

**Submission  
No 11**

**INQUIRY INTO THE PROTECTIONS WITHIN THE VICTORIAN  
PLANNING FRAMEWORK**

**Organisation:** Housing Industry Association

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HOUSING INDUSTRY ASSOCIATION



# Housing Australians

**Parliamentary Inquiry into the Victorian Planning Framework**

Legislative Council Environment and Planning Committee

**December 2021**

HOUSING INDUSTRY ASSOCIATION



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## ABOUT THE HOUSING INDUSTRY ASSOCIATION

The Housing Industry Association (HIA) is Australia's only national industry association representing the interests of the residential building industry.

As the voice of the residential building industry, HIA represents a membership of 60,000 across Australia. Our members are involved in delivering more than 170,000 new homes each year through the construction of new housing estates, detached homes, low & medium-density housing developments, apartment buildings and completing renovations on Australia's 9 million existing homes.

HIA members comprise a diverse mix of companies, including volume builders delivering thousands of new homes a year through to small and medium home builders delivering one or more custom built homes a year. From sole traders to multi-nationals, 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 the 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.

## 1. TERMS OF REFERENCE

HIA understands the Committee will consider the entire Victorian planning system including the provisions of the Planning and Environment Act 1987, State and local policy provisions, the operation of zones and overlays and the way permit applications and rezoning requests are dealt with.

A list of topics covered in this submission is listed at part 4. “Topics in this submission”.

## 2. INTRODUCTION

HIA is pleased to have the opportunity to comment on Parliament’s Inquiry into the *Victorian Planning Framework*.

Major reviews of the Victorian Planning System in just over the last decade have included but are not limited to:

1. *Modernising Victoria’s Planning Act*, Department of Planning and Community Development (formerly DPCD now DELWP), 2009
2. *Review of Victoria’s Planning System*, Victorian Planning System Ministerial Advisory Committee (MAC), 2011
3. *Managing Victoria’s Planning System for Land Use and Development*, Victorian Auditor-General’s Office (VAGO), 2017
4. *Planning and Building Approvals Process Review*, Better Regulation Victoria (BRV), 2019 (also known as the “Red Tape Commissioner” review)

A common thread has arisen from these investigations that the system is being overloaded with regulatory requirements, growing in complexity and not operating in the efficient manner needed. This is reflected in a selection of comments published in each of these reviews, as follows:

### ***Modernising Victoria’s Planning Act (2009)***

There is a need to “*Simplify the current laws, eliminate duplication, remove redundant provisions, modernise the language and strengthen certainty and timeliness in the planning process.*” (DPCD, 2009)

And “*Streamline the growth area planning process to ensure that zoned land is available in a timely manner for future urban development.*” (DPCD, 2009)

### ***Review of Victoria’s Planning System (2011)***

“*It is imperative that the planning system works efficiently, facilitates timely and accountable decision making, produces high quality outcomes and regulates only when necessary.*” (MAC, 2011)

“*In seeking to improve the operation and efficiency of provisions, the review should seek to ensure that provisions:*

- *are properly aligned to policy objectives*
- *do not impose unnecessary costs and delays because of their requirements.*” (MAC, 2011)



*“Timelines are rarely adhered to and in other areas there are no timelines at all. Consequently, delays cause frustration and disappointment and sometimes disillusionment. Costs are higher through delay and as a result, there is an increasing propensity for ad hoc processes and interventions in the planning system to try to compensate for the perceived lack of timeliness in decision making.” (MAC, 2011)*

### **Managing Victoria’s Planning System for Land Use and Development (2017)**

Paraphrasing VAGO (2017) the key objectives of previous planning scheme reforms have been to:

- *develop performance-based planning schemes with state-wide consistency*
- *simplify the planning system, particularly its complex system of controls*
- *improve the efficiency of assessment processes and decisions by streamlining assessment and approval processes and reducing red tape*
- *improve reporting transparency, including the time taken to assess planning proposals.*

According to the VAGO report, past reforms have had little impact on fixing other systemic problems impeding the effectiveness, efficiency and economy of planning schemes.

Paraphrasing VAGO the issues have been continuous, i.e.:

- *vague and competing state planning policy objectives and strategies*
- *a lack of specific guidance to address key planning challenges, such as social and affordable housing, climate change and environmentally sustainable development*
- *an overly complex system of planning controls in local planning schemes*
- *lack of performance measurement*
- *lengthy delays in the processing of planning proposals at unnecessary cost for applicants*

“These systemic weaknesses exist because of the poor uptake and implementation of review recommendations.” VAGO states this is due to:

- *a lack of prioritisation, time, action and resources to support implementation*
- *a lack of continuity in reform processes*
- *the absence of a good project management structure to oversee the work required*

### **Planning and Building Approvals Process Review (2019)**

*“A planning system where approvals take far too long leaves all participants in the system frustrated about the outcomes. Building approvals that have not prevented a series of systemic problems are clearly in need of review.” (BRV, 2019)*

*“There is scope to improve the interactions between all decision-makers (in the planning and building approvals system) and potentially deliver a significant efficiency dividend as a result of these reforms.” (BRV, 2019)*

Paraphrasing BRV, unnecessary delays in planning and building processes have lead to:

- *keeping families in the private rental market for longer periods than necessary before their houses are ready, incurring significant cost;*
- *putting upward pressure on house prices and rents;*
- *increasing costs of necessary permit approvals;*
- *developers incurring significant additional holding and opportunity costs.*



## What are the implications of a failing planning system on land supply?

Systematic failure that impedes the delivery of residential land to market in an orderly manner, or that impacts on the policy principle to have at least 15-years of residential land supply available, will increase the cost of residential lots and therefore adversely impact on housing affordability. This is at a time when the state is experiencing significant upward pressure on demand for new housing.

HIA recently made a submission to DELWP's Land Use Planning Framework (LUPF) for Melbourne, and principally pointed out the Government's growth projections are too low. The Victoria in Future 2019 (VIF) study (used to inform the LUPF), projects net households to grow by an average of 1.9% between 2016 and 2036, and by 1.6% overall between 2016 and 2056. HIA Economic data estimates Melbourne's dwellings are expected to grow by an average of at least 3.0% per annum between 2016 and 2051.

REGION	TOTAL MELBOURNE NET DWELLING ADDITIONS 2016 TO 2051								
	TOTAL (1.6%)	TOTAL (3.0%)	DIFF.	ESTAB. (1.6%)	ESTAB. (3.0%)	DIFF.	G/FIELD (1.6%)	G/FIELD (3.0%)	DIFF.
Inner Metro	235,000	267,489	32,489	235,000	267,489	32,489	0	0	0
Western	402,000	457,577	55,577	197,000	224,236	27,236	205,000	233,342	28,342
Northern	347,000	394,973	47,973	182,000	207,162	25,162	165,000	187,812	22,812
Inner South-East	124,000	141,143	17,143	124,000	141,143	17,143	0	0	0
Eastern	202,000	229,927	27,927	202,000	229,927	27,927	0	0	0
Southern	303,000	344,890	41,890	194,000	220,821	26,821	109,000	124,069	15,069
<b>Total Melbourne</b>	<b>1,613,000</b>	<b>1,836,000</b>	<b>223,000</b>	<b>1,134,000</b>	<b>1,285,200</b>	<b>151,200</b>	<b>479,000</b>	<b>550,800</b>	<b>71,800</b>
	100%	100%		70%	70%		30%	30%	

Table 1. Extract from the Inner Metro LUPF with 3.0% growth scenario for Melbourne

In summary, it is expected that by the year 2051 **Melbourne needs to provide enough new housing for population growth equivalent to adding "another Melbourne" of population at the year 2000 (i.e. circa 4 million people)**. Contextually applied to the whole of Victoria, we can expect to see around 1 million additional dwellings between 2016-2036 and almost 2.5 million additional dwellings between 2016-2051. This includes working from a Covid-19 impacted base case in 2020, with a short-medium drop in multi-unit commencements.

According to the *Planning and Building Approvals Process Review Discussion Paper* (2019), Plan Melbourne (Direction 2.4) has highlighted the critical role the planning system plays in ensuring an adequate supply of well located, affordable housing, while maintaining Victoria's liveability. Plan Melbourne has identified the need to better streamline approvals for housing proposals that do not raise strategic policy issues through more code-based approaches to assessment.

**Estimates by SGS Economics are for each additional day applications are delayed in the planning system the residential sector occurs \$7,600,000 in cost**, which is putting upward pressure on house prices.

According to the *Urban Development Program Metropolitan Melbourne Broad hectare* (2018) report by DELWP, "by mid-2018, the median lot price in Melbourne had increased 55 per cent in two years and had exceeded the national average."

**It apportions blame for rising land prices to inefficiencies in the planning system.** "Had planning approvals processes for approving subdivisions been faster, supply would have been able to respond more quickly and the impact on Melbourne lot prices could have been mitigated. This example highlights the need to reduce any unnecessary delays in Victoria's planning and building approvals, and to improve its ability to adapt to changing trends in housing demand."

The report goes on to state while new lots have been approved at record levels in the Growth Areas between 2016-2018, at the current rate the supply of titled land will not fulfill the target of 15 years ready. Additionally the Federal Government's HomeBuilder grant announced in June 2020 sharply increased demand for titled land, resulting in an immediate draw down of already dwindling reserves.

### 3. EXECUTIVE SUMMARY

First and foremost when making its recommendations from this review, HIA implores the Committee to acknowledge the review of the Red Tape Commissioner into the Planning and Building System; and DELWP's commitments towards bringing about positive change outlined in the Report *Turning Best Practice into Common Practice* (2021).

HIA has presented the Committee with ideas that support or build on the Red Tape Commissioner review, that are ultimately working towards improving the planning system. This starts with the call to remove unnecessary matters from the planning system, with potentially the highest consumer of resources bring the **single dwelling planning permit**. HIA's "One house one approval" policy demonstrates the adequacy of the Building Regulations 2018 to manage a single dwelling approval.

