of contemporary matters. Attached is HIA Policy – Planning Reform.

Outlined below are the concerns HIA has with regard to the introduction of the new environmental protection legislation:

- The new legislation and associated regulations will protract assessment and determination timeframes – this is untenable as the NT must develop a stronger focus to grow its economy through attracting interstate and overseas investment.

- Proposed provisions for third party appeals in merit reviews is regressive and high risk to the planning and environmental approvals process as it will encourage vexatious appeals. Tighter regulation, developed in consultation with industry, as to who and in what circumstances a valid appeal can be lodged must be developed.
- Ministerial powers to declare environmental objectives and establish referral and approval triggers could benefit from greater clarification to avoid waiting till case history provides such clarity. It is considered a pragmatic approach could be, following rigorous and robust consultation with industry, to prepare a succinct Ministerial Guideline / Direction.

HIA submit it is crucial that any planning and environment regulatory reform adds value to the overall planning and environment approvals system. Increases in effectiveness and efficiency and a demonstrated preparedness from a range of investors including local, interstate and overseas to commit to projects are key to determining if planning reform has in fact added value.

Yours sincerely
HOUSING INDUSTRY ASSOCIATION LIMITED

Mike Hermon
Executive Director – Planning & Development



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 uncoded.
 - government’s continued monopoly in undertaking all development assessment work, accompanied by a shortage of skilled planning and associated staff, particularly at the local government level;
 - the rigid application of development standards that generally discourage housing mix and choice and limits the ability of the market to deliver accommodation types that suit demand.
- If the housing industry is to operate successfully in Australia, red tape and bureaucratic differences in the planning system need to be slashed.
- The core of reform should be based around predictability with the ability to clearly demonstrate that a proposal meets performance guidelines, legislated standards or codes.

HIA's Policy Statement on Planning Reform

HIA supports:

1. consistent planning regulation, with standardised approaches to planning scheme layouts, appropriate levels of assessment for development types and clear frameworks for the introduction of changes which affect building fabric and design.
2. planning performance being subject to a continual benchmark program that binds all levels of government to ongoing and consistent planning practice improvements - including the potential for them to be tied to national competition policy payments.
3. mandatory Regulatory Impact Statements for new planning requirements. This includes a comprehensive cost benefit analysis with a particular emphasis on housing affordability by any level of government seeking to introduce new planning regulation recognising that there can be economic, social and environmental benefits from a proposal. The cost benefit analysis must be positive for any new planning requirements to be introduced.
4. housing affordability as an objective in all state planning legislation, local and regional planning schemes.
5. streamlining of planning systems which includes the use of:
 - standardised planning requirements;
 - prescribed third party notification and timely processes for referrals;
 - as of right approvals on complying residential approvals;
 - simplified referral processes;
 - the involvement of the private sector in the planning approvals process including necessary engineering approvals required following planning approval;
 - e-Planning processes for lodgement and assessment of planning approvals; and
 - the implementation of independent Development Assessment Panels (DAPs) or regional decision making bodies, where approvals are not determined by delegation.

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

HIA does not support:

6. technical regulation introduced through planning systems in particular, prescribed minimum requirements, which should be applied through the Building Code of Australia (BCA) or which are in conflict with existing standards in the BCA and Australian Standards.

Attachment A: HIA Planning Reform Principles

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

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

Model Planning Schemes

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

HIA supports:

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

As of Right Development – One Approval – Code Assess

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

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

HIA supports:

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

Third Party Objections

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

HIA supports:

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

Referrals

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

A simplified referral process including the potential for a one stop shop process which allows for earlier consultation on issues is desirable with standardised time frames for responses and co-operative 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:

5. *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.*