



Submission by the
Housing Industry Association Ltd

to

The Victorian Government's Consultation Paper
Sustainable Neighbourhoods

November 2005



*Sustainable Neighbourhoods
November 2005*

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Statement:

The enclosed submission has been prepared by the Housing Industry Association (Victorian Region) in response to recent review of Clause 56 provisions.



*Sustainable Neighbourhoods
November 2005*

About HIA

The Housing Industry Association Limited (HIA) is a national association of more than 42,000 businesses. HIA is the peak industry association for businesses in the residential building, renovation and development industry in Australia.

HIA members include builders and building contractors (residential and commercial), consultants, developers, major manufacturers and suppliers. Victoria has a large member base, with some 12,000 members. All top 200 home builders in Victoria are members of HIA. HIA members build over 90% of Australia's housing stock.



Table of Contents

1. Executive Summary	5
2. Sustainable Neighbourhoods - Commentary	8
3. Sustainable Neighbourhoods - General Issues	12
4. Sustainable Neighbourhoods - Specific Issues	19



1. Executive Summary

HIA is of the view that the existing provisions provide sufficient flexibility to achieve appropriate, innovative and practical solutions for subdivision, with an identifiable benefit of the review being the introduction of subdivision classifications.

The strength of the environmental lobby across the country means that sustainability regulation is now a “race to the top”, with all levels of government competing to have the best, most environmentally sound regulations. The revisions to Clause 56 are no exception.

Whilst new home buyers bear the brunt of policies like sustainable neighbourhoods through additional requirements on housing and through increased infrastructure levies, state governments are avoiding investment in critical infrastructure. With little or no control over how people use and live in their homes, sustainability measures that affect housing are in essence, playing at the margin. In reality, improved infrastructure delivers much greater and more certain sustainability outcomes.

The State Government has justified their proposal for “sustainable neighbourhoods” under the banner of Melbourne 2030.

“New residential subdivision provisions have been prepared that apply the neighbourhood principles set out in Melbourne 2030 and the urban management initiatives set out in the Victorian Government White Paper, Securing Our Water Future Together 2004, to deliver sustainable requirements.”¹

But the Government has not undertaken any analysis as to whether Clause 56 is the most appropriate mechanism for regulating these matters. Nor has it considered how the new requirements will relate to ALL planning schemes in Victoria, not just metropolitan Melbourne.

Industry has long held concerns about overloading the planning system with new requirements for housing. The revised Clause 56 proposals add further burden and costs, using the banner of “sustainability” as justification.

By implementing changes through the planning systems there is no requirement for any cost benefit analysis. As a consequence, changes can proceed in the absence of any public debate around who actually pays for the new requirements and at what cost.

HIA contends that the introduction of new requirements on land subdivision proposals, which are based on government policy objectives, should undergo a full

¹ Page 2 Sustainable Neighbourhoods – Commentary, Clause 56, Residential Subdivision



cost-benefit analysis rather than circumventing the parliamentary process for new legislation and a regulatory impact statement for new regulation.

The new Clause 56 requires a higher level of upfront information to be provided from the development industry, which increases the subdivision costs with no guarantee that a permit will be granted.

The push for certifiable elements of the process and creating a simple process for smaller subdivisions both have merit and are supported by HIA. If implemented, they may serve to create further efficiencies in the system.

HIA recommends that:

1. Governments should move away from targeting only the new home buyer with sustainability requirements and provide for a whole community response to achieve greater greenhouse reduction and water conservation goals.
2. The State Government should commit to developing long term relevant infrastructure investment plans. The development of new sustainability policy should balance sustainability needs with housing affordability, and include real commitments from the state government to contribute to major infrastructure items including roads, rail links and water and energy supply streams. Government is best placed to facilitate this infrastructure investment.
3. All new sustainability requirements on new housing should cease until comprehensive cost/benefit analyses of individual proposals have been completed and clear benefit demonstrated.
4. Any further pursuit of sustainability regulation should occur through the Building Code of Australia, creating the opportunity for streamlined regulation, simplification and consistency of existing policies at a cost effective and efficient level.

More specifically, the State Government should also:

5. Implement subdivision classifications based on relevant and practical applications. For example suggesting the same requirements should apply for a 10 lot and a 499 lot subdivision is too great. Further breakdowns are needed and are suggested by HIA in this response.
6. Consider the affect of the proposed new Clause 56 on housing affordability and clarify the role of developer contributions and the process of establishing a singular development contributions plan. These plans should be linked to local government planning schemes to encourage integration of infrastructure programs with land use planning and development decision making.