HIA suggests removing the lot size trigger for planning permission for a single dwelling and exploring the adequacy of Part 5 of the Building Regulations 2018 in addressing siting and design matters. Otherwise a **specific code for small infill lots** could be developed to remove the need for a planning permit.

DELWP's proposed **ResCode** operational model with 'deemed to satisfy' provisions replacing discretionary standards creates a level playing field for applicants with ResCode compliant designs. This will lead to better applications, faster decisions and a steadier pipeline of new housing supply.

In considering the role **ESD and canopy trees** play in mitigating against the urban heat island effect, planning policy should not compromise the supply of diverse and affordable housing that must safely co-exist with canopy trees for the long term. The NCC and not the planning system is the preeminent tool to determine ESD built form outcomes.

It is important for the State Government to monitor **the number and extent of Overlays**, the permit triggers of the Overlay and whether they are essential. Overlays capture more types of development, bringing some into the planning permit system that is unnecessary. Some matters could be adequately addressed via the building permit system.

A system of **shorter planning processes for simple matters** is required to more appropriately deal with matters where there is only one permit trigger. Some matters do not warrant a full merit assessment process and should only be considered against the relevant criteria. The introduction of a planning permit assessment system that creates efficiencies by using different assessment pathways is preferred.

**Adoption by councils of pre-lodgment certification by a private planner** is recommended. The private planner would certify that the application is complete and meets the minimum requirements as set out in the planning scheme and a decision can therefore be made by the council without further delay.



Other **Planning and Environment Act** matters have also been explored to reduce timeframes and provide certainty to industry. Recommendations have been made around public notification procedures and pre-application meetings to improve the effectiveness of the permit process.

Recommendations around **the planning scheme amendment process** include steps to improve timing of amendments and provide more certainty around the process. When councils refuse to consider an amendment, a review mechanism should be available to progress an amendment that has merit.

In terms of strategic matters, HIA has addressed the need for **an adequate residential land supply in urban areas to accommodate population growth**. This is even more prudent for Victoria given the resistance to apartment living in Melbourne compared to Sydney. HIA's policy on land supply is outlined in this paper and a key point is, for too long there has been inaction in relation to land supply restrictions imposed by a fixed UGB contributing to land shortages and price hikes in many of the growth corridors. The Boundary must be better managed into the future if land supply and house prices are to be factored into the current affordability crisis.

According to a broad representation of industry, the **imposition of up-front development levies** on new homebuyers is discriminatory, inflationary and erodes housing affordability. The introduction of the *windfall gains tax*, which industry estimates to generate revenues in the billions of dollars, is a trigger for major reforms of development contributions so the housing supply pipeline is not irreparably stifled.

**Sites of strategic importance** can and should sustain significant housing and economic growth. Councils have submitted that they are not adequately resourced to determine these projects in a reasonable timeframe. Therefore HIA believes there should be a designated central planning authority (e.g. the VPA) leading all these projects with the goal of benchmarking approvals inside two years.

**Operationally**, the role of local government planning is to facilitate balanced planning outcomes in a timely manner. Where outcomes are consistent with standards, objectives and decision guidelines of the planning system, they should be approved without delay. Contrary behaviour is stifling much needed development, significantly delaying decisions and increasing developer holding costs, all unnecessarily.

The competitiveness of the residential construction industry is significantly affected by cultural resistance to change, particularly planning delays which, in turn, has a negative effect on the cost of housing. Often the time taken to issue permits does not correlate with the complexity of the proposal or alter the final planning outcome.

HIA is hopeful that the recommendations of the Committee will result in changes to the planning system that will make local councils accountable and more efficient, reducing the regulatory and administrative burden of planning systems on the residential building industry thereby creating greater certainty in the process of land development and home building.

The benefits of these reforms would reduce unnecessary administrative costs that are associated with the planning system and which are ultimately passed onto the home buyer, eroding housing affordability.

## 4. TOPICS IN THIS SUBMISSION

For the Committee's consideration, HIA's submission discusses the following topics.

<b>Planning Policy Framework</b>	<b>Page</b>	<b>Red Tape Commissioner response (RTCR)</b>	<b>HIA support of RTCR</b>	<b>HIA alternative action/recommendation</b>
No planning approval for a single dwelling	10	No	N/A	One house one approval
Remove the minimum lot size for a single dwelling / expand Small Lot Housing Code	10	Adaptation of small lot housing code outside of Growth Areas	Part	Remove the minimum lot size for a single dwelling
"Improved operation of ResCode"	11	No	N/A	HIA generally supports what DELWP has exhibited to streamline ResCode approvals
Environmentally sustainable design (ESD), urban cooling and greening/canopy trees	11	No	N/A	If a state-wide policy is required, adopt a "no net loss" strategy for canopy trees rather than pursue an arbitrary canopy cover target
Consolidation of planning scheme requirements	12	Review of VPS content	Yes	Nil
Reduction of overlays and related permit requirements for a dwelling	12	This is partly addressed under "Smart Planning"	Yes	HIA would contribute to any future review by DELWP
Expansion of VicSmart permit pathway to two dwellings on a lot	13	Secondary dwelling code	Part	"Secondary dwelling" to include two dwellings on a lot i.e. a dual occupancy
Better Approvals approach	13	Coordinated planning and building approval	Yes	Nil
Avoid duplication of National Construction Code	13	No	N/A	There are ad hoc policy reforms contributing to this issue
Pre-lodgement certification	14	This is partly addressed under "Pre-application meetings"	Yes	Introduce private professional planner certification at the pre-lodgement stage
Heritage certainty	14	Heritage database update	Yes	Nil
<b>Planning and Environment Act 1987</b>	<b>Page</b>	<b>Red Tape Commissioner response (RTCR)</b>	<b>HIA support of RTCR</b>	<b>HIA alternative action/recommendation</b>
Standardised notice provisions	15	No	N/A	Standardisation and reduction of notification
Clear standards for	15	No	N/A	Reformed definitions and set a

“objection” and “detriment”				higher bar
Standardised Request for Information (RFI)	16	Yes	Yes	Nil
Standardised secondary consent	16	Yes	Yes	Further industry consultation is sought
Reformed <i>amended permit</i> process	17	No	N/A	Streamlined process whereby changes are minor
Reformed Referral Authority requirements	17	Yes	Part	Include a “deemed to consent” provision and improve applicant consultation with RAs
Statutory timeframes for planning scheme amendments	18	Yes	Yes	Further industry consultation is sought
Planning scheme amendment exhibition appeal rights	18	No	N/A	Appeal rights for abandonment prior to exhibition
Benchmarking for section 173 agreements	18	Yes	Part	Section 173 agreements should have a restricted role as a statutory tool
Precinct Structure Planning reform	19	Yes	Part	The Guidelines need flexibility for industry to streamline project delivery
<b>Other</b>	<b>Page</b>	<b>Red Tape Commissioner response (RTCR)</b>	<b>HIA support of RTCR</b>	<b>HIA alternative action/recommendation</b>
Independent planning authority for sites of strategic importance	20	This is partly addressed under “Priority Precincts”	Part	Expert independent decisions are needed to streamline sites of strategic importance
Review of the urban growth boundary (UGB)	20	No	N/A	A comprehensive review is required to ensure the 15 year supply is sustained
Recruitment drive for new Planning professionals	22	No	N/A	A collaboration of public and private resources can drive interest in the profession
Digitise the planning permit application process	22	Yes	Yes	Consider established models interstate
Standardisation of the pre-application meeting process	22	Yes	Yes	Introduce private professional planner certification at the pre-lodgement state
Development taxes/levies reform	23	No	N/A	HIA has outlined major reform ideas around WGT, DCPs and s173s
DELWP major projects pathway	25	No	N/A	Further industry consultation is sought
Standardised “deed of delegation” for local	25	Yes	Yes	Nil



government				
VCAT listing options	26	Yes	Yes	Nil
Best practice use of permit conditions	26	Yes	Yes	Further industry consultation is sought
Coordinated planning and building referrals	27	Yes	Yes	Consider including state-wide flood mapping in VicPlan
<b>Remainder of Terms of Reference</b>	<b>Page</b>	<b>Red Tape Commissioner response (RTCR)</b>	<b>HIA support of RTCR</b>	<b>HIA alternative action/recommendation</b>
Effectiveness of the residential zones and housing supply	28	No	N/A	The zones are not being applied in accordance with Planning Practice Note 91. "Improving the operation of ResCode" will address this
Population policy	29	No	N/A	This is not a planning consideration but HIA data shows Government population and housing estimates are conservatively low
Supply of social and affordable housing	29	No	N/A	Addressed under Victoria's "Big Housing Build". More collaboration with industry is required to increase affordable housing supply
Protecting green wedges and the urban growth boundary	30	No	N/A	A comprehensive review is required to ensure the 15 year supply is sustained
Environmental sustainability and protection	31	No	N/A	HIA's 2020 submission to the LC's Environmental Protection Committee requested any proposed legislative reform consider the 2019 EPBC Act and 2020/21 EPA Act reforms
Mandating built form controls	31	No	N/A	Performance assessment over mandating controls leads to variation, innovation and outcomes that adapt to change
Third party appeal rights and the role of VCAT	32	Yes	Yes	Nil
The role of Ministerial call ins	32	No	N/A	HIA supports the VCAT & PE Acts permit call-ins process

## 5. DISCUSSION

### The impact of planning decisions on the Victorian housing market

- The planning burden
- Land supply shortages
- Escalating development contributions

Some will argue in isolation these elements do not impact housing affordability. This report highlights how individually, they restrict housing supply and worsen affordability. **Collectively these have the capability to create an imbalance in the market for which there is no coming back.**

**Delays and uncertainty in the planning system** have been a key concern for the residential building industry for some time. Local government planners are often heavily burdened by administrative functions as well as dealing with very minor applications on matters where it is questionable as to whether they warrant a planning assessment at all.

