



SUBMISSION BY THE  
**Housing Industry Association**

to the  
**Department of Planning & Community Development**  
on the  
**New Residential Zones for Victoria - Consultation Draft**

9 April 2009

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## HIA Submission

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## **About HIA**

HIA is Australia's peak residential building industry association, representing over 42,000 members nationally, including 13,000 members in Victoria.

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

HIA exists to service the businesses it represents, lobby for the best possible business environment for the building industry and to encourage a responsible and quality driven, affordable residential building and development industry. In a climate of deteriorating housing affordability HIA strongly advocates that all Acts, Regulations and guidance, including planning scheme amendments, must not unnecessarily delay or add to the cost of the design, planning, approval and construction stages of residential development.

## Executive Summary

Both the housing industry and community need a clear approach to residential development, in particular where the government is implementing a vision for change.

Current planning and zoning systems often emphasise *existing rather than desired* neighbourhood character. The new zones aim to create a greater variety of housing and development in some areas and intend to preserve other areas where minimal change is to occur. The new residential zones intend to provide local planners with a range of tools to work towards achieving this - incorporating the government's strategic objectives of population growth, demographic change and Melbourne 2030.

HIA generally supports the intent and principles of the review of residential zones. But there are some key concerns with certain aspects of the proposals including:

- **Consistency** - The encouragement and use of multiple schedules in the new zones will erode the standard requirements previously built into building codes and planning schemes through ResCode.
- **Application of Zones** - Other than a change in name, the principles that currently reside within the planning system in Victoria are simply being adjusted to the new zones and schedules. There appears to be no guidance as to where the new zones should be applied – could a council ensure that 90% of its area is covered by a limited change zone with a disregard for any state planning principles.
- **Height Controls** - the inclusion of height restrictions in zones will limit opportunities for change. There should be guidance in this area rather than prescription.
- **Third Party Notice Requirements** - To encourage greater levels of change there should be no third party notification in the substantial change zone (as is the case with current residential 2 zone) In all new residential zones HIA supports the notice and review exemptions for subdivision applications in this clause to ensure a streamlined process. HIA believes this should also apply where a development complies with clause 54 and 55 standards.
- **Links to other areas of planning reform** - It is unclear how the new zones link to drivers of other reforms currently operating within the planning system;
- **Implementation** - a lack of information is available regarding implementation, particularly regarding how the transition from the current zones will occur and whether any transitional provisions will be considered.

- **Summary of HIA recommendations:**

	<b>Substantial Change Zone</b>	<b>Incremental Change Zone</b>	<b>Limited Change Zone</b>
<b>Proposed Zone Content</b>			
Subdivision exemptions	Supported	Supported	Supported, changes suggested
Construction/extension of 1 dwelling	Supported, notice & review exemption required	Changes suggested	Changes suggested
Exemptions from notice & review	Exemption required	Changes suggested	Changes suggested
Schedule to the zone	Supported	Provisionally support	Provisionally support
<b>Schedule to the zone</b>			
Minimum subdivision area	N/A	N/A	Not supported
Maximum number of dwellings	N/A	N/A	Not supported
Height controls	Alteration suggested	Not supported, alteration suggested	Not supported, alteration suggested
Exemptions from notice & review	Exemption required	Changes suggested	Changes suggested
Clause 54 & 55 Requirements	Supported	Provisionally supported, changes suggested	Provisionally supported

## Consistency

### Proposed approach to multiple schedules

When ResCode was brought into the Building Regulations and planning schemes it created a high degree of consistency for home building across most municipalities. Variances that are currently creeping in include the application of schedules to zones, changes to the municipal content in the LPPF, use of overlays and unincorporated polices and other strategies.

Most approaches do not require any cost benefit analysis and as result they do not demonstrate net community benefit, they are simply incorporated in an ad hoc manner, eroding consistency and coming at a cost to developers and homebuyers.

HIA does not support further measures that erode consistency in the planning system. In the Incremental and Limited Change Zones HIA does not support the use of multiple schedules to the zones as they will serve to erode the consistency previously brought to the system by ResCode.

If the government must have different controls for different areas within the Substantial Change Zone it should ensure that:

- The changes are consistently applied;
- The number of variations is limited; and
- Each departure can be justified in the context of a metropolitan outcome. The different controls should only reflect controls that have already been determined by council to comply at a regional level.