7. Ensure that the provision of private certification is one of the assessment paths made available to applicants. When external parties have approved plans for certifiable elements they must not be subject to further scrutiny or changes by councils.
8. Ensure Clause 56 is applied consistently across growth and infill areas by providing adequate training and resources to assist Council officers in their assessment of the new requirements.
9. Reduce the amount of upfront requirements when applying for a subdivision on the grounds of cost. Most matters can be handled at the permit stage and this will avoid additional expenditure in the early stages of a subdivision application where there is no guarantee of a permit being granted. Requests for further information at the permit stage should be disallowed or at least minimised.
10. Provide transitional arrangements to assist with a smooth changeover to the new requirements.
11. Generate and trial the proposed subdivision requirements across all new classifications and those proposed by HIA. A consultant planner specialising in subdivisions, with involvement from the housing industry and a number of councils should examine:
 - current requirements of Clause 56 versus DSE and HIA proposed requirements for new subdivisions
 - the degree of information that is required upfront for the proposed and current process;
 - the potential additional planning delays that affect land holding costs; and
 - the ability for private certification of standards to become a mandatory option for assessment.
12. HIA also seeks assurances that subdivision requirements will not be able to be added to or tampered with by councils and that a Ministerial Direction indicating this, could serve to halt this behaviour by some councils. By way of example, where a developer seeks to reduce potable water consumption, councils should not be able to add extra requirements on a per lot basis (eg the inclusion of rainwater tanks).



2. Sustainable Neighbourhoods - Commentary

A) Why Review Clause 56?

The Sustainable Neighbourhoods commentary booklet lists several reasons for the review of Clause 56:

1. *“The Sustainable Neighbourhoods provisions deliver the Bracks Government’s commitment in 2001 to review the residential subdivision provisions in Victoria’s planning schemes.*

Four years after the introduction of ResCode, there appears to be no real reason from an operational standpoint to undertake the review. Clause 56 in its current format works well and provides sufficient flexibility for council and industry. When the full ResCode changes were proposed in 2001, there were few submissions on Clause 56. HIA is not convinced that changes to clause 56 are necessarily warranted.

2. *The provisions will implement the Government’s agenda for more sustainable residential subdivision and more liveable communities. They will promote walking, cycling and using public transport as part of everyday life. The provisions also encourage water sensitive urban design to save water and protect the quality of our waterways.*

It is the government’s **policy** to regulate for additional features in new communities. It is the government’s **policy** that Clause 56 requires review and that the additional requirements of the proposed “Sustainable Neighbourhoods” will make a community more liveable and function more sustainably. In fact it is the upgrade of major infrastructure that supply utility services and changes to community behaviour that will allow Victorians to **live** more sustainably.

3. *The provisions streamline the assessment of different categories of subdivisions with simpler, quicker processes for smaller subdivisions*²

A planning framework and permit system that ensures a faster simpler process for smaller subdivisions is long overdue.

It is inappropriate to have a 2 lot subdivision undergoing similar scrutiny to a 200 lot subdivision. HIA is pleased to note that the government has included this suggestion in the final consultation draft. However, there is concern about the number of objectives that are triggered by some of the subdivision classifications and HIA has suggested changes to this assessment process.

There are further attempts in the commentary to justify the review including:

² From the forward - Sustainable Neighbourhoods Commentary paper, September 2005



“It’s now time to update Clause 56 by implementing recent government policy initiatives eg walking, cycling, public transport etc.”³

Justifying changes to Clause 56 on the basis that the government would like to see increased public transport use requires further clarification. An article in “the Age” on Monday 24th October 2005 suggested there are flaws in the State Government’s rail policy. Once the cornerstone of Melbourne 2030 policy the article suggested that:

“train links on the cusp of being built have been shelved indefinitely.”

As the journalist notes in the same article

“in this supposed paradise of sustainability, it seems likely there will be plenty of cars.”

The State Government needs to clarify its public transport policy if it is to work hand in hand with residential subdivision provisions.

Who will pay?

The review of Clause 56 is being conducted in the absence of any cost benefit analysis of the new requirements on developers and homebuyers. Particularly where new communities are being developed, the cost of all facilities and features required by these updated proposals will be borne by the new homebuyers as the ***costs must be passed on by the development industry***. This obligation stems from the public nature of many of these companies and the requirement to meet their shareholder obligations.

HIA submits that in practice the pricing approach for new items in subdivisions should follow the recommendation contained in the 1978 report of the Committee of Inquiry into Housing Costs, namely that:

“Developers should continue to be responsible for internal development works in residential land development, including reticulation of services. All other developer contributions, including headworks and area contributions, contributions for amplification of services and off-site drainage and like schemes, should be removed. The resultant capital deficiency should be made up by increases in rates and charges on all consumers so that provision of services at the time of development should not be frustrated.”

While these principles were outlined 25 years ago they remain the key to equitable and efficient delivery of infrastructure in a way that does not compromise housing affordability.

³ P2 Sustainable Neighbourhoods Commentary, Clause 56 Residential Subdivision, September 2005



In keeping with these principles HIA believes that there are certain 'traditional' types of infrastructure that are required within a subdivision for which it is reasonable to expect the new homebuyers to pay, including the basic services such as water, electricity, roads, stormwater and land for local open space.

