



Environmental Constraints and Planning Regulatory Creep

Policy Background

- The planning process is used to manage land use and guide the location of residential development.
- In areas where natural hazards or environmental constraints exist, the planning system is used to determine what land is viable for development and what land should remain undeveloped due to the potential risks that would arise for buildings and occupants.
- The management of natural hazards and environmental constraints, such as landslip, erosion and flooding, through the zoning and development process is generally well understood and the community accepts these are matters that should be considered.

Policy Issues

- Some of the matters now being included as environmental constraints relate more rightly to broader environmental protection concerns.
- These matters have been introduced into regulations by governments mostly as a way to address community views about improving the environmental outcomes from urban development.
- The approach to these environmental constraints needs to be different to the approach for natural hazards and environmental constraints that arise from land affectation.

HIA's Policy Position on Environmental Constraints and Planning Regulatory Creep

1. Federal, state and local government measures applied through the planning system, relating to protection of the environment or environmental risk, should only relate to land availability and subdivision design layout and not the construction elements of homes built on that land.
2. Any environmental constraints proposed to be applied through the planning system by authorities must be subject to a full public Regulatory Impact Assessment process showing a positive cost benefit prior to being introduced.
3. Matters relating to environmental constraints that are addressed through building design and construction solutions should be dealt with through the National Construction Code.
4. All Authorities, but local governments in particular, must not introduce environmental planning requirements that aim to set a higher standard or are in contravention of other areas of state government policy or the National Construction Code.
5. In implementing planning measures that deal with environmental constraints, governments and authorities should:
 - a. focus on solutions which promote a consistent approach at a national level where possible and state level where a national approach is not possible;
 - b. prohibit ad-hoc measures being introduced by individual councils in local planning schemes;

- c. rationalise existing environmental controls that have been introduced by individual councils, up to at least a regional or state level, to create greater consistency and streamlining for industry and consumers;
 - d. provide appropriate public infrastructure and mitigation measures that guard the community against natural disasters rather than continuing to place the onus on the housing industry and individual home owners;
 - e. focus on broader land/estate based solutions, which may provide larger scale savings, compared to individually funded and/or individual home focused solutions;
 - f. not alter or introduce more onerous environmental requirements in planning approvals on a retrospective basis; and
 - g. support research and technology for new products and measures to assist with protecting against environmental risks.
6. Rigorous and transparent strategic justification undertaken by government must be a mandatory prerequisite prior to the implementation of environmental controls.
7. Matters of protection from imminent environmental risk – such as landslip or erosion – are well entrenched in planning schemes and should be applied at the appropriate stage of the zoning and subdivision (land development) process.
8. All existing matters in planning schemes related to environmental constraints should be applied at the appropriate stage in the planning process and not retrospectively.