A change in which schedules potentially differ greatly between councils is not an outcome that HIA can support. Where councils have previously attempted to amend provisions of ResCode changes have been made largely to resist higher density housing rather than to accommodate local differences. Councils need to understand that Melbourne's neighbourhood character transcends boundaries; justifiable reasons to alter a standard must relate only to established planning concerns, for example, topography or heritage grounds and not be aesthetically or politically based.

## **Application of Zones**

The discussion paper fails to mention any limits to Councils on the application of the zones. It follows that a limited change zone could be applied to the majority of a municipality in relation to Council and community concern over any changes "in their patch". HIA realizes this is not the intent of the limited change zone - and that it is provided for areas that require special protection. None the less there is no guidance for Councils on the application of the zones.

HIA's experience with changes of this magnitude is that Local Government adopts the changes to varying degrees if there is limited practical guidance provided. HIA is concerned that the process for determining zoning within municipalities may easily become a considerable community issue in which the views of a few may overpower debate. HIA emphasises the importance of these zones as the starting point for determining development, therefore there is a need for both a balanced debate as well as clear leadership from the State Government regarding these new zones.

HIA is also concerned that this change will place an additional workload on local government resources at a time when Victoria's planning system is severely under resourced,

To ensure that the new zones are achieving their purpose HIA recommends that the Government commit to a review of the zones and their implementation within two years of their introduction. An example of circumstances in which this has been successfully undertaken with appropriate amendments currently being prepared occurred following the introduction of the Aboriginal Heritage Regulations 2007.

HIA is also concerned that when implementing the new zones, most likely via a ministerial amendment to all Victoria's planning schemes, that the Government will consider that the Limited Change Zone will be an appropriate exchange for the Residential 3 Zone in all circumstances. Examples of locations where this would be inappropriate include the City of Knox where the Residential 3 Zone has been implemented to a considerable portion of the municipality. It is inappropriate that in example such as this that large sections of the community without major amenity concerns are locked away from redevelopment. More detailed examination of the appropriateness of the limited change zones is required. HIA therefore suggests that to overcome this concern that in all cases the Residential 3 Zone is exchanged with the Incremental Change Zone and that councils apply for a planning scheme amendment to implement the Limited Change Zone.

## Height Controls

HIA is concerned about the height limits imposed in the new zones - in particular in the substantial change and incremental change zones. HIA believes stipulating a building height in these zones is a redundant provision that will not achieve the desired response of addressing neighbourhood character as is often the purpose of such a measure.

In fact it may diminish neighbourhood character objectives by reducing options for an appropriate and agreed design response for affected sites. If a locality requires a higher level of control then the Limited Change Zone is a more appropriate selection.

The implementation of height controls, particularly in the substantial change and incremental change zones, will also:

- **Cause confusion to industry and the community** - a residential design that was appropriate and addressed neighbourhood character on one side of a street, may find that it is disallowed on the other side of the street.

HIA believes that by constraining residential buildings, particularly to less than 9 metres in height, does not necessarily reflect neighbourhood character. This is evident by numerous residential developments around Melbourne that are less than 9 metres in height, yet contribute negatively to the neighbourhood character of an area, whilst dwellings that exceed 9 metres in height have responded positively. HIA are concerned that this policy inhibits good design outcomes.

Several examples that demonstrate the ability for a poor design outcome include:

- A three storey residential development with a flat roof achieving less than 9 metres in height could be allowed amongst different housing types, whilst a two storey development with a pitched roof

that would otherwise respond to neighbourhood character, yet exceeds the height control would be disallowed.

- A range of older homes (not subject to heritage overlays) commonly have characteristic design elements such as spires, towers, high internal ceilings and pitched roofs currently exceed 9 metres in height. Yet, new infill development that may seek to incorporate these design elements, in keeping with neighbourhood character, would not be allowed.
- **diminish the discretionary planning powers of councils;** Local governments in their role as planning authorities have the ability to consider residential developments against the existing 9 metre standard provision for a range planning permit applications. At the planning stage councils can consider a residential development in context with surrounding developments, site constraints and design response. The application of a lower height control removes a major design element that could be used to address and respond positively to neighbourhood character.
- **undermine existing regulatory controls;** Changes to ResCode standards have previously caused significant confusion and increases complexity for the housing industry, which is attempting to respond to consumer demands and urban consolidation principles espoused in Melbourne 2030. The ability to vary another standard will further undermine the intent of ResCode, which enables discretion to be applied through the building and planning processes. The new zones fails to respect the Building Regulations that consider height controls when building permits are applied for. Where buildings are proposed to exceed the 9 metre height the applicant can seek a consent and report certificate from the council, taking into consideration comments from affected adjoining neighbours. In addition where consent is refused, the applicant has the opportunity to have the matter reviewed through the Building Appeals Board. The introduction of this zone will remove this democratic process that HIA believes should be maintained.
- **affect Melbourne 2030 principles of urban consolidation** - Residential height controls will impact upon the ability of councils to deliver on the urban consolidation that Melbourne 2030 seeks to deliver, as the introduction of this policy may prevent sensible opportunities for increased residential density in residential areas.