HIA's July 2003 paper 'Restoring Housing Affordability – the housing industry's perspective', reiterated that:

“As a matter of principle, charges for infrastructure should be applied to fund increments to local infrastructure which are related directly to the new development and required at the same time as the development occurs e.g. local roads, drainage, sewerage and local parks.”

These principles are consistent with the assessment made by Access Economics⁴ that:

“...works within a development provide a clear private benefit to an individual new resident. Efficient pricing would involve households carrying the full cost of provision, with charges levied directly or through the developer.” (page 16)

Some of the new requirements of Clause 56 appear to be opening the door towards the development industry and in turn homebuyers paying for the supply and installation of further community infrastructure. References to providing “sporting facilities”, “artwork and water features”, “publicly owned plazas” suggest that there is a reliance on user pays principles which has the effect of levying new homebuyers at a time when they can least afford it. Purchasers of established homes in older localities, by comparison, have not and do not pay for their use of community facilities, other than via local rates. Access Economics⁵ concludes that for these community infrastructure items:

“Rather than upfront charging, capital costs should be recouped from users through user charges, which more accurately reflect the distribution of benefits.” (page 19)

or if the infrastructure is for network investment:

...capital costs ...should be shared equally across all users (page 20)

HIA believes that this community-wide and social infrastructure, some of which is proposed through “Sustainable Neighbourhoods”, should be paid for by the whole region through general taxation measures. There are many beneficiaries from this infrastructure, ranging from the wider to the local community. For some of the items of infrastructure governments are able to introduce user charges to pay for the

⁴ Financing Urban Infrastructure for Residential Development - a report prepared for the Housing Industry Association - October 2003

⁵ Financing Urban Infrastructure for Residential Development - a report prepared for the Housing Industry Association - October 2003



Sustainable Neighbourhoods
November 2005

infrastructure over time. For other items where there is no effective way of having user charges, general rates or taxation should be used. If these principles were adopted there would be significant improvements in the accessibility of home ownership.



3. Sustainable Neighbourhoods - General Issues

1. Sustainable Neighbourhoods is the next step towards fully master planned communities;

“Sustainable Neighbourhoods” takes a particularly prescriptive approach to subdivision. By increasing the requirements on the development industry and builders at the initial stages of a subdivision, it further reduces consumer choice once the lots have been sold. Designers will work towards the government’s formula rather than demonstrating creativity, innovation and individuality in new house designs. By adding more and more features for Council approval in an upfront manner, the consumer will have little or no room to move on their own design imperatives. In Sydney, land shortages dictate the type and form of housing provided. It is questionable where this is the intention of sustainable neighbourhoods and whether this is really what the government and community want for Melbourne’s fringe.

HIA proposes the revised Class of Subdivision table below creating an additional class in conjunction with the clauses that we consider will promote the most efficient implementation of the objectives of this review. This would be more suitable for subdivisions of all sizes across the state.

Table 1 – HIA proposed Class of Subdivision

Class of Subdivision	Objectives and Standards to be met
Subdivisions creating new neighbourhoods (28 objectives)	CI 56.01-1, CI 56.01-2, CI 56.02-1, CI 56.03-1, CI 56.03-2, CI 56.03-3, CI 56.03-4, CI 56.04-1, CI 56.04-2, CI 56.04-3, CI 56.04-5, CI 56.05-1, CI 56.05-2, CI 56.06-2, CI 56.06-3, CI 56.06-4, CI 56.06-5, CI 56.06-6, CI 56.06-7, CI 56.06-8 CI 56.07-1, CI 56.07-2, CI 56.07-3, CI 56.07-4 CI 56.09-1, CI 56.09-2, CI 56.09-3, CI 56.09-4
50–500 lots (25 objectives)	CI 56.01-1, CI 56.01-2, CI 56.02-1, CI 56.03-1, CI 56.03-2, CI 56.03-4, CI 56.03-5, CI 56.04-1, CI 56.04-2, CI 56.04-5, CI 56.05-1, CI 56.05-2 CI 56.06-2, CI 56.06-4, CI 56.06-5, CI 56.06-6, CI 56.06-7, CI 56.06-8 CI 56.07-1, CI 56.07-3, CI 56.07-4 CI 56.09-1, CI 56.09-2, CI 56.09-3, CI 56.09-4
20- 50 lots (20 objectives)	CI 56.01-1, CI 56.01-2, CI 56.02-1, CI 56.03-5, CI 56.04-1, CI 56.04-2, CI 56.04-3, CI 56.04-5,



	CI 56.05-1, CI 56.05-2 CI 56.06-5, CI 56.06-7, CI 56.06-8 CI 56.07-1, CI 56.07-3, CI 56.07-4 CI 56.09-1, CI 56.09-2, CI 56.09-3, CI 56.09-4
3-20 lots (10 objectives)	CI 56.01-1, CI 56.01-2, CI 56.04-2, CI 56.04-3, CI 56.04-5 CI 56.06-8 CI 56.07-1, CI 56.07-3, CI 56.09-1, CI 56.09-2
2 lots (5 objectives)	CI 56.04-5 CI 56.07-1, CI 56.07-3, CI 56.09-1, CI 56.09-2
Existing buildings or car parking spaces (1 objective)	CI 56.04-5

Note:

- a) The allocation of the objectives and standards in the above table should not be taken as support for the objectives espoused by those provisions, particularly in relation to renewable energy and water conservation targets. Further clarification of these matters are mentioned in our commentary on 'Specific Issues'.
- b) Those objectives and standards that relate to the integrated water management and utilities provisions have been located in a classification where the supply of these resources is integral to the development.