According to the historical Planning Permit Activity Reporting System (PPARs) data, planning permits and associated requirements affect approximately 20 per cent of all single dwellings built in the State. It is expected this number may have peaked closer to 25% in 2020/21 on the back of the HomeBuilder stimulus. This disadvantages single dwelling development, particularly on smaller lots.

HIA believes available planning resources should be freed up from minor tasks to focus on strategic policy matters and more complex proposals. Eliminating minor applications, including single dwellings and minor renovations and extensions from the planning system is considered necessary. This is because technical and safety measures are still required under the Building Regulations.

Indicative case studies referred to in the National Housing Finance and Investment Corporation (NHFIC) report *Development Contributions: How should we pay for new local infrastructure* (2021), show that developer contributions in various forms can collectively amount to between \$37,000 and \$77,000 per dwelling in Victoria. This is a substantial cost levied on a new home.

NHFIC states *“if the scope of developer charges doesn’t have a clear nexus to the new housing development or costs aren’t apportioned appropriately between the beneficiaries of the local infrastructure, developer contributions ultimately can act like a tax and discourage development.”*

According to a broad representation of industry, the **imposition of up-front development levies** on new homebuyers is discriminatory, inflationary and erodes housing affordability. The introduction of the *windfall gains tax*, which industry estimates to generate revenues in the billions of dollars, is a trigger for major reforms of development contributions so the housing supply pipeline is not irreparably stifled.

The need for **an adequate residential land supply** in urban areas to accommodate population growth is not to be underestimated, particularly given the resistance to apartment living in Melbourne compared to Sydney. The current fixed UGB is contributing to land shortages and price hikes in many of the growth corridors and land price hikes. The Boundary must be better managed into the future if land supply and house prices are to be factored into the current affordability crisis.



## Planning Policy Framework

### No planning approval for a single dwelling

**Issue:** As per HIA's "One house one approval" policy, one dwelling on residentially zoned land should not be subject to the cumbersome planning permit process. The assessment could be limited to constraints that impact the way it is built, such as severe slope or bushfire hazard.

This can be adequately managed under the Part 5 of the Victoria Building Regulations 2018. In the event that a dwelling does not fully comply with Part 5 of the Victoria Building Regulations 2018, an application could be made for the 'report and consent' to the relevant local council, with adjoining affected properties invited to comment on the proposal.

Being required to obtain both planning and building approval for a single dwelling on residentially zoned land creates issues for the timeliness of housing approvals, as well as additional design and application costs. Often, planning policy has undue impacts on the dwelling design, which requires owners to make changes that are over and above the National Construction Code (NCC).

**Government response:** While it has been discussed at both local and state level, little action has been taken to implement this recommendation.

**Alternative action:** Reform the planning system to **exempt a single dwelling** from a planning permit. All that is necessary is one assessment under Part 5 of the Building Regulations 2018.

Consistent with HIA's "Truth in zoning" policy, residentially zoned land should be purchased with confidence to increase housing supply. All major constraints on land should be accounted for by the build stage (i.e. prior to registration of lots and sale). This leaves builders to only account for site layout, setback matters and the like. Too often development controls with little or no strategic support are applied retrospectively impacting housing yield, cost and delivery time.

### Remove the minimum lot size for a single dwelling / expand Small Lot Housing Code

**Issue:** Currently, most single dwellings on smaller lots (i.e. primarily under 300m<sup>2</sup> but also under 500m<sup>2</sup>) require a planning permit. This permit requirement places administrative burden on the system and unfairly disadvantages development of smaller blocks – because they are captured by the planning permit process whereas a single dwelling on a larger allotment may not.

As outlined in recommendation 1, the primary purpose of a residential zone is to facilitate the construction of houses and this purpose should not be disadvantaged by the planning system. Additional standards required for small lots could be included in the Building Regulations 2018.

Where asked for support, HIA does not oppose a VicSmart small lot housing code assessment model (modelled on small lot housing code) being introduced to cover established areas.

**Government response:** As per recommendation B6 for *streaming applications according to risk* of the BRV publication *Turning Best Practice into Common Practice* (2021), DELWP is developing a small lot code for established areas as part of the proposed "VicSmart Plus" 30-day decision in consultation with councils and industry.

**Alternative action:** Reform the planning system to **remove the minimum lot size** where a single dwelling must be assessed for a planning permit. All that is necessary is one assessment under the Building Regulations, subject to inclusion of new small lot standards.

### “Improved operation of ResCode”

**Issue:** The issues being faced by industry under the current ResCode assessment model are well documented in the DELWP briefing paper *Improving the operation of ResCode* (2021).

The proposed ResCode operational model levels the playing field for applicants and responsible authorities, whereby applicants that deliver ResCode compliant designs will get consistent approvals and faster decisions.

With proposed ‘deemed to satisfy’ provisions replacing discretionary standards akin to the Building Regulations, a single dwelling could be purely assessed under the Building Regulations 2018. This is consistent with HIA’s “One house one approval” policy.

**Government response:** HIA awaits further advice on this proposal following the completion of public consultation at the end of 2021.

**Alternative action:** HIA supports this initiative subject to further consultation with industry on the final details and policy drafting guidelines.

### Environmentally sustainable design (ESD), urban cooling and greening / canopy trees

**Issue:** High level strategic planning by all levels of government is advocating for substantial increases in canopy cover over the next 20-50 years to tackle “urban heat island” effect.

Achieving a sensible balance between the need to construct and renovate homes at an affordable cost and in an efficient manner, whilst minimising the impact on the environment, is an ongoing challenge for the residential construction industry.

HIA is mindful that aggressive canopy cover targets such as “a minimum 30%” across Metropolitan Melbourne with the “majority” to come from *private land*, will undermine the city’s capacity to house an estimated 9 million people by 2056.

Planning policy should prioritise the supply of diverse and affordable housing with reasonable consideration to minimising the environmental impact and urban heat reduction. Regulatory reform should not overcompensate for new canopy trees on private land via planning permits that restricts full development potential allowable under the planning system.

**Government response:** HIA is part of a stakeholder reference group for a state-wide Particular Provision for Environmentally Sustainable Development (ESD) urban cooling and greening. ESD cooling and greening / canopy tree policy making is occurring independently at different levels of government without regard to its wholistic effect. HIA is monitoring the situation and commenting on individual policy proposals where possible.

HIA’s submission on the state-wide ESD cooling and greening contained the following concerns:

- There is a lack of quantifiable data supporting an agenda for a minimum of 30% canopy cover for Metropolitan Melbourne.
- Without proper controls, liberal canopy cover policy making has the potential to increase the spread of invasive weeds.
- Equal consideration needs to be given to how buildings can co-exist with canopy trees without compromising structural integrity and long term health respectively.



- If required, a state-wide provision for new canopy cover should replace all existing local vegetation controls so there is no duplication of application requirements.
- Proposed built form cooling requirements are already established in the NCC and should not be duplicated in the planning system.
- A state-wide provision promoting new canopy trees may be contributing to higher bushfire risk in some areas.

**Alternative action:** Subject to the above concerns being addressed, HIA is instead not opposed to the “no net loss” principle being applied via statewide Particular Provision for canopy trees. This is consistent with the Clause 52.17 Native vegetation Particular Provision. This established process provides a clear direction for industry and government rather than ad hoc policy making setting arbitrary canopy cover targets. HIA’s view is the NCC is the correct strategic tool to address ESD for building products and there should be no duplication by planning controls.

#### Consolidation of planning scheme requirements

**Issue:** It is widely reported in the publications referred to in this submission that the Victorian Planning Provisions / Schemes have a proliferation of policies that serve similar purposes.

**Government response:** As per recommendation A1 for *simplifying planning schemes* of the BRV publication (2021), DELWP is conducting a thorough review of the provisions for this purpose. HIA looks forward to receiving an update from DELWP in 2022 on its progress.

**Alternative action:** HIA supports DELWP eliminating duplication of planning policy.

#### Reduction of overlays and related permit requirements for a dwelling

**Issue:** It was raised in the BRV discussion paper (2019) that the structure of planning schemes are unnecessarily long due to repetition. Schemes often contain multiple **overlays** that repeat the same permit requirements (e.g. for landslip, erosion, flooding) which could be consolidated. HIA has held the long term view some of the matters now being included as environmental constraints relate more rightly to broader environmental protection concerns. HIA has phrased this as “planning regulatory creep”.

Matters of protection from imminent environmental risk – such as landslip or erosion – are well entrenched in planning schemes and should be applied at the appropriate stage of the zoning and subdivision (land development) process. The approach to these environmental constraints needs to be different to the approach for natural hazards and environmental constraints that arise from land affectation.

Overlays relating to protection of the environment or environmental risk, should only relate to land availability and subdivision design layout and not the construction elements of homes built on that land. Failing acceptance of environmental controls at a national level, controls should be limited to the State based level for greater consistency and streamlining of application requirements.

Matters relating to environmental constraints that are addressed through building design and construction solutions should be exempt from overlay planning requirements and dealt with through the NCC. Introducing an exemption for a dwelling whereby the requirements are assessed under the NCC would reduce the burden of the planning system to do so.

Consistent with HIA’s “Truth in zoning” policy, residentially zoned land should be purchased with confidence to increase housing supply. All major constraints on land should be accounted for by



the build stage (i.e. prior to registration of lots and sale). This leaves builders to only account for site layout, setback matters and the like. Too often development controls with little or no strategic support are applied retrospectively impacting housing yield, cost and delivery time.

**Government response:** In the BRV publication (2021) *“the Smart Planning program has identified potential opportunities to standardise overlays and provide modular commonly referenced provisions, for example, in the way that a significant tree is defined and removal is assessed.”* It is not clear in the publication what the policy considerations for DELWP are in this area.