To encourage different types of development - heights should be provided for guidance only, as in most circumstances it is covered adequately by the Building Regulations. It is considered that in the substantial change zone that height limits should be suggested and not prescribed. This will allow for better design outcomes and also give planners the flexibility they require to assess more dense style of developments.

Local councils should not be able to specify a maximum building height, particularly within the Incremental and Limited Change Zones, without considerable strategic evidence that it is considered appropriate.

In addition, HIA believes that houses that are built on moderate to severely sloping blocks have the potential to be unfairly constrained by a potential 9m height control, for example, when they are using stepped construction techniques to minimise cut and fill on such sites. Where a maximum height is specified the schedule ought to include the reference "should not exceed" rather than "must not exceed" as well as reference a higher level with a formula for determining on sloping sites.

HIA is supportive of the explicit inclusion of text within this zone that makes reference to extension of an existing building and a building for which a valid planning or building permit has been issued prior to the introduction of this provision.

HIA will discuss our position to the use of height controls in these zones further in the detailed assessment of each zone.

## **Third Party Notice & Appeal Provisions**

By and large, if development complies with local residential standards in the new residential zones it should be exempt from notice and review provisions of the Planning & Environment Act, as was suggested in the 2008 Discussion Paper.

This is particularly relevant for the proposed substantial change zone.

## **Links to Other Areas of Planning Reform**

The government has a large number of planning reform measures underway at present, whilst HIA is aware that the Consultation Paper stems from the 'Making Local Policy Stronger' report, which flows from the Cutting red tape in planning review this needs to be more clearly demonstrated.

# **Comments on Proposed Residential Zones**

## **Substantial Change Zone**

### **32.02 Purpose**

The purpose to this zone is clear and provides certainty to the community about what is intended in a locality. The second purpose should be amended to also include strategic greenfield sites.

### **32.02-3 Subdivision**

HIA notes that the permit requirement to be met should read Clause 56, not Clause 6 as documented on page 21 of the Consultation Draft.

HIA supports the notice and review exemptions for subdivision applications in this clause as they are a practical approach to ensuring a streamlined planning process.

### **32.02-4 Construction and extension of one dwelling on a lot Exemption from notice and review**

The Substantial Change Zone should be exempt from notice and a review provision as exists for the current Residential 2 Zone.

HIA is aware that this is also permissible under the similar New South Wales and South Australian regulatory regimes and under the current Residential 2 zone in Victoria. HIA's experience in these regions, as in Victoria, has been positive and as a result the planning process has been significantly streamlined.

The Department of Planning and Community Development and the Municipal Association of Victoria should liaise with the SA State and Local Governments to further examine the workability of the South Australian model. This model is similar to the soon to be introduced Victorian Development Assessment Committees model.

### **32.02-5 Construction and extension of two or more dwellings on a lot Exemption from notice and review**

The Substantial Change Zone should be exempt from notice and a review provision as currently exists for the existing Residential 2 Zone.

### **32.02-8 Building Height**

HIA is not supportive of a maximum building height of 13.5 metres (4 storeys) being the default setting within this zone. The purpose of this zone is to provide higher density housing in key locations with good access to services and transport. Developments should be able to construct to a height dependant on the local circumstances, policies and strategies. Property owners have in most cases purchased in these localities with the understanding that the locality is an appropriate site for "substantial change", this should not be restricted.

Also in many locations where this zone may be utilised, developments will be greater than 13.5 metres. HIA is concerned that this clause will therefore not allow greater than 4 storey developments. Height limits in this zone should be assessed on their design benefits and in relation to surrounding sites as such the prescriptive height limits proposed should be eliminated

If Government does not accept this and proceeds with the current proposal any amendment to the schedule must be supported by evidence and commence with the wording "should not exceed" rather than "must not exceed" to allow appropriate council discretion. HIA believes that local councils should be strongly advised that any consideration of inclusions of a building height control will be assessed against the distance of the site from activity centres, town centres and principal public transport routes.