2. The Operation of Objectives and Standards;

The Operation of Objectives and Standards are the same as those described in the current Clauses 54 and 55 and 56.

However, it is noted that the "Requirement" for subdivisions has been changed to ensure that the objectives **must** be met according to subdivision classification.

HIA supports the retention of the existing wording being '**should be met**' in the "Requirement" Section. HIA also suggests the words for the Standard could be written as:

A standard contains the requirements **deemed to satisfy** the objective.

This change would assist in alleviating subjective decisions.

Also, where Table C1 refers to the Classification of Subdivisions, a reference should be made within the table that states:



“If in the opinion of the responsible authority a provision or the requirements of certain provisions have been met, the responsible authority may waive or reduce the assessment against the provision or requirement.”

3. The level of upfront detail required is of concern to industry;

The requirement for detailed landscape and maintenance plans etc will all add to the cost of creating the subdivision. These costs will inevitably be passed to the consumer through higher land prices. The developer will waste a great deal of time and money in providing the additional details eg landscape plans, if the application is either refused or if amended plans are required. It should be possible to include some of the requirements (such as lodging landscape plans) as a permit condition, as is the case now.

4. Not all provisions are strictly subdivision related;

The “Neighbourhood Principles” are an attempt to create subdivision enclaves wherein walking and public transport are used, a range of house lot sizes are provided, where shopping and community services are integrated, open spaces are provided, and environmentally friendly development which includes the protection of native habitat is common place. Mostly the principles are desirable for new development.

However, the highly competitive nature of the industry ensures that to sell house and land packages a sense of place and community needs to be there. As a consequence, many of these additional features are already provided by the developer depending on the target market for an estate. If governments place so many additional requirements on housing and land, it is almost certain that first home buyers will be priced out of the market. An estate targeted at first home buyers may initially have less in the way of facilities and provisions - but it will also be more affordable.

Some of the additional requirements (which do not strictly relate to subdivision) in the draft will come at a high cost to homebuyers. For example the use of alternative energy sources (eg renewable energy for street lights) and recycled materials and so forth. There is potential therefore for some councils to take the ‘green view’; for example that all houses **will** have alternative energy sources, **must** use recycled materials and **must** have rainwater tanks. Like net gain requirements which have been applied strictly by some councils, there is the potential for these “high level” requirements to be either *over* applied or *applied in a haphazard manner*. This provides very little certainty to the development industry to determine how far to go in providing sustainable requirements in a new subdivision

Also, the creation of new neighbourhoods is commonly supported by local government “Strategic, Structure and Development plans”, which serve to outline the desired outcomes for particular localities. Therefore, it is suggested that where a local council is of the view that the proposed development responds to the endorsed council plan, that incorporates the requirements of Clauses 56.01 and 56.03 and



ultimately supporting 56.02, there should be no need for a further assessment under these clauses. However, in the absence of the relevant plans reverting to Clause 56.01 and 56.03 should be the default position. The wording relating to 'waive or reduce the requirement' should be altered to reflect these suggested changes.

5. Are Council officers able to assess requirements accurately?

A higher level of requirements for new subdivisions and a tendency towards master planned communities will mean council planners may require greater skills to assess applications. Council planners will require assistance to recognise the new requirements of Clause 56 and the parameters of information required. Also this revised Clause 56 opens up opportunities for a range of new facilities in subdivisions and should not promote major discrepancies across the growth areas in what councils are seeking from developers. There should be consistency of information sought from applicants in relation to the sustainable neighbourhood provisions across all growth and infill areas.

6. Requests for Further Information;

If applicants are required to submit very detailed upfront drawings, there should be limited opportunities for requiring more information at the time of issuing the permit.

The development of upfront drawings is costly for development companies. Requirements to rework drawings for a second or subsequent time would be an unnecessary cost and time delay.

A shortage of council planners, means that one officer does not always deal with the application in its entirety. What mechanisms will be in place to ensure the upfront and detailed application plans assessed by one officer are not required to be completely changed either prior to Council assessment or via permit conditions at the request of another officer?

Also as the revised Clause 56 requires a new and increased level of information at the subdivision stage, will Councils be adequately resourced to give upfront assistance when developers and designers seek additional information about what is required? At present overworked planners find it difficult to allocate time to this part of the process, often leaving developers to second guess or negotiate requirements.

With even more detailed requirements under the revised Clause 56, Councils will need to spend more time articulating their requirements to applicants. The production and compulsory use of template forms outlining what information is required to support the application may help to alleviate some of industry concerns with the current administrative process.