**Alternative action:** HIA would like to see further guidance from DELWP on how overlays can be reduced and even standardised to a relevant group of State level provisions in the planning system. HIA welcomes further consultation with industry on this initiative, including drafting of policy.

#### Expansion of VicSmart permit pathway to two dwellings on a lot

**Issue:** In the BRV discussion paper (2019), a strong case was raised for more risk-based streamlining of applications by providing alternative pathways for the assessment of permit applications. These include through VicSmart (10 business day decision) or the proposed “VicSmart Plus” 30 day decision pathway.

**Government response:** As per recommendation B6 for *stream applications according to risk* of the BRV publication (2021), in addition to expanded small lot housing code, “secondary dwelling” is being considered by DELWP as part of VicSmart Plus.

**Alternative action:** HIA supports this initiative subject to the “secondary dwelling” being defined as two dwellings on an allotment i.e. a dual occupancy in the planning scheme, and with further consultation with industry on the drafting of policy. A maximum of 30 days should be required to make a determination on a second dwelling on a lot application with no notification or limited to adjoining neighbours.

#### Better Approvals approach

**Issue:** The BRV discussion paper (2019) acknowledges that running independent approval processes for planning and building permits can result in issues and delays late in these processes. Best practice would be to facilitate concurrent decision making and referrals giving applicants one contact with whom to liaise from end-to-end.

**Government response:** As per the BRV publication (2021), “a Better Planning Approvals concierge approach” is listed as a priority action by councils throughout the planning and buildings approval process with the implementation assistance of DELWP.

**Alternative action:** HIA supports this approach which would assist in addressing conflicting matters prior to finalisation of planning and building applications. Any form of regulatory duplication/overlap must be avoided and addressed as part of this process.

#### Avoid duplication of National Construction Code

**Issue:** Government and DELWP has at times pursued legislative reform to the planning scheme without regard to whether it will be assessed under the National Construction Code (NCC). For example accessible housing and environmentally sustainable design (ESD e.g. building fabric,



stormwater management, energy usage, greenhouse gas emissions, etc.) are often required at the planning permit stage.

As one example ESD is difficult to satisfy as often at the planning permit stage the house design has not been finalised and energy rating specifications not set. Expensive technical reports for a planning approval may become redundant and deliver few if any benefits in the overall approval process. More sophisticated design requirements to achieve an energy rating may be required at the working drawings stage but not appear on a 'checklist' at the planning permit stage. Also, clients have usually not decided on products, materials, fixtures and fittings that councils request be included in sustainability assessments.

Statutory Planners are often not adequately trained to assess ESD and energy ratings, yet have the power to initiate design changes via permit conditions that may be immaterial to the energy rating. Secondary consent approval for the building permit to amend town planning drawings for all matters covered by the NCC is another regulatory burden.

**Government response:** At present both local government and DELWP are proposing planning reform that introduces onerous ESD requirements into the planning approval process, where the NCC covers energy ratings that are the subject of a separate review (i.e. NCC 2022).

**Alternative action:** HIA opposes these reforms and stresses the importance of ongoing consultation with industry to avoid duplication and wastage.

#### Pre-lodgement certification

**Issue:** In the BRV discussion paper (2019), there are calls for councils to only be obligated to accept complete applications as a standard administrative rule. HIA has had a long-held view that this issue can be avoided whereby a simple Pre-lodgement Certification process using a private Planning Consultant is applied.

**Government response:** As per recommendation B2 of the BRV publication (2021) to *ensure applications are decision-ready before being assessed*, guidelines, standard forms and checklists are to be developed by DELWP to help applicants prepare complete applications. HIA wants to take this further and has advocated for Pre-lodgement Certification and a consistent state-wide approach to adoption of pre-application lodgement tools, as in the case in other states.

**Alternative action:** Pre-lodgement Certification where a planning professional has "signed off" on an application prior to its lodgement has been trialled by some councils in the past (pre-2011) with positive results. The benefits were shown to include higher quality submissions, better chances of approval, reduced holding costs associated with delays, better communication between councils and applicants, reduced decision time frames, shift to councils focus on a merits assessment. This proposal results in a shift from reliance on overloaded council resources to support from often underutilised resources in the private sector.

#### Heritage certainty

**Issue:** Council heritage studies/records for buildings and places of local heritage significance are often out of date. As a result applying for a demolition permit can trigger interim measures that result in delays which would have been avoided if the Heritage Overlays were up to date. This issue is also exacerbated through the "improving the operation of ResCode" review whereby heritage considerations do not delay ResCode assessments.

**Government response:** As per recommendation C5 of the BRV publication (2021) to *engage earlier with authorities outside the planning system*, councils should ensure their heritage studies and overlays are up to date; and DELWP should provide clearer advice and information about heritage responsibilities and processes including coordination with demolition applications under the Building Act 1993.

**Alternative action:** HIA supports this initiative but requests that council heritage reviews be concurrently with “improving the operation of ResCode” implementation with a moratorium placed on heritage interventions thereafter so they are not used as a delaying tactic for ResCode assessments. Consideration should also be given to engaging the services of the private sector to boost resources towards speeding up council’s heritage surveys.

## Planning and Environment Act, 1987

### Standardised notice provisions

**Issue:** Current notification practices are at the discretion of council officers resulting in differences in the extent of notification required. **Only those directly affected by the application should be notified.** Arbitrary and unnecessary notification has been proven to lead to delays and over politicisation of the process. For the majority of development types, potentially affected parties can be identified with a high degree of certainty. “Objections” or submissions are also being accepted beyond the formal 14-day notification period, often after the applicant has agreed to consultation and potential development concessions.

**Government response:** HIA is unaware of any action by government in this area.

**Alternative action:** These inconsistencies must be addressed. Clarification regarding triggers of third party notification needs to be made available and Section 52 of the Planning and Environment Act should be altered to facilitate standard notification procedures at a level that is relevant to the scale and the complexity of a proposal.

**If a development complies with the appropriate clauses and standards in the Planning Scheme it should be exempt from notice and review provisions of the Planning and Environment Act.** Where notification is justified, councils should not accept objections/submissions beyond the formal 14-day notice period so rework is avoided and these do not intervene in a timely decision.

### Clear standards for “objection” and “detriment”

**Issue:** “Objection” is not defined and often misunderstood in the planning system. The word objection is adversarial. It is considered preferable to use the word “submission” as is the case for Planning Scheme Amendments as this encourages positive as well as negative comments to be made concerning a proposal.

To ensure transparency in this process, it is recommended that submissions be made public in all instances. This can assist in reducing vexatious submissions that have no planning basis. Other jurisdictions, such as NSW, have had many councils using online application tracking systems to facilitate this.

There is currently no formal process for councils to review objections/submissions and determine their level of merit/validity and whether they are vexatious. The same can be said for determining “detriment” as in nearly all instances an “objection” may be recorded even though there is no likelihood of ‘detriment’ established.

**Government response:** HIA is unaware of any action by government in this area.

**Alternative action:** Clarification regarding recording and registering objections/submissions needs to be defined and Section 57 of the Planning and Environment Act updated. Under S57 also change terminology from “objection” to “submission”.

Councils should have the power to reject the objection/submission through authentication of process (i.e. scale of likely ‘detriment’) with no right of appeal.

All objections/submissions should only be accepted if written by the objector/submitter themselves. Pro forma letters prepared by community groups must be formally recognised in S57 as one submission/objection.

#### Standardised Request for Information (RFI)

**Issue:** In the BRV discussion paper (2019), Requests for Information (RFIs) are identified as a major cause of delay and delaying tactic in the planning approvals system. Industry feedback was these requests are often used to ‘manage’ workloads; require design changes and formal amendment of the application (which is not the intent of an RFI); and have requirements that are outside the scope of the mandated assessment process. Then analysis of PPARS data from the discussion paper was that almost half of all applications received at least one RFI that lasted an average of 85 days to respond. **This was quantified to add over 2.2 million days of time to the planning process in 2017-18.**

**Government response:** Recommendation B7 of the BRV publication (2021) to *reduce requests for further information* is:

- *“starting the ‘decision clock’ only once an application is decision-ready;*
- *pausing – rather than resetting – the clock when council issues an RFI;*
- *adopting guidelines to focus the use of RFIs on requests for information that is needed to inform a decision;*
- *discouraging the use of RFIs by councils for purposes other than to obtain information to inform a decision (for example, using RFIs to request changes to a design);*
- *supporting councils to share insights about and improve their practices for accurately assessing the need for RFIs by issuing a PPN and facilitating training opportunities; and*
- *making more use of VCAT’s Short Cases List in the event of disputes about the content of RFIs.”*

**Alternative action:** Nil. HIA supports this recommendation with a request for URGENT implementation and the release of a corresponding Planning Practice Note for practitioner guidance.

#### Standardised secondary consent

**Issue:** In the BRV discussion paper (2019), industry cited conflicting and uncertain views on any prescribed timeframes for approvals for secondary consents. Decisions made as part of post-permit approvals are not reported and so there is no monitoring or reporting on council performance or on how quickly and accurately applicants meet conditions. Under the Planning and Environment (Fees) Regulations 2016 there are no prescribed fees for secondary consent.

**Government response:** As per recommendation C2 of the BRV publication (2021) to *streamline variations to permits*, DELWP will prepare a Planning Practice Note to update guidance on post-permit approvals (including both secondary consent and extensions of time) along with benchmarks for reasonable timeframes for approvals. It recommends setting prescribed fees under the Regulations and requiring councils to report the data. It also suggests VCAT promote their Short Cases List to hear secondary consent disputes more frequently.

**Alternative action:** HIA supports these actions, but requests that DELWP consult with industry on the drafting of the proposed regulatory changes.