The removal of the height control in these zones provides the Government an opportunity to be brave and provide certainty to the community regarding what can be achieved in residential neighbourhoods where significant change is appropriate.

There is concern that minor intrusions such as lift overruns and plant equipment would not be permitted by the term must.

#### **32.02-9 Exemption from notice and review**

For buildings and works associated with a section 2 use in the Substantial Change Zone HIA is supportive that this clause stipulate exemptions from notice and review and that these must be specified in the schedule to this zone.

## **Schedule to the Substantial Change Zone**

### **2.0 Substantial Change Zone - Building Height**

As above

### **3.0 Substantial Change Zone - Exemption from notice and review**

As above

### **4.0 Substantial Change Zone - Requirements of Clause 54 and Clause 55**

HIA, unlike our position in the following proposed zones, supports the idea of a limited number of design and development standards being applied to different areas in this zone to promote development at an increased density.

Limited variances demonstrated via schedules would be acceptable for higher density and medium density housing as long as each departure can be justified in the context of a metropolitan outcome. These variances must be consistent, uniform and based on the preferred housing form at a regional level rather than purely neighbourhood characteristics or community viewpoints.

An additional standard that should also be examined for inclusion in the schedule is the ability of local councils to set a reduced level of off street car parking in localities within 400 metres of Principal Public Transport Routes.

# Incremental Change Zone

As this zone will cover a majority of Melbourne it is critical that its performance results in a streamlining of the planning process, particularly where developments comply with all provisions. In particular HIA would like to see wholesale changes to the format of this zone, particularly regarding notice and review provisions, permit triggers and harmonisation of the schedules.

## **32.01 Purpose**

HIA is supportive in general of the purpose of this zone as long as it continues to facilitate genuine change over time and does not mothball or lock away large sections of our urban centres. Under these circumstances it will be impossible for the Government to achieve the strategic intentions of state policy such as Melbourne 2030.

## **32.01-3 – Subdivision - Exemption from notice and review**

HIA supports the notice and review provisions in the Incremental Change Zone for subdivision applications which contain an existing dwelling or car parking space. This appears to be a continuation of a practical approach to streamline the planning process in circumstances for which an approved or legitimate development has been constructed.

This should be expanded further exempting all applications from the notice and review provisions of the Act for subdivision applications greater than 300 square metres.

## **32.01-4 Construction and extension of one dwelling on a lot Permit requirement**

HIA believes strongly that the Government should remove the 300-500 square metre lot size trigger for planning permits to construct or extend a dwelling or a front fence when specified in this zone.

The trigger for a planning permit should be consistent across all residential areas; the removal would be consistent with government activities to streamline planning decisions resulting in less delays and applications.

## **Exemption from notice and review**

Within the Incremental Change Zone all section 1 uses should be exempt from notice and review rights of the Planning and Environment Act where the development complies with the residential standards of clause 54 and 55. In cases in which a development deviates HIA believes that notice provisions should be limited to adjoining and opposite properties.

## **32.01-5 Construction and extension of two or more dwellings on a lot Exemption from notice and review**

HIA, as in clause 32.01-4 above, believes that within the Incremental Change Zone all section 1 uses should be exempt from notice and review rights of the Planning and Environment Act where the development complies with the residential standards of clause 54 and 55. In cases in which a development

deviates HIA believes that notice provisions should be limited to adjoining and opposite properties.

### **32.01-6 Requirements of Clause 54 and Clause 55**

HIA does not believe that Standard B18 (Walls on boundaries) is an appropriate inclusion in the list of standards for which a different requirements may be listed in the schedule to this zone. Further details regarding why this is the case will be discussed in the schedule to this zone.

### **32.01-8 Building height**

HIA does not agree that there should be an ability to specify in the schedule a maximum building height that is lower than 9 metres in this zone. HIA believes that measures introduced under ResCode, provide adequate height controls and discretion for councils to consider a maximum height below 9 metres in appropriate circumstances.

HIA believes there is not a need for further mandatory height controls in residential areas without considerable strategic evidence that it is considered appropriate. Maximum building heights produce an additional layer of complexity and cost, which ultimately results in extra costs to new buildings in the residential industry.