7. The New Clause 56 will affect Housing Affordability

Housing affordability will be affected by the changes to Clause 56. Additional costs whether they are from state or local governments cannot be absorbed by the



development industry – they must be passed on and are reflected in higher land prices. The table below demonstrates the increases in the land component of a house and land package over time as government fees, taxes, levies and regulations compound. Although land prices have increased markedly, the cost of building a new house has increased only modestly.

Table 1 Share of Land in New House Prices
Source HIA

	1976-77		1992		2005	
	New House Price \$	Land %	New House Price \$	Land %	New House Price \$	Land %
Sydney	\$49,010	32%	\$189,800	44%	\$565,000	62%
Melbourne	\$63,200	24%	\$169,000	24%	\$340,000	38%
Brisbane	\$46,280	21%	\$164,690	39%	\$362,000	41%
Adelaide	\$53,970	16%	\$125,970	26%	\$272,000	44%
Perth	\$57,640	22%	\$115,730	32%	\$296,000	47%

The table shows that land prices in Sydney absorb approximately 60 percent of the home purchaser's dollar, despite a significant reduction in average lot sizes. In 2002-03, two-fold increases were reported for broad acre prices in Sydney.

In metropolitan Melbourne, since the introduction of the UGB in October 2002, the median price of vacant house blocks has risen 57 % in less than 2 years (from \$87,000 in the September quarter of 2002 to \$137,000 in the June quarter of 2004). Prior to the announcement of Melbourne 2030 and the UGB, prices were rising at less than a third of this rate.

In Brisbane and Perth more than 40 percent of the new house price is accounted for by the land component. Vacant land prices in the Adelaide Statistical Division have increased by 60 percent in the past 5 years.

By increasing the requirements that are funded by developers, such as those required by "Sustainable Neighbourhoods" the increase in land prices will only continue.

Also in the absence of clear infrastructure and contributions plans, how will a double up of charging or service provision be avoided? With many Councils now preferring to undertake Section 173 Agreements for negotiating higher contribution charges for required features, and many state agencies able to introduce developer contribution charges, there is concern about how this will be co-ordinated under a revised Clause 56.

In the absence of any co-ordination between Councils and State Government Departments in requiring contributions, the industry will be left with a raft of



requirements through Clause 56 by Councils and a range of other charges (which may be for items already covered in Clause 56) from other state government departments. These matters need to be better co-ordinated under the revised Clause 56.

8. Private certification principles are supported;

With the support of the State Government, elements of private certification in planning applications are now available for use by all Victorian councils. However, it is not compulsory for councils to offer certification as an option and the government is correct in using the review of Clause 56 to try and achieve a greater uptake. The provision of private certification **must** be one of the assessment paths made available by Councils to applicants and the poor uptake rate of private certification assessment processes promoted in the Governments 'Better Decisions Faster' program warrants this approach.

The State Government should also be increasing the number of matters that can be assessed and certified as part of the revised Clause 56 by an external party. Guidance on this issue could be provided by the degree of information that is required by a council officer to inform the assessment of an application, and have this information listed as certifiable standards.

Further implementation of private certification in planning will ultimately lead to quicker upfront assessment of requirements, important when considering high land holding costs.

There is a need, however, to further identify who will be given delegated power to approve strategies designed to meet the prescribed standards and how this will be regulated, if at all. Councils **must** not be able to refuse material that has been certified by a suitably qualified person in accordance with the certification requirements. Also when external parties have approved plans for certifiable elements, they **must** not be subject to further scrutiny or changes by Council officers.

Whilst the provisions stipulate that Clause 56.01-1 can be certified, this does not appear in the 'Certification of Standards' section. HIA seeks rectification of this anomaly along with the expansion of certified standards raised previously.

9. Transitional Arrangements

As a result of the State Government introducing an Urban Growth Boundary (UGB) in 2002, a perceived shortage of developable land saw high levels of land acquisition. The acquisition price would have been principally determined by the return that could be generated from that land. The figures used to determine the purchase price would have been premised on the regulatory environment at the time of purchase. The new Clause 56 requirements will add significant cost. Has consideration been given to transitional arrangements to assist with those projects already partially underway and costed under the current system?



*Sustainable Neighbourhoods
November 2005*

The building regulatory system includes transitional provisions to take into account regulatory change in situations where substantial work has been undertaken on a project. This approach could be adopted in relation to Clause 56.

10. Trialing the new Provisions

Given the significance of “Sustainable Neighbourhoods”, HIA urges the Department of Sustainability and Environment to trial subdivision applications across all the exhibited classifications and those proposed by HIA against the existing and proposed requirements. The use of a consultant planner specialising in subdivision in conjunction with involvement from the housing industry and a mix of councils is recommended.

Without trialing the new provisions, there is no way of knowing definitively if they will be workable. Also the impact of additional costs on the development industry and ultimately home buyers are difficult to adequately quantify without this process.