#### Reformed *amended permit* process

**Issue:** Amendments to a planning permit are treated the same as a fresh permit application and the assessment process is often too onerous given the moderate nature of the amendment being considered. Applicants and councils are getting bogged down in an administrative process purely for the sake of due process, rather than achieving an improved planning outcome.

Of particular concern is the need for re-notification of minor amendments which would otherwise be exempt or compliant development not warranting notification.

**Government response:** HIA is unaware of any action by government in this area.

**Alternative action:** Only applications that seek major changes should require a re-notification process and then only to those who are directly affected. A new process should be created for dealing with ‘minor’ amendments that do not fall under ‘secondary consent’ with a shorter decision timeframe; and limited notification and appeal rights only where necessary. HIA would be willing to participate in a workshop to reform the amended permit process.

#### Reformed Referral Authority requirements

**Issue:** External referral authorities delay planning permit applications and planning scheme amendments by not adhering to statutory timeframes. Moreover in the BRV discussion paper (2019), they are not engaged early enough in the design process.

Councils often advise that their failure to make a determination is result of Referral Authorities failure to respond within the legislated 28-day time limit. Whilst permitted under section 59 (3)(a), councils are generally reluctant to make a determination should a referral authority fail to provide comment, and this can significantly delay the determination process.

**Government response:** As per recommendation B8 of the BRV publication (2021) to *reduce response times for referrals*, HIA understands the process is committed to more collaboration between councils and referral authorities to speed up timeframes; improving the ‘customer experience’ by referral authorities engaging early with applicants; DELWP collaborating with referral authorities and councils for more standardisation of requirements/conditions for simple, low-risk referrals so that these can be completed directly by councils; and requiring referral authorities to report their performance data.

**Alternative action:** HIA supports the BRV (2021) actions to be undertaken, and also recommends amendments to the Planning and Environment Act as follows:

- A “deemed to consent” provision be included to ensure that referral authorities are undertaking assessment of applications in a timely manner.



- Specify that applicants have equal access provision to referral authorities to get more efficiency out of managing the referral process.

### Statutory timeframes for planning scheme amendments

**Issue:** The BRV discussion paper (2019) refers to the need to “streamline” the planning scheme amendment process and mandate timeframes. The Planning Amendment process is lengthy and lacks any process to improve this outcome currently. Reform in 2005 required the authorisation of an amendment before it could be exhibited. The timeline for this to occur can be lengthy with the level of information required at this stage being excessive. There are no timeframes for steps in the amendment process defined in the Planning and Environment Act.

**Government response:** As per recommendation A2 of the BRV publication (2021) to *streamline the planning amendment process*, DELWP will benchmark 30 days to provide councils with a final response from initiating a “further review”. DELWP has committed to reviewing step-by-step timeframes throughout the process to identify opportunities for improvement and improved notice templates. Councils have been requested to refer amendments to Planning Panels Victoria at the earliest opportunity and Panel Reports should only be embargoed by councils for 7 days not the current 28.

**Alternative action:** HIA would like to see the formal adoption of timeframes in the Planning and Environment Act for steps in the planning scheme amendment process. For example timeframes could be set for initiation, preparation, authorisation, submissions, assessment and decision.

HIA supports the rest of the recommendations but would like to participate in further consultation with DELWP in 2022 to review the details in lieu of making any further comments.

### Planning scheme amendment exhibition appeal rights

**Issue:** There is no appeal mechanism if a Responsible Authority refuses to exhibit a Planning Scheme Amendment. A review process of amendments that a council refuses to exhibit should be introduced. This review could be undertaken by Planning Panels Victoria which would then make a recommendation to the Minister.

**Government response:** HIA is unaware of any action by government to resolve this.

**Alternative action:** Remove the ability of local councils to abandon an amendment at any time without reason, or the consent of the Minister. Provide ability for a proponent to seek a review where the planning authority refuses to place an amendment on exhibition. The body responsible for conducting such review could be Planning Panels Victoria, making a recommendation to the Minister. Alternatively, transfer this power to the Minister (or delegate), following receipt of the resolution from the planning authority and the recommendation of the panel.

### Benchmarking for section 173 agreements

**Issue:** According to the BRV discussion paper (2019), section 173 agreements are used by councils as an interim measure to secure infrastructure payments until a development/infrastructure contribution plan (DCP/ICP) is finalised; or as a “one off” contribution; or as a means for developers to provide more affordable housing. These 173 agreements are being used prematurely in the absence of a legislated DCP, in an adhoc fashion and without proper regard to benchmarked construction costs.

**Government response:** As per recommendation C4 of the BRV publication (2021) to *simplify payment of infrastructure contributions*, DELWP, councils and the MAV should develop model section 173 agreements for consistency with benchmark infrastructure prices.

**Alternative action:** The Victorian Planning System continues to reform the way development levies are collected, often without proper regard to industry consultation. HIA's view is in lieu of the legislated development contribution tools available to Growth Area councils (soon to be rolled out state-wide) to gather infrastructure funding, section 173 agreements are largely redundant. Consistent with the BRV publication (2021), section 173 agreements should be negotiated in good faith with developers recognising the importance of contributing to direct infrastructure on a need-nexus basis. Council refusing an application in the absence of getting broader infrastructure funding is no longer acceptable.

### Precinct Structure Planning reform

**Issue:** For a long time the Precinct Structure Planning (PSP) process in place for new development in Melbourne's Growth Areas is too long and is costly to developers and homebuyers. Efforts have been made to speed up the PSP process, evident in the number of PSPs completed in recent years. Demand for title ready land in the Growth Areas has exceeded expectation and it is currently accounting for 34% of Melbourne's housing supply. **Conservative estimates by HIA economics are the Growth Areas will supply between 550,000 (@ 30% contribution) and 625,000 (34%) new homes to 2051.**

The evolution of greenfield planning in Victoria has changed, whereby its early targets were 15 dwellings per net developable hectare. A broad representation of industry said this is not responding to demand and higher densities (e.g. <20 dwellings/NDA) must be achieved.

**Government response:** As per recommendation A3 of the BRV publication (2021) to *streamline the precinct planning process*, the VPA has committed to:

- finalising the PSP 2.0 process and applying this to the current round of greenfield precincts, to reduce the average completion time to *two years*;
- adapting PSP 2.0 as the standard method for structure planning for all major precincts, strategic sites and regional developments;
- early engagement of key government agencies in the VPA planning process to ensure infrastructure requirements are embedded in forward planning;
- using PSP experience for intelligent sequence planning of new community facilities and infrastructure when it is needed.

**Alternative action:** Some details of PSP 2.0 are still preliminary e.g. the Innovation Pathway and the implications of out of sequence development. HIA believes PSP 2.0 creates an opportunity to mandate one set of environmental land constraint assessments up to the land use stage. Multiple layers of environmental land constraint assessments for the purpose of Cultural Heritage and Biodiversity Management are costly and delay assessment. Previously two assessments have been required, the first is as part of designating land for future urban growth, and the second is part of the PSP to review site specific environmental constraints in more detail. Environmental land constraint issues should be dealt with early on in the strategic assessment process; and once land is zoned for urban growth no other assessment should be required. Funding for this can be drawn from the PSP DCPs.



HIA also calls for the rigorous and transparent annual reporting and publishing of land supply, to ensure Melbourne has a minimum of 15 years zoned land and 2 years of “build ready” land in every growth corridor of Melbourne and major regional towns. This data should be made publicly available and regularly updated so that to remain current and transparent.

## Other improvements

### Independent planning authority for sites of strategic importance

**Issue:** Sites of strategic importance can and should sustain significant housing and economic growth. These sites are set to play a key role in meeting the substantial demand for new housing to 2051 across Victoria. According to BRV (2021) *“there are multiple bodies currently working to prioritise sites without a clear and shared framework structuring those choices.”* **Current estimates are these sites can take 5-10 years under a council lead planning process.** Councils have submitted that they are not adequately resourced to determine these projects in a reasonable timeframe. Interstate benchmarking for equivalent projects by a centralised planning authority is 2 years.

**Government response:** As per the BRV publication (2021), DELWP is investigating a “priority precinct” model. Under this model by arbitrary strategic importance, council or another planning authority (e.g. Minister for Planning, Victorian Planning Authority, Suburban Rail Loop Authority) would be designated as the responsible planning authority for these projects. Robust community consultation is included in this model but there are loose commitments to improving timeframes.

**Alternative action:** HIA believes there should be a designated central planning authority (e.g. the VPA) leading all these projects. As opposed to the issues identified with councils, this authority has higher capability for resourcing and expedited delivery of these scale projects. This authority then has power to delegate the project planning to another affected central authority such as the SRLA for new train stations. The private sector also has capacity to formally assist with these projects but the ultimate decision would rest with the planning authority. Industry wants completion of project planning benchmarked to a maximum of 2 years.

### Review of the urban growth boundary (UGB)

**Issue:** Land supply for new development in the Growth Areas is falling behind demand whilst Governments prefer to avoid the conversation about expanding Melbourne’s Urban Growth Boundary (UGB). Estimates by HIA economics are even if the Government can sway the rate of supply in the Growth Areas from 34% back to 30%, there will be demand for approximately 550,000 new homes by 2051.

The parliamentary ratification process for amendments to the UGB is lengthy and too political. Further the decision to introduce a windfall gains tax that transfers a large portion of land appreciation value from higher use rezonings away from owners/developers to government is another factor that will erode housing affordability.

Changes in work habits from Covid-19 including more flexibility to work from home will encourage people to explore different and new housing choices. These can only truly be met whereby physical land supply constraints are not a barrier.

The Victorian population has a higher resistance to apartment living than in NSW, instead favouring detached dwellings. ABS data from the 2016 Census<sup>1</sup> shows that of the 1,214,372

<sup>1</sup> <https://www.abs.gov.au/ausstats/abs@.nsf/Lookup/by%20Subject/2071.0~2016~Main%20Features~Apartment%20Living~20>



occupied apartments in Australia, nearly half (47%) were in New South Wales, where they also make up almost 21% of private dwellings. In comparison to Victoria occupation only makes up 23% of occupancy and 12% of private dwellings.