### **32.01-9 Exemption from notice and review**

For buildings and works associated with a section 2 use in the Incremental Change Zone HIA is supportive that this clause stipulate exemptions from notice and review that these must be specified in the schedule to this zone.

## **Schedule to the Incremental Change Zone**

HIA believes that any planning scheme amendment to vary the Standards within the schedules to this zone beyond that which currently exists is inappropriate.

Where the current standards are altered they must be supported by an overall study of neighbourhood character not at a municipal but at a regional level to ensure a harmonisation of schedules across Melbourne. HIA suggests that a region should be based on housing type, for example Post-War. Such a response is necessary as fair and practical application of the zones will require a sense of metropolitan or regional responsibility and a consideration of 'big picture' objectives that cannot be achieved at the local level under the current system.

### **2.0 Incremental Change Zone - Building Height**

HIA does not agree that there should be an ability to specify in the schedule a maximum building height that is lower than 9 metres.

### **3.0 Incremental Change Zone - exemption from notice and review**

Within the Incremental Change Zone all section 1 uses should be exempt from notice and review rights of the Planning and Environment Act where the development complies with the residential standards of clause 54 and 55. In cases in which a development deviates HIA believes that notice provisions should be limited to adjoining and opposite properties. Therefore, any

exemptions listed in this schedule must be in addition to that described in the zone.

### **5.0 Incremental Change Zone - Requirements of Clause 54 and Clause 55**

As already discussed, the application of schedule to certain designated areas further erodes consistency and adds to the confusion for builders, building surveyors and planners alike, all whom are attempting to respond to consumer demands and urban consolidation principles espoused in Melbourne 2030. Different controls will produce an additional layer of complexity and cost, which ultimately results in extra costs to new buildings in the residential sector.

HIA believes that the introduction of the ability to vary standards in this, as well as the Limited Change Zones will not necessarily achieve the desired response of addressing neighbourhood character and in fact may diminish neighbourhood character objectives by reducing options for an appropriate and agreed design response for affected sites. HIA therefore believes the 6 current standards to the existing residential zones should be retained with greater control on their amendment.

HIA also has concerns that the use of multiple schedules across municipalities along with varied building heights will have a considerable impact on volume builders operating within Victoria. The Victorian housing market is affordable relative to other states because of the ability of the industry to quickly replicate house designs because of consistent ResCode standards. HIA remains concerned that the unknown ramification of the ability of councils to set different standards will add considerable costs to this aspect of the Victorian housing industry.

#### **Walls on boundaries.**

HIA strongly disagrees there is a need for councils to vary the current length of a wall on a boundary (nor in the Limited Change Zone). This inclusion is a marked change from the current scenario that did not work well for industry, as more often than not a greater length is required.

The ability for Local Councils to vary this standard (i.e. reduce this length) has been introduced because of a perception that garages, which in reality is what is most commonly on the boundary, is an over development. HIA believes that considering the smaller average lot sizes in Melbourne's Growth Areas and the need for redevelopment in established suburbs that the existing controls instigated through ResCode should be retained.

Should however it be the opinion of the advisory committee and the Government that a schedule amending Clause 54 and 55 Standards is appropriate than HIA strongly suggests that as discussed in the introduction a harmonisation of standards is required across regions and housing types broader than a municipal level. A transitional period will also be necessary to allow the industry time to alter designs.

## Limited Change Zone

HIA has some significant concerns regarding the Limited Change Zone. The establishment of a zone that explicitly discourages change or development is counter productive as it sends a message to the community that things will not change. This is inappropriate as in reality things will change over time and this should be expected. Whilst this change may be slow and generational the community should be informed that over time government policy, community needs and preferences will change and this must be accompanied within the existing footprint of Melbourne.

The lobby elements of the Melbourne community will see the proposed Limited Change Zone as the answer to all their concerns associated with addressing neighbourhood character issues and limiting urban population growth projections espoused in Melbourne 2030. Introduction of this zone will have the ability to distract councils from strategic and responsible planning. There is concern that this zone could be applied to large areas of all municipalities. For example the City of Knox has implemented the Residential 3 Zone to a considerable portion of the municipality. It is inappropriate that this area be altered to the Limited Change Zone as the reasons for changing from Residential 1 to Residential 3 zone was more politically motivated than being based on protecting the amenity, such as heritage or neighbourhood character, locations of the municipality.