4. Sustainable Neighbourhoods - Specific Issues

a) Commentary

Balancing Information Requirements to subdivision size and complexity

HIA agrees in principle with this concept. Conditions should vary depending on the size of a subdivision.

HIA and urban water authorities share the view that the water management requirements of Clause 56.07 are too onerous on smaller developments and would impose a significant additional financial burden. Therefore it is suggested that the actual water conservation targets are not triggered on classifications less than 50 lots.

It is unclear how water requirements will be achieved to the satisfaction of water authorities, and whether council has the ability to ramp up these requirements through planning permit conditions. HIA seeks assurance that subdivision requirements will not be able to be added to or tampered with by councils and that a Ministerial Direction indicating this could serve to halt this potential behaviour by some councils. By way of example, a developer who has taken into account Clause 56 requirements for water savings, could be required by a council to include rainwater tanks for each allotment. This is clearly unacceptable.

Subdivision of existing buildings or car parking spaces

Subdivision of this nature **must** not trigger new works. The Government needs to be clear on how this is to function.

Certification of Standards

As mentioned earlier, independent certification on all provisions should be available. Where a standard has been certified as being met, councils **must** not reassess the matter or attempt to address such matters through permit conditions.

b). Specific Comment on Clauses

Clause 56.01 - Subdivision, Site and Context Description

56.01-1 Subdivision site and context description

The level of detail required is of concern and difficult to quantify without DSE trailing the requirements against the various classifications.



The reference made to 'An application for subdivision of **more than 3 lots** must describe in relation to the surrounding area' is inconsistent with the proposed classification structure and should be changed to more than 2 lots.

Clause 56.01-1 is deemed suitable for private certification but has been omitted from the 'Certification of Standards' section.

Clause 56.02 – Policy Implementation

56.02-1 Strategic Implementation Objective

This clause requires applicants to justify how their application fits with other strategic policies. Builders and designers should not be required to justify their work to ensure state government objectives are being met.

To satisfy this requirement a high degree of understanding from the applicant on council policies influencing the design response is required. Council officers will need to be committed to assisting applicants understand council's detailed requirements. It is suggested that councils should prepare a simple document that identifies the relevant sections of the appropriate policies as guidance.

Clause 56.03 – Liveable and Sustainable Communities

This clause applies a raft of additional requirements to new subdivisions. As mentioned earlier HIA views the government's aims as a move towards master planned communities and provide a wider range of facilities upfront, but there is no analysis of cost and who will pay – particularly for community and social infrastructure. Homebuyers will ultimately bear the brunt of the additional costs.

Also the specific nature of requirements on the proposed Clause 56 in some ways limits the available land for housing. The requirement for community, schooling and other required facilities may end up dominating what can be done and how, with the remaining land.

Standard C2 requires that the objectives of other Clauses that are already triggered be met. Any reference that calls up another Clause should be removed as it unnecessarily complicates the provisions.

Also with Standard C5, it is unclear how residential development can enhance existing cultural heritage values - and how Council officers will assess this. Is this requirement consistent with the current review of cultural heritage legislation being undertaken by the Minister for Aboriginal Affairs?

Clause 56.04 Residential Lot Design

56.04-1 Residential lot diversity and distribution objective



This clause attempts to ensure a range of lot sizes but is more prescriptive than current Clause 56 requirements. Standard C7 should not be assessed against subdivision classifications less than 20 lots as they may not be able to comply with the requirements. This is because they are typically infill developments constrained by existing land uses, and will probably not be further subdivided in the future.

The inclusion of *Lots suitable for Residential buildings and Retirement Villages* should not be included as a standard, as these buildings are delivered by the industry on the basis of market needs. The development industry is already responding to the provision of Retirement Villages in some large developments and therefore the need to prescribe such a result is not necessary. Retention of the current Standard C18 can still be relied upon to promote a diversity of lots that responds to housing types and market demands in a less specific way.

Whilst there is support for the promotion of public transport to service new residential developments, HIA has concerns that the lot distribution requirement of 95% of dwellings being within certain distances of public transport will fail to provide certainty for the development industry or new homebuyers. The government's plans for public transport appear to be unresolved with a pull back from the provision of train services and replacement with bus services that are as yet unknown. It is reasonable that where industry is required to respond to public transport objectives espoused by government policy, then government should demonstrate leadership and provide a clear time frame for implementation. The early provision of direct public transport services by government into new estates will help to ensure greater public transport uptake, rather than waiting for a decade or longer which allows residents to become car dependent.

56.04-04 Community Interaction Objective

This should not be a separate standard. The Government is again trying only to satisfy a policy it has made rather than seeking a better design outcome, The expectation that housing can provide community interaction, solve vandalism and contribute to reduced crime rates is unrealistic. These are social matters that cannot be regulated through residential subdivision. The current Standard C6 promotes the same agenda and should be relied upon as it is general in nature and can be met by the development industry.