HIA expects the Federal Government's HomeBuilder grant announced in June 2020 sharply increased demand for titled land, resulting in an immediate draw down of dwindling reserves.

**Government response:** HIA is unaware of any action by government in this area.

**Alternative action:** In relation to the UGB and land supplies for Melbourne, the Coalition Government announced prior to the November 2010 election that it would:

- seek to have 20 to 25 years worth of land supply in growth areas for Melbourne, Geelong and other major regional cities across Victoria;
- conduct a biennial audit of land supply in Melbourne's and Geelong's growth areas to ensure adequate supply exists;
- establish a new structured process for the biennial review of the UGB in growth areas, with clear timeframes and a transparent process;
- work with relevant municipalities for the immediate assessment of "logical inclusions" in Melbourne's UGB to facilitate billions of dollars worth of much-needed development-ready housing projects;
- seek to have the UGB in growth areas identified along existing and clearly defined natural markers or infrastructure routes where possible, so that it will come to form a defined permanent boundary as exists in European cities; and
- allow local residents in growth areas boundary inclusion areas to be a part of the UGB review where they can choose to opt out of boundary expansion.

It is time that a Government recommitted to this process and embed it into the Victorian Planning Schemes and higher order strategic planning documents, so that industry can call out Government's accountability for this. It should also conduct a rigorous and transparent annual reporting and publishing of land supply to measure performance against these targets. **Finally at the earliest opportunity Government should repeal the windfall gains tax so that it does not become another contributor to eroding housing affordability in Victoria.**

With Australia's two most mature housing markets Sydney and Melbourne making up approximately 43% of population settlement, meeting localised housing demand in these two cities is critical. Given the uptake of Victorian/Melbourne apartments is about half that of Sydney, urban expansion is one way to meet the stronger demand for detached dwellings across Victoria.

Government has a responsibility to implement infrastructure investment programs to sustainably support anticipated growth in a manner that ensures costs are equitably shared across the community.

Even without the *windfall gains tax* as part of the equation, governments have numerous funding options that would enable infrastructure programs to be equitably funded. These include funding infrastructure from general revenue, government borrowings, issuing tax effective infrastructure bonds, public private partnerships, general taxes across the whole community, or user charges.

Funding of infrastructure that benefits the broader community must be equitably shared across the community, and must not be shunted onto those purchasing new homes.

## Recruitment drive for new Planning professionals (international, school leavers, mature aged students)

**Issue:** Like many other professions, the planning profession could use a stronger pipeline of new members coming through to meet escalating productivity requirements. Demand for planning professionals peaked in 2008/09 prior to the onset of the Global Financial Crisis but has been rising steadily thereafter. Recovery from Covid-19 has only made this demand stronger yet the borders are still shut to qualified international workers. A planning career does not get the recognition of more traditional careers such as doctor, nurse, accountant, gardener, engineer, architect, etc. in the school system. This carries on to school leaver training and career choices yet people are estimated to make three career changes in their lifetime.

**Government response:** HIA is unaware of any action by government in this area.

**Alternative action:** Government, professional industry bodies and associations should come together to develop a school leavers program that creates awareness and drives interest in the planning profession. Tertiary institutions could run sponsored advertisements in job seeker forums encouraging people to retrain towards a planning profession highlighting the benefits of high demand progressive careers. Many people with life/business skills and experience will be capable of contributing to the profession immediately while concurrently completing further qualifications. The Federal Government could also consider including the planning profession in skilled worker migration as it will directly benefit economic stimulation post Covid-19. HIA would be willing to participate in future discussions in this area.

## Digitise the planning permit application process

**Issue:** In the BRV discussion paper (2019), it is noted that a single state-wide planning portal would offer the greatest benefits in terms of efficiencies, transparency and monitoring. However many councils stressed that its introduction would require significant investment, research and testing.

Several councils have recently invested heavily in the development of their own digital planning platforms which integrate with their other corporate systems but may not easily integrate with other council platforms.

**Government response:** The BRV publication (2021) states while *“a single, state-wide platform may be preferable in the longer term, the immediate priority is to assist those councils with limited or no digital functionality, to build and transition to fully digitised portals and tracking systems that are compatible with other systems for future integration.”*

**Alternative action:** HIA supports the overarching goal of achieving a state-wide website for DELWP to offer direct entry to each Victorian councils planning web page. This will provide ease of reference and transparency for applicants. South Australia is currently in the process of implementing a state-wide one-stop shop online planning portal for information, online services and community participation relating to the South Australian planning system. It is suggested that the South Australian model should be followed over the coming years and if implemented and administered correctly, a similar model could be considered to be implemented within Victoria.

## Standardisation of the pre-application meeting process

**Issue:** In the BRV discussion paper (2019), it has been identified that clear details about what information needs to be provided with an application can be hard to find and understand for both applicants and authorities.

Applicants value early engagement with councils, council internal referral teams and external referral authorities, however *“there is significant variation in the practice and quality of early engagement (including pre-application services) and in the subsequent impact on application quality.”* Submissions note that *“in cases where early engagement is not offered, applicants face multiple requests for further information from councils seeking to obtain all required information.”*

**Government response:** As per recommendation B2 of the BRV publication (2021) *to ensure applications are decision-ready before being assessed*, DELWP will lead reforms for:

- developing guidelines, forms and checklists to ensure that applicants are clear about what information is required and the correct standard for new applications;
- removing any duplicative or unnecessary information requirements from the Victorian Planning Provisions (VPP); and
- amending the regulatory framework to allow councils to only assess applications once they are decision-ready (starter of the statutory clock).

**Alternative action:** This is supported with the recommendation of delegating pre-lodgement certification to a private planner to reduce council’s administrative burden (see “Pre-lodgement certification” in this submission).

#### Development taxes/levies reform

**Issue:** The amount and sources of development/infrastructure contributions has increased dramatically in the last decade. In context, current estimates (i.e. pre windfall gains tax revenue) are that 45 per cent of all state-based annual revenue comes from development taxes and charges, about \$10 billion<sup>2</sup>. The development industry is the quite the Government’s “cash cow”.

Inconsistency in programs and levies has lead to uncertainty around what these costs will be. Council expectations are for “gold standard” community infrastructure facilities to be funded by developer contributions. The appeals process for developers to DCP rates is onerous, convoluted and time consuming. Developers in the Growth Areas are also required to fulfill Growth Area Infrastructure Contribution (GAIC) liabilities and outside the windfall gains tax applies to higher use of land rezonings. Housing affordability is eroded as these charges are passed on to homebuyers in the final cost of the land.

Indicative case studies referred to in the National Housing Finance and Investment Corporation (NHFIC) report *Development Contributions: How should we pay for new local infrastructure* (2021), show that developer contributions can collectively amount to between \$37,000 and \$77,000 per dwelling in Victoria. This is a substantial cost levied on a new home with report going on to state *“if the scope of developer charges doesn’t have a clear nexus to the new housing development or costs aren’t apportioned appropriately between the beneficiaries of the local infrastructure, developer contributions ultimately can act like a tax and discourage development.”*

*“Funding a much wider array of social infrastructure through developer contributions deliver broader community benefits but confer fewer clear, direct and immediate private benefits to new home buyers. This means developer contributions increasingly act like a tax on new housing, which can impede new housing supply and reduce housing affordability for buyers and renters.”*

The Victorian Auditor General’s Office (VAGO) in its *Managing Development Contributions* report (2020) says Victoria has a broken development contributions system. They say state agencies

<sup>2</sup> <https://www.theage.com.au/national/victoria/the-assault-by-stealth-on-melbourne-s-suburbs-20211111-p59862.html>



have not managed development contributions tools strategically to maximise their value and impact. It is highly critical of the state managed GAIC program, which is failing to meet its objectives. To the frustration of industry councils are still relying on Section 173 agreements to collect contributions for infrastructure provision. Upfront charges are the least efficient manner to recover infrastructure costs.

**Government response:** Consistency of DCPs has been addressed by creating the Infrastructure Contribution Plan (ICP) to supersede DCPs in new PSPs (although this doesn't resolve issues with current DCPs). Prior to the introduction of the windfall gains tax, Government was in the process of preparing a dedicated Regional ICP. Going into 2022 government has put its Regional ICP program on hold. In November 2021 the Government added another major land development related tax in the windfall gains tax. This taxes property value uplifts over \$100,000 as a result of rezoning to a higher use.

**Alternative action:** There is a Ministerial Direction that defines what development contributions can be collected and for and spent on, including acquisition of public land and associated construction activity, construction of child-related health and care facilities. The items are all for broadly beneficial public purposes.

HIA's overarching position is that development contributions are one of many costs that impact the end price of a new home and in effect act as a tax on homebuyers. It is important that any contributions that are passed onto the home buyer are based on a fair and justified set of principles.

Any infrastructure within the boundaries of the development 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 by the developer as part of the cost of development.

However 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.

Estimates from industry are the windfall gains tax at a marginal rate of 50% for land value uplifts exceeding \$500,000 is going to be a much more significant development contribution tax than GAIC in the range of \$100,000-\$118,000 per hectare.

HIA's own modelling also shows that the Windfall Gains Tax could add as much as \$53,000 to a typical allotment price in the Geelong area.