### **32.06 Purpose**

HIA believes that the purpose for this zone needs to be clearer and stronger, as it is too similar to the Incremental Change Zone. It needs to clarify further why it is being implemented; that within this zone there is limited opportunity for change. Further clarification is required about what specific neighbourhood character features development should have regard for and protect in this zone; i.e. heritage, environmental, landscape etc.

### **32.06-4 – Subdivision - Exemption from notice and review**

HIA supports the notice and review provisions in the Limited Change Zone for subdivision applications which contain an existing dwelling or car parking space. HIA believes that this is a continuation of a practical approach to streamline the planning process in circumstances for which an approved or legitimate development has been constructed.

However, HIA believes that this should be expanded further exempting all applications from the notice and review provisions of the Act for subdivision applications greater than 500 square metres.

### **32.06-5 Construction and extension of one dwelling on a lot**

#### **Permit requirement**

HIA believes strongly that the Government should remove the 300-500 square metre lot size trigger for planning permits to construct or extend a dwelling or a front fence when specified in this zone.

The trigger for a planning permit should be consistent across all residential areas; the removal would be consistent with government activities to streamline planning decisions resulting in less delays and applications.

## **Schedule to the Limited Change Zone**

### **2.0 Limited Change Zone - Minimum subdivision areas**

HIA does not support the principle of councils specifying minimum lot sizes for new subdivisions, HIA anticipates that this zone would be utilised predominantly by councils within established suburbs for perceived heritage and neighbourhood character purposes and that this is a rough tool for controlling development. Should an application demonstrate that it can address amenity concerns, i.e. not be visible from the street, than HIA's preferential method is to examine each application for subdivision on a case by case basis. HIA does not believe that an additional dwelling that is not visible from the street or is sympathetic to local characteristics is detrimental to the character of metropolitan Melbourne.

HIA believes that implementation of this control will restrict the ability of the residential construction industry to build additional dwellings on lots within inner and middle ring suburbs of Melbourne. A minimum lot size will make the traditional 'battle axe' subdivision impossible to achieve and would therefore create further difficulties in implementing the housing targets espoused in Melbourne 2030

An additional danger of stipulating a minimum lot size is that on lots larger in size those without an intimate understanding of the planning process are likely to expect that they can subdivide as of right. The reality is that this is not always the case and this is likely to cause considerable confusion and anxiety within the community.

### **3.0 Limited Change Zone - Maximum number of dwellings**

HIA does not support in principle the ability to specify the number of dwellings that can be built on one lot in this zone, particularly whilst there is not a description of circumstances in which application of a higher amount of dwellings can be achieved. An appropriate example of such documentation is that which is included at clause 22.08-3.1 of the Glen Eira Planning Scheme. There is a need to be clearer in this zone regarding what is not permitted, rather than being discretionary as is the nature of the planning system.

Implementation of such a provision reduces the flexibility of the industry to meet community housing needs and would, like the specification of minimum subdivision areas, be detrimental to the strategic intentions of state policy such as Melbourne 2030.

This control will have a detrimental impact on a large number of builders, developers and consumers that have purchased sites under the anticipation of construction of additional dwellings on the site in the future. Should this provision

be implemented without at least a transitional provision a great deal of hardship will result, particularly for smaller builders and developers in the industry.

#### **4.0 Limited Change Zone - Building Height**

As previously discussed HIA has expressed strong concerns regarding the ability for councils to specify a maximum building height less than 9 metres in residential zones, this position is also held for this zone.

However, should it be proven to be appropriate through policies or strategies incorporated in the planning scheme, this position should be cautiously examined and where appropriate included in the schedule to the zone. HIA believes in such circumstances the maximum height limit that a council may specify should be 8 metres (2 storeys).

Where a maximum height is specified the schedule ought to include the reference "should not exceed" rather than "must not exceed" as well as reference a formula for determining a higher level on sloping sites.

#### **5.0 Limited Change Zone - Exemption from notice and review**

HIA believes that in this zone the default setting should be to exempt notice and review provisions in cases in which a development complies with all standards. Where a permit application deviates to a minor extent HIA believes that notice provisions should be limited to adjoining and opposite properties.

#### **6.0 Limited Change Zone - Permit requirement for one dwelling on a lot**

HIA believes strongly that the Government should remove the 300-500 square metre lot size trigger for planning permits to construct or extend a dwelling or a front fence when specified in this zone.

