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79 Constitution Avenue

Canberra ACT 2612

Tel: (02) 6249 6366

Fax: (02) 6257 7635

www.buildingonline.com.au

The Secretary
Standing Committee on Public Accounts
ACT Legislative Assembly
GPO Box 1020
CANBERRA CITY ACT 2601



Dear Ms Cullen

**Re: Inquiry into Auditor-General's Report No.2 of 2005
Development Application and Approval Process**

Thank you for your invitation to make a submission to the Committee on its Inquiry into the Development Application and Approval Process in ACT.

The HIA has prepared a written submission, which is attached, for your attention. I can also arrange for it to be provided in an electronic format if that is required.

I would be pleased to discuss this submission and answer any questions that may arise, at your convenience.

Yours sincerely
Housing Industry Association Ltd

Caroline Lemezina
Executive Director ACT/Southern NSW

 A.C.T. LEGISLATIVE ASSEMBLY COMMITTEE OFFICE	
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SUBMISSION TO THE ACT LEGISLATIVE ASSEMBLY STANDING COMMITTEE ON PUBLIC ACCOUNTS

Inquiry into Auditor-General's Report No. 2 of 2005: Development Application and Approval Process

Background

The Housing Industry Association in the ACT and Southern NSW represents 1800 members who are vitally concerned with the future of their working and living community. The members of the housing industry are responsible for delivering over 2,000 housing units each year in the ACT. They play a very important role in the economy of ACT and the surrounding Region, and are keenly aware of its future development and growth.

HIA was not surprised by the findings of the Auditor-General into the Development Application and Approval Process in the ACT. HIA has long regarded it as one of the most complex and frustrating systems in Australia. HIA believes that the cumbersome processes and restrictive planning policies both act as a disincentive for substantial investment in the ACT's future. The current process of development application and approval requires urgent overhaul and major reform.

Current Development Application and Approval Process

Since self-government in 1989, successive Legislative Assemblies have repeatedly modified and adjusted the planning approval process and policies. This has resulted in a planning system that lacks any real long-term and broad vision. It is unable to effectively address the changes which the Territory now faces.

These incremental controls have been made with little understanding and recognition of the long term impacts each change made. The increased level of regulation has cost impacts which are eventually passed onto house owners. The level of housing affordability has been worsened with every new regulation.

The successive rules and regulations have also slowed the planning approval process and made the outcomes of many applications uncertain. The process of delay and uncertainty has resulted in less innovative design and development investment. The ACT's capacity to lead the growth and development of the Region has been lessened.

HIA has identified three critical areas within the current planning approval process, which it believes needs to be addressed.

Community Consultation

HIA has a clear view that the community and its representatives in Legislative Assembly are responsible for the formulation and review of planning strategies and policies and associated codes. They should not be involved in specific projects and the development application and approval process. That is the responsibility of the Planning and Land Authority.

The ACT community has developed a culture of objection and complaint which is severely restricting the Territory's ability to address the broadening demographic shift and ensure its economic viability. The level of community expectation to complain and raise objections is becoming counter productive, as some proponents now prepare their schemes to avoid the risk and uncertainty of consultation. Less new and innovative designs are now being pursued.

Although HIA is concerned primarily with private projects, it is important to note that the current 3rd party appeals system applies equally to ACT Government projects. Community benefit projects, including public housing redevelopments, are observed to often face excessive levels of uncertainty, delays and costs.

Very often objections to a proposal are more to do with the planning strategies and policies, which allowed the proposal to commence, rather than the specific design. HIA contends that, if planning policies and strategies have been established by the community's representatives, then this not a matter to be raised in the project consultation phase, which only adds costs and uncertainty to the project. A failure by members of a community not to be aware of the formulation of planning policies and strategies is not a reason to penalise a proponent.

Urban Change

The immediate impact of excessive layers of community consultation and appeal rights is on the individual proponents, but in the longer-term it is the City as a whole that will be adversely affected. The inability to achieve sustainable urban change is restricting ACT's growth and development opportunities.

The result of the over regulated Development Application and Approval Process has been to excessively control and restrict urban change. The slow physical decline of many suburbs, and especially their local centres, is a clear visual indication of the impact of the restrictive processes.

If ACT Government supports sustainable planning strategies, then infill developments should be encouraged not penalised. The time and cost by an investor to overcome the expected community opposition to change, produces no reward for the proponent. Even if the scheme does proceed, the price of the consultative delays is often met at the cost of the project's flair and innovation.

Culture in ACTPLA

The excessive amount of regulation and control directed by successive Legislative Assemblies has resulted in a no-risk culture within ACTPLA and other agencies involved in the development approval process.

The housing industry plays an important role in the ACT economy, and its success is important for attracting investment and growth to the Territory. However, this understanding often seems to be lacking in ACTPLA and other agencies involved in the planning approval process. An understanding of the impact of uncertainty, inconsistency and delay through the development approval process on the viability of a proposal is often not shown.

The focus of customer service is not upon the fee paying proponent. HIA believes that customer service should primarily be addressed to the leaseholder or the proponent. They have paid the application fees, not the objectors. Proponents regularly observe that the arrival of an objection or ministerial letter results in a shift in the customer focus by assessing staff. Excessive time delays then occur, and the merits and possible beneficial outcomes of a proposal are usually ignored. Qualitative criteria are then strictly applied.

These excessive delays, additional costs and the uncertainty of an approval outcome all act as a disincentive for investment in the Territory.

Reform of the Development Application and Approval Process

HIA has been a long-term advocate for planning reform, and welcomes ACTPLA's Planning System Reform Project. HIA believes that this Project now gives the opportunity to take the ACT's planning system from being the worst in Australia to be leading best practice.

The proposed introduction of a streamlined Development Application and Approval Process based upon the Model Planning Code prepared by Development Assessment Forum (DAF) is fully supported by HIA. If proponents' costs are to be substantially reduced, the maximum number of development applications should be removed from the current lengthy and uncertain development approval process

To obtain the greatest benefit of these streamline tracks, it is important that the size, location and sensitivity of the project shouldn't define its nominated track. Any proposal's track should be determined by its compliance or non-compliance with the relevant codes. Its community sensitivity should not determine its track, and for example, a complying multi-unit redevelopment should not have to face neighbourhood consultation and third party appeals.

To reform and substantially improve the planning approval system in the ACT, HIA has determined a number of major principles, which it believes will establish a far more efficient and effective planning approval system;

- *Certainty* of time frames, which are prompt and recognise the commercial environment of the housing industry.
- *Consistency* of interpretations and decisions that confirms ACTPLA's sole professional responsibility for development approvals.
- *Customer service* which focuses on the fee paying applicant.
- To be *contemporary* to meet the current and predicted demographic shifts, but also to be able to be readily adjusted and adapted to future and unforeseen needs and challenges.
- *Cultural values* both in the Planning Authority and at the Legislative Assembly which are visionary and a challenge to the current practices.
- Community and political *consensus* to the reforms.

HIA will continue its close liaisons with ACTPLA and Members of the ACT Legislative Assembly to ensure that the reform process produces the best planning approval system in Australia. HIA believes that if the Planning System Reform Project is not successful, then the planning system in the ACT will very unlikely to be substantially reformed.