

Urban Taskforce Australia

1. What areas of the planning system or planning policy could be reformed to help reduce delays and increase developer certainty when developing new housing?

Urban Taskforce members have put a lot of thought into reforms that could improve the NSW planning system. We have a crisis now. We cannot afford to wait for the setting up a process of broad consultation and systematic change. We need to reach a consensus and progress short term wins now.

Focus for reform of the Act should be on short term wins for housing supply. To that end, we propose the following:

- a)** Re-draft the Objects of the Act. Make housing supply (and employment) are the primary objective of the Act. Every new “Object” generates the need for a detailed Consultant Report.
- b)** Re-establish flexibility (merit-based assessment) into the planning system which explicitly considers the housing supply shortage as the key