The trigger for a planning permit should be consistent across all residential areas; the removal would be consistent with government activities to streamline planning decisions resulting in less delays and applications.

#### **7.0 Limited Change Zone - Requirements of Clause 54 and Clause 55**

Similar to HIA's position to the proposed changes in the preceding zone HIA advocates that changes to Clause 54 and 55 Standards should be considered with caution. However HIA does agree that there should be an ability where local circumstances clearly warrant for limited changes to the standards permitted in the current Residential 3 Zone, that being all Standards but B18 (Walls on boundaries).

Should it be the opinion of the advisory committee and the Government that a schedule amending Clause 54 and 55 Standards is appropriate than HIA strongly suggests that as discussed in the introduction a harmonisation of standards in required across regions and housing types broader than a municipal level.

# **Implementation of New Residential Zones**

## **Transitional Provisions**

HIA is concerned that as a result of the potential for many varied schedules across Victoria and the inability for the industry to currently plan for these unknown changes that there is a need for transitional provisions, particularly for the Incremental Change and Substantial Change Zones. HIA is pleased to read in the Consultation Draft that the Government is committed to ensuring that the new zones have the least impact on the community and councils; however the needs of the development industry should also be addressed as they face the greatest economic risk as a result of the proposed new residential zones.

There are certain to be many developments both large and small for which substantial design and planning work has been undertaken at considerable cost. An ability for Councils via a schedule to specify different standards indiscriminately across Melbourne will greatly affect the Victorian housing industry.

HIA suggests that should it be able to be demonstrated that substantial work has taken place on a project that an exemption from any altered Clause 54 and Clause 55 standards within the Incremental Change and Limited Change Zones should be available. HIA suggests that substantial progress could be established by the submission of a planning permit for a development or the provision of well progressed working drawings that are dated and supported by a statutory declaration from the designer. During this fixed transition period the standards that currently apply in the existing provisions of municipal planning schemes should be implemented.

This is a provision for which the development industry is well accustomed to and the precedence for this is contained in the Building Permit process. *Section 10 of the Building Act 1993* permits a building permit for building work to be issued after the commencement of a new regulation without the need to comply with that new regulation if the requirements of Section 10 (2) of the Building Act 1993 are satisfied.

*"A building regulation or an amendment to a building regulation, does not apply to the carrying out of building work if the relevant building surveyor is satisfied, and certifies in writing, that substantial progress was made on the design of the building before the building regulation or amendment commenced."*

## Conclusion

In principle, HIA agrees with the intent of the new residential zones, however, there needs to be a reasonable amount of balance in how the new zones are pursued, particularly whilst housing affordability remains a most contentious topic both nationally and within Victoria, and at a time when the construction cycle is becoming less favourable.

In recognising the need for a proactive approach to the development of the new residential zones HIA has suggested a number of principles and specific amendments that can be effectively implemented.

HIA, as Australia's largest building industry association, remains committed to ensuring that the result of the review ensures that future planning applications and determinations are progressed in a timely and cost effective method, and wishes to assist where appropriate to ensure that the development of housing in Victoria remains affordable.

There will be a need for clear guidance and ongoing review of the implementation of the new zones to ensure the intent and implementation of state policies such as Melbourne 2030 is not diminished. State government will have an important ongoing role in the implementation of any zoning changes.

An overriding consideration throughout the review should be do the proposed zones and schedules reflect the overall communities, including the construction industries, expectations. HIA believes that planning scheme amendment to vary the schedules beyond that which currently exists are not necessary in all of the proposed zones and where appropriate must be supported by an overall study of neighbourhood character not at a municipal but also a regional level to ensure a harmonisation of schedules.

HIA looks forward to presenting a submission to the Advisory Committee and would welcome the opportunity to facilitate a meeting once the new zones are introduced between DPCD staff and HIA housing and developer members to discuss how the new zones affect the residential housing industry. Please contact Craig Jennion, Planning Services Advisor on 9280 8200 or [c.jennion@hia.com.au](mailto:c.jennion@hia.com.au) to arrange such a meeting.

If you require any further information in relation to this submission or wish to discuss these comments in detail please do not hesitate to contact either myself or Craig Jennion on (03) 9280 8200.

Yours sincerely  
Housing Industry Association Ltd



Gil King  
Executive Director, Victoria.