Clause 56.05 – Urban Landscape

This clause dictates that landscaping plans are provided upfront. Detailed landscape plans should only be provided as a condition on the planning permit, as they are now.

Considerable resources are required to produce this level of detail, therefore when an application may be changed or even refused in its current form it leaves the applicant with a high cost at this early stage of the process. Conceptual landscaping should be indicated on the plan of subdivision but specifics can be provided later as



part of the endorsed plans. Requiring a maintenance plan is also a feature that should be deferred to a condition on permit.

Also the competitive nature of the industry and competition between estates now dictates that a reasonable amount of landscaping and parks are increasingly planned and provided.

56.05-1 Landscape Objectives

The objective that *'provides for water management systems and contributes to potable water conservation'* is out of context and should be removed as it is adequately covered in the Integrated Water Management objectives.

Standard C12 requires the applicant to be particularly detailed and could be open to interpretation by Council officers if implemented exactly as stated.

For example suggesting that landscape design should:

*"contribute to a sense of place or neighbourhood character as appropriate" and
"support an integrated urban design concept for neighbourhood or subdivision".....*

Similarly the requirement that landscaping should:

"respond to the site and context description for surrounding areas"

If surrounding areas are particularly barren, is there a lesser requirement to provide landscaping within a new subdivision?

It is not clear how landscape design can:

"protect and enhance any significant natural or cultural features"

This is irrelevant as any pre and post settlement cultural features are protected by other legislation and should not be included here, particularly in landscaping requirements.

There also appears to be a contradiction whereby landscape design is required to

"promote the use of indigenous species where appropriate",

yet

"take account of placement and flammability of species selection so as to not endanger dwellings and other buildings in case of fire".

Native vegetation could be more flammable than deciduous, but the point to be made is that the requirements are again too detailed and appear to be in some ways contradictory.



It is also much too onerous to suggest that there should be the:

“use (of) plant species that support natural surveillance of streets and public open space.”

It is unknown how this requirement could possibly be demonstrated or met.

56.05-2 Public Open Space Provision Objective

It is ambiguous to suggest in Standard C 13 that public open space should:

“meet the social, cultural, recreational and sporting needs of the community”

It will be impossible at the design stage to know what the exact needs are. Also meeting the *sporting* needs of the community implies there may be a requirement on the development industry to implement actual sporting facilities in the absence of a proper infrastructure plan.

Reference to the provision of water features and artworks “as appropriate” are landscape elements that are already incorporated into some developments to demonstrate a competitive edge. To suggest that these are required extends beyond the subdivision of land and promotes a one size fits all approach and will again add cost to the development and ultimately homebuyers.

Clause 56.06 – Mobility and Access Management

This requirement expands on the current Clause 56.03 and 56.04 and attempts to have integrated public transport, mobility and walking and cycling paths. Once again the homebuyer will be required to fund these additional requirements as the cost will need to be passed on.

Standard C14 requires the objectives of other Clauses to be met, adds no further value and therefore should be removed.

Standards C 15 and C 18 specify that the requirements of the Commonwealth Disability Discrimination Act 1992 must be met. Complying with Commonwealth legislation is mandatory so is there no need to restate it here. Also HIA contends that this legislation does not apply to residences. There is no need to include this statement as it only serves to confuse.

Standard C 16 suggests that street design can assist in greater public transport use and mentions the public transport network. The provision of public transport is not able to be controlled by the developer – but by government. “Better Transport Links” the transport implementation Plan of Melbourne 2030 states that the Government will:



Upgrade and develop the Principal Public Transport Network and local public transport services to connect activity centres and link Melbourne to Regional Cities:

Also is the commitment to:

Improve the operation of existing public transport network with faster more reliable efficient on road and rail public transport.

If the government delivers on these promises, Standard C16 will be met. The practice note also says that the provision of public transport matters is a matter for the DOI with public transport providers - so how is it possible to design and meet these requirements without knowing the DOI agenda and plans for public transport.

Street design has been raised as a concern as there are proposed changes to increase the width of the carriageway with 5.4m being the minimum. The increase in the carriage way width results in less land available for residential lot development and hence puts greater pressure on the industry to make up for excised land elsewhere. It is unclear if this also applies to shared private roads that are used to access lots internally. All of these requirements limit the number of lots able to be provided, which is critical where an Urban Growth Boundary is already limiting overall land supplies.

Clause 56.07 – Integrated Water Management

Clauses 56.07-1, 56. 07-3 and 56.07-4, support the provision of potable water, waste water systems and the management of urban runoff respectively, all of which need to be provided at subdivision stage for classifications greater than 'Existing Buildings'. HIA acknowledges these objectives, however is concerned with the sustainability objectives espoused in these clauses.

56.07-1 Potable Water Supply

Standard C22 requires the developer to demonstrate how potable water savings will be achieved in accordance with the water authority requirements.

The industry has not seen the detail and background information that would be used by Victoria's urban and regional water authorities to support this standard and cannot therefore support this objective.