**The imposition of up-front levies on new homebuyers is discriminatory, inflationary and erodes housing affordability.**

HIA would like to see the following development contributions reform:

1. Repeal the *windfall gains tax* so that it does not become another contributor to eroding housing affordability in Victoria.
2. Where it remains, land subject to a current WGT liability must not incur any liability from an ICP/DCP and Section 173 agreement for development contributions.
3. Administer an overarching development contributions framework for Victoria that:
  - a. establishes a clear strategic direction and objectives for all development contributions, including consultation with industry;



- b. sets the development contributions tools available for each authority;
  - c. with data reporting and publishing of revenue allocation to benchmarking targets;
  - d. has clear and holistic accountability and governance arrangements; and
  - e. provides a central source of development contributions advice and guidance, for industry, including for voluntary s173 agreements (**this is consistent with the VAGO 2020 recommendation for development contributions reform**).
4. Any development levies which have been collected and subsequently not spent by authorities within mandated timeframes and protocols should be refunded to the current land owner or put in a trust for establishment of a legal claim.

### DELWP Major Projects Pathway

**Issue:** Building on HIA's comments on an "Independent planning authority for sites of strategic importance", sites of strategic importance are set to play a key role in meeting Victoria's housing demand to 2051. **Current estimates are these sites can take 5-10 years under a council lead planning process.** Councils have submitted that they are not adequately resourced to determine these projects in a reasonable timeframe. Interstate benchmarking for equivalent projects by a centralised planning authority is 2 years.

**Government response:** HIA understands DELWP is developing the New Major Projects Pathway for the small number of projects that contribute around 50% of Victoria's development value. This is a streamlined planning assessment aligned to similar approaches interstate whereby the State Government makes the decision. It provides clear expectations about process and timeframes, allows for consultation with the council and is intended to expedite projects of significant economic benefit.

**Alternative action:** HIA would like to be consulted with more details about this proposal (i.e. governance protocols, timelines, threshold decisions). The streamlining benefits are sound, but rather than a State Government/DELWP decision, these projects should become the responsibility of a centralised independent planning authority.

### Standardised "deed of delegation" for local government

**Issue:** The BRV discussion paper (2019) states there is considerable variation in the way councils delegate their planning decisions to their officers and when applications are referred to councillors. According to PPARS data of the 80% of applications with a decision over 2016-2018, only 3% of applications were directly decided by councillors but on average 72% of those received less than six objections. Some councils embed the role of councillors in setting strategic planning policy, while delegating most planning permit decisions to senior staff. Others define the circumstances in which councillors make the decisions. Most new councillors have training in their obligations to make decisions based on the planning policies and not to inappropriately intervene or fail to disclose any conflicts of interest.

The discussion paper's summary of stakeholder feedback was "*The role of councillors came in for some comment by stakeholders during this review. Some stakeholders suggested that decisions should be made by independent or semi-independent panels as is the case in South Australia.*"

**Government response:** As per the BRV publication (2021), HIA understands guidance on delegation models and processes is a priority follow up area for DELWP. It will work with councils



to develop frameworks based on several best practice examples of delegation arrangements, including preparing example deeds of delegation.

**Alternative action:** HIA supports tighter ‘deed of delegation’ rules for councils. HIA supports increasing the frequency of councils planning sub-committee meetings. Council internal processes should not unreasonably delay statutory time frames on a decision for applicants.

#### VCAT listing options

**Issue:** The BRV publication (2021) states, given the delays that are experienced by developers through the VCAT process, there is considerable opportunity for review and improvement. This may result in streamlining processes, better registry support and greater opportunity for mediation.

**Government response:** The BRV publication (2021) states, VCAT already has a reform process underway for its Planning and Environment Division. VCAT is aware of the need to better promote the availability of its existing Short Cases List and the ability to settle simple matters “on the day”. There is another infrequently used process to request a “practice day hearing” for matters that can be dealt with in 30 minutes.

**Alternative action:** Nil. HIA supports VCAT administrative reform to open up the Short Case list for expedited disputes on secondary consent, RFI, etc. Practitioner guidance information should be drafted with input from industry and released for public consultation as soon as practicable.

#### Best practice use of permit conditions

**Issue:** The BRV publication (2021) states applicants have reported that planning permit conditions are often overused, ambiguous, or could be dealt with via other means (for example permit note or in the building permit). According to BRV “*There are some cases in which planning permits have been issued subject to all conditions from DELWP’s now 12-years-old guidance material in a ‘kitchen sink’ approach.*”

In other cases there are conditions that require compliance with external standards, codes and acts without the permit holder being aware there is lengthy and complex approval processes with external authorities or what to show the Building Surveyor.

Submissions reinforced the Discussion Paper’s observation (also noted in Recommendation B1) that internal referrals could be better coordinated to deal with matters up front and make sure that conditions were used only when necessary to manage issues relating to the permit.

There was widespread support for a state-wide infrastructure manual, with submissions from both councils and users of the system wanting to ensure a degree of flexibility.

**Government response:** As per recommendation C1 of the BRV publication (2021) to *simplify post-permit approvals*:

- DELWP should develop guidance and training on best-practice post-permit approvals processes and standards.
- This should be focused on applying conditions that arise directly from issues relating to a permit and only using conditions that are necessary and reasonable where other provisions cannot manage compliance.
- Incorporating benchmark approval timeframes into post-permit guidance.



- Setting standards for urban and non-urban areas through a manual of standardised engineering infrastructure requirements and conditions.
- Reporting through PPARS as part of the Better Reporting framework on time taken for key stages in post-permit approval processes.
- Utilising the Better Planning Approvals approach to reduce time and post permit conflict.

**Alternative action:** HIA supports this recommendation subject to further consultation with industry. Section 62(4) of the Planning and Environment Act 1987 requires that a responsible authority must not include a permit condition that is inconsistent with the Building Act 1993. However there are many instances where conditions on a planning permit are either inappropriate and are leveraging off the issue of a building permit or occupancy permit to ensure planning requirements are being met. HIA members have provided a range of examples where planning permit conditions are imposed which are inconsistent with the Building Act. Although the proposed recommendation broadly discusses this matter, this issue should be addressed and defined more clearly within the finalised recommendation, given the commonality of the matter.

As part of this recommendation, further consideration should also be given to the distinction and procedural advantage of the use of **Notes on planning permits** as opposed to conditions. Notes often have the benefit of highlight the interdependencies between the planning regulatory system and the building regulatory system, without the need to impose conditions which are outside the scope of the planning system.

#### Coordinated planning and building referrals

**Issue:** The BRV publication (2021) states *“in some instances, the assessment of a building permit raises matters not previously stipulated or anticipated at the planning permit stage. These take times to resolve and may require additional conditions to be attached to the planning permit or amending the permit itself before the building permit can be issued.”*

*“One prominent concern regarding the intersection of requirements prescribed on planning permits and the requirements of building permits relates to flooding. Examples include planning permits not considering flooding requirements that are likely to be dealt with in the building approvals stage and flooding information being inconsistent across the two stages.”*

The BRV publication (2021) states Councils largely supported a concierge approach that provides more integration between their planning and building services. The Better Planning Approvals program would work with councils to apply these concierge and concurrent approaches in a proportionate way.

*“Many submissions supported the suggestion of councils adopting the ‘development branch’ organisational structure, with better integration between council planning, engineering and building teams. The Better Planning Approvals program should help councils explore opportunities to adopt this practice.”*

The proposal to develop a single, consolidated set of flood mapping information was largely supported by stakeholders.

**Government response:** As per recommendation C6 of the BRV publication (2021) to *improve coordination of internal referrals:*

- Involve planning and building staff as well as heritage, drainage, engineering and other specialist staff in councils in early engagement services to identify key issues (i.e. Better Planning Approvals program).
- Develop a consolidated flood mapping dataset.
- Applicants to lodge with up-to-date flood information (provided by the appropriate authority) and other information required by a planning scheme in flood-prone areas.

**Alternative action:** HIA support this recommendation. Further consideration should be given to potentially incorporating the finalised flood mapping as an additional layer on DELWP's existing interactive VicPlan website.

## Remainder of the Terms of Reference

### Effectiveness of the residential zones and housing supply

**Issue:** HIA's view is councils are liberally applying schedules (i.e. with conservative variations to ResCode) in the residential zones which impedes strategic intent to facilitate the urban growth and densities Victoria needs to accommodate future population growth.

HIA recently made a submission to DELWP's Land Use Planning Framework (LUPF) for Melbourne, and principally pointed out the Government's growth projections are too low. The Victoria in Future 2019 (VIF) study (used to inform the LUPF), projects net households to grow by an average of 1.9% between 2016 and 2036, and by 1.6% overall between 2016 and 2056. HIA Economic data estimates Melbourne's dwellings are expected to grow by an average of at least 3.0% per annum between 2016 and 2051.

In summary, it is expected that by the year 2051 **Melbourne needs to provide enough new housing for population growth equivalent to adding "another Melbourne" of population at the year 2000 (i.e. circa 4 million people)**. Contextually applied to the whole of Victoria, we can expect to see around 1 million additional dwellings between 2016-2036 and almost 2.5 million additional dwellings between 2016-2051. This includes working from a Covid-19 impacted base case in 2020, with a short-medium drop in multi-unit commencements.

DELWP's *Planning Practice Note 91: Using the residential zones (PPN91, 2019)* provides guidance on what role minimal / incremental / substantial change areas should play in facilitating housing supply. It stipulates that only areas where built form/heritage/environmental controls are strategically warranted should they be labelled "minimal change" areas.

HIA's view is over time and through a proliferation of zone and overlay schedules, too many areas have been labelled "minimal change" and are not making an adequate contribution to Victoria's escalating housing demand and affordability crisis.

**Government response:** HIA recently submitted to DELWP's "Improving the operation of ResCode" consultation that changes to ResCode assessment to increase the volume of code compliant development is overdue. We submitted that unless neighbourhoods have strategically justified unique characteristics that set them apart from "incremental" and "substantial" change areas, they need to be generating more certain and seamless development growth. This is consistent with the advice in PPN91.

**Alternative action:** HIA supports the "Improving the Operation of ResCode" review, subject to further details being released and ongoing public consultation, as means to balance supply with demand generated for urban growth and density in Victoria.



## Population policy

This is not a planning consideration. However in HIA's view, the Government's population and housing supply modelling using Victoria in Future 2019 (VIF) is too low. It estimates housing growth at 1.6% between 2016 and 2056, where as HIA Economic data expects growth of at least 3.0% per annum between 2016 and 2051. **At historical population growth rates, this results in Victoria adding almost 2.5 million additional dwellings between 2016-2051.**

## Supply of social and affordable housing

**Issue:** The Royal Commission into Family Violence highlighted the shortfall in social and affordable housing options available to vulnerable Victorians. The State Government released *Victoria's Social Housing Supply Requirements to 2036* (2017), which states based on the VIF 2016 growth rates (N.B. that are conservatively low and were used again in 2019), over 30,000 additional social housing dwellings in the next 20 years are required. This is if Victoria is to maintain long-term social housing at the current 3.5 per cent growth rate. This translates to an increase of around 1,600 to 1,700 dwellings each year to 2036, with approximately a further 100 extra homes added to the short-medium term rental stock to maintain the current level of social housing.

This would be a considerable increase to the long-term rental stock compared to what has previously occurred. High level estimates by HIA are the 30,000 social housing dwellings required is closer to 35,000.

**Government response:** Victoria's Big Housing Build program is a \$5.3 billion investment in social and affordable housing, delivering over 12,000 new dwellings. Amendments VC187 and VC190, gazetted on 1 December 2020, introduced changes to the Victoria Planning Provisions and all planning schemes to streamline the planning process for rapid delivery of social and affordable housing. As part of Victoria's Big Housing Build announced in the 2020-21 Budget, the Government will also help establish the **build-to-rent** sector. HIA will monitor Government's response on this initiative.

The National Housing and Homelessness Agreement (NHHA) commenced on 1 July 2018 and provides around \$1.6 billion each year to states and territories to improve Australians' access to secure and affordable housing.

As per HIA's *National Housing Agreements* policy, HIA supports the continuation of a National Housing Agreement between the commonwealth, states and territories as a means to allocate appropriate ongoing funding for the purchase, construction or retention of public housing.

**Alternative action:** As per HIA's *Subsidised Affordable Housing Policy* (2007), HIA supports the following options for developers and builders to enter into on a voluntary basis, to increase the delivery of **affordable housing**:

- Increasing industry's land supply and development rights for affordable housing.
- Voluntary supply of affordable housing in a development in exchange for agreed or negotiated development bonuses which are relevant to the particular site and location.
- Innovative funding mechanisms to ensure greater government buy in on private development.
- Increasing the opportunity for 'joint venture' partnerships with industry.

- Provision of taxation and levy concessions for developers to encourage greater supply.

The planning scheme can be used strategically to apply more exemptions for classes and development types (e.g. prefabricated housing) of social and affordable housing. **HIA does not support mandatory affordable housing quotas being introduced into the planning scheme as they act as a tax on home buyers.** In practical terms, HIA believes that the mandatory affordable housing quota concept is inequitable as:

- A dwelling which is mandated to be sold as an ‘affordable house’ still costs the same to build but must be marketed and sold for less.
- Costs incurred by developments in subsidising the affordable unit must invariably be borne by the new home-buying public, who will pay more for the other units which are not marketed and sold as ‘affordable housing’.
- It is possible in many schemes that affordable housing units can be bought for a lower price and subsequently sold for market value, therefore yielding a greater profit to the purchaser.
- There also appears to be a lack of appropriate management arrangements for these types of housing solutions.

HIA supports a number of options to assist in addressing affordable housing matters, which facilitate opportunities for developers and builders to enter into options on a voluntary basis to increase the delivery of affordable housing units. In order for such options to truly be voluntary agreements, they must be developer lead or initiated and not an idea initiated by council, which the developer then feels compelled to comply with.

It is generally the responsibility of governments to provide social housing infrastructure from general revenue and not place the burden on new home buyers, together with providing incentives for the private market to also deliver

A well-functioning housing industry can readily provide a wide range of housing types at various price points to mirror community need. Many developers and builders already provide affordable housing product, based on their price positioning at the lower end of the market and a consumer perception that their product is better ‘value for money’ than others in the marketplace.

### Protecting green wedges and the urban growth boundary

**Issue:** Earlier this year HIA provided extensive comment on the released consultation paper titled *Planning for Melbourne’s Green Wedges and Agricultural Land*. The documentation associated with this consultation states that the UGB is “non-negotiable”.

The likely impact of ensuring all agricultural land surrounding in Melbourne is protected essentially “locks-in” the Urban Growth Boundary without any rigorous discussion and providing a plan for Melbourne’s growing population.

Demand for title ready land in the Growth Areas has exceeded expectation and it is currently accounting for 34% of Melbourne’s housing supply. **Conservative estimates by HIA economics are the Growth Areas will supply between 550,000 (@ 30% contribution) and 625,000 (34%) new homes to 2051.** An expansion of the UGB is one way to increase housing affordability via new land supply.

**Government response:** There is currently no mechanism to review the location of the UGB.



**Alternative action:** HIA's view was that a full scale review of the Urban Growth Boundary, land available and anticipated population should be considered as a minimum before any action is taken in regards to the options.

The outcomes of this consultation may impact on major strategic planning documents (such as Plan Melbourne), therefore a decision to undertake this review should be made immediately.

### Environmental sustainability and protection

In 2020 HIA made a submission to the Standing Committee on Environment and Planning, for the Inquiry to 'investigate measures to restore habitats and populations of threatened and endangered species'. The Inquiry included matters such as the extent of decline of the environment, the adequacy of legislative frameworks protecting Victoria's environment, effectiveness of government programs, legislative policy and opportunities to restore Victoria's environment.

Achieving a sensible balance between the need to construct and renovate homes at an affordable cost and in an efficient manner, whilst minimising the impact on the environment, is an ongoing challenge for the residential construction industry.

HIA's submission made a number of comments and requests for legislative reforms to be considered in the context of leading legislative reforms to the Environment Protection Biodiversity Conservation (EPBC) Act 1999 in 2019; and the Environment Protection Amendment Act 2018 reforms in 2021 (delayed from 2020). HIA will review the Legislative Council's recently published *Inquiry into ecosystem decline in Victoria (2021)* with a view to making further comments and/or participating in further discussions with the Committee.

### Mandating built form controls

**Issue:** Some users of the system prefer the "certainty" of *mandatory* planning (i.e. built form) controls. Others prefer a *performance-based* or discretionary planning scheme that is able to accommodate variation, innovation, unforeseen uses and development or circumstances peculiar to a particular application to produce results beneficial to the community.

**Government response:** HIA is unaware of any pending action by government in this area. In September 2018, DELWP released *Planning Practice Note 59: The Role of Mandatory Provisions in Planning Schemes*.

**Alternative action:** HIA largely supports the content of PPN 59. The role of planning schemes is to specify the objective that needs to be achieved and provide a degree of freedom on how it is achieved. The VPP process is primarily based on the principle that there should be discretion for most developments and that applications are to be tested against objectives and performance outcomes rather than merely prescriptive mandatory requirements. As outlined in this submission, the current system already has enough restrictions on facilitating appropriate new development to keep up with demand without the imposition of more mandatory controls.

Only in truly unique circumstances should consideration be given to applying mandatory planning controls, e.g. in areas of high heritage value, strong and consistent character themes, or sensitive environmental locations such as along the coast. Retaining the existing balance of mandatory versus performance based planning controls is consistent with the recently exhibited "Improving the operation of ResCode" model.



### Third party appeal rights and the role of VCAT

HIA generally supports the Red Tape Commissioner recommendations for VCAT and VCAT's own administrative reforms. HIA has commented in this submission on proposed notice provision and objections/submission reforms. We have no further comments at this time.

### Role of Ministerial calls ins

HIA supports the Section 58 of the Victorian Civil and Administrative Tribunal Act call-in to appeal; and Section 97 of the Planning and Environment Act 1987 call-in of a planning permit application processes. Where necessary these provide another avenue to determination of a permit outcome. These can also involve impartial assessment by either an Advisory Committee or Panel of experts and do not restrict the community from participating in the process. We have no further comments at this time.

## 5. CONCLUSION

The operational competitiveness of businesses in the residential building industry is significantly affected by planning delays which in turn negatively affects the cost of housing.

HIA has made a case to support many of the **Red Tape Commissioner's reforms** of the planning system as well as some additional ones. For example **no planning permit for a single dwelling** would significantly increase the resourcing capabilities of councils to concentrate on developments of greater impact and significance.

The proposed operational model of **ResCode** recently exhibited by DELWP with 'deemed to satisfy' provisions creates a level playing field for applicants with ResCode compliant designs. This will lead to better applications, faster decisions and a steadier pipeline of new housing supply.

HIA has addressed the need for **an adequate residential land supply** in urban areas to accommodate population growth, particularly given the resistance to apartment living in Melbourne compared to Sydney. The current fixed UGB is contributing to land shortages and price hikes in many of the growth corridors. The UGB must be better managed into the future if land supply and house prices are to be factored into the current affordability crisis.

According to a broad representation of industry, the **imposition of up-front development levies** on new homebuyers is discriminatory, inflationary and erodes housing affordability. The introduction of the *windfall gains tax*, which industry estimates to generate revenues in the billions of dollars, is a trigger for major reforms of development contributions so the housing supply pipeline is not irreparably stifled.

Housing companies and the land owners face compounding holding costs whilst awaiting the necessary planning approvals. HIA hopes that this review will result in changes that make the planning framework and local government operations more efficient, and administration of regulation more consistent across Victoria's 79 municipalities.

HIA will further contribute as this work continues and thank you for the further consideration of our submission. We would like to request that from this point forward we be consulted on its progression.

HIA is committed to working with all sectors of government to support an environment that facilitates growth in the economy, reduces red tape, and enables the delivery of housing that is affordable for Victorians.