Given the details to achieve savings have not yet been developed, HIA is concerned that an inequitable burden may be placed on new subdivisions for non potable water supply infrastructure and strategies imposed to achieve projected water savings. Our industry is already responding to water conservation in new housing that is regulated through the Victorian Building Regulations and through voluntary industry initiatives such as HIA GreenSmart. With the exception of household water use, which is predicated by individuals consumption, and open space irrigation, the provision has no relevance to land subdivisions.



Irrigation and the future management of open space is the responsibility of Council and accordingly, the best outcome is likely to be negotiated between the council and the developer.

A more equitable approach to water conservation would be for the pricing of potable water to be increased as a deterrent to wastage and inefficient practices and for the supply of non potable water to be priced below potable water rates.

Standard C22 appears to place the onus of responsibility to achieve water savings on the developer. It is not possible for the developer to control potable water usage as resident consumption patterns are beyond their control.

56.07-2 Reused and recycled water

Standard C23 outlines the supply of reused and recycled water to be provided and managed in accordance with the requirements and to the satisfaction of the water authority, Environment Protection Agency and the Department of Human Services. Yet the industry has not seen the completed Recycled Water Guidelines currently being prepared by the Environment Protection Authority. HIA raised significant concerns on specific details of these Guidelines, particularly those that relate to the power of the 'Guidelines', the agency driving the implementation of the objectives, amongst other documented concerns. Therefore reference to the supply of reused and recycled water is premature without the supporting material for the industry to comprehend and without indicating at whose cost this resource is supplied to land owners. HIA cannot support the requirement.

Further clarification is also required to identify who is responsible for ensuring the supplied reused and recycled water is actually connected by the home owner.

56.07-3 Management of Waste Water

An objective for the management of waste water states that waste water should be recognised as a potential resource for substitution of potable water when suitably treated and fit for purpose. This statement treats waste water as a separate resource for potable water substitution, yet waste water, is one resource amongst an array of resources and should not be treated differently.

56.07-4 Management of urban run-off

An objective for the management of urban run-off states that urban run-off should be recognised as a potential resource for substitution of potable water when suitably treated and fit for purpose. In the same scenario as the management of waste water, urban run-off is yet another resource that may be able to be used for potable water substitution and therefore should not be treated separately.

HIA notes that Standard C25 suggests that the 'stormwater system should be integrated with the overall development plan including the street landscape and public open space networks'. However, during the consultation review process HIA



has become aware of an ongoing debate between drainage authorities and councils on the management of land encumbered and managed for overland flow that can contribute towards open space objectives. HIA is keen to contribute to the debate on the inclusion of encumbered land as part of a developers open space contribution.

Numerous developments currently include wetland systems that treat and manage stormwater runoff yet are not included in their open space contribution to council. This level of commitment for the excising of developable land for the treatment of urban run-off should be able to be used by the development industry as open space offsets, as typically the system is surrounded by land and enhanced by cycling and pedestrian paths. By allowing the development to include the land genuinely set aside for stormwater treatment, this is a valid contribution to open space.

Clause 56.08 -Environmental Management

HIA contests that Clause 56.08 is irrelevant and should not be assessed for subdivisions.

56.08-1 Site Management

The protection of drainage infrastructure and receiving waters from sedimentation is an element of integrated water management that specifically relates to the management of urban run-off linked with maintaining and enhancing the environmental health of waterways and receiving waters. This should therefore be dealt with in Clause 56.07-4.

The reference to the protection of drainage infrastructure is typically addressed through the payment of an asset protection bond to councils. In addition the management of dust and drainage protection are common conditions on planning permits. Clause 56.08-1 is therefore redundant and unnecessarily complicates the planning process.

The construction activities undertaken during land subdivision produce limited waste and should not be unduly burdened with managing the waste streams of single housing lots. These are generally controlled by council local laws through the installation of waste receptacles.

56.08-2 Waste minimisation

Standard C27 which advocates for the use of recycled materials in the construction of streets, shared paths and other infrastructure 'where practical' is far too prescriptive. This approach may be neither practical nor based on financial, social or environmental grounds. HIA is concerned that the residential industry continues to be singled out in being asked to meet a higher regulatory bar.

The reference to streets designed to allow for the safe and efficient collection of waste and recycling materials is a function of street layout expressed in Clause 56.6-7 and serves no purpose in being repeated here.



Clause 56.09 Utilities

55.09-1 Shared Trenching

Standard C28 has failed to include the reticulated service for waste water as a potential for shared trenches, subject to approval by responsible authorities.

56.09-2 Electricity, telecommunications and gas objectives

How can the subdivision of land make any contribution to reducing domestic electricity demand, when the provision of electricity services is subject to competitively based free market companies. HIA therefore suggests that this reference be removed from the clause.

56.09-4 Public Lighting

The reference to the provision of street lighting in Standard C31 that includes the generation and use of renewable energy would come at a significant cost to the development industry that currently provides no cost recovery incentive. HIA therefore suggests that this reference be removed from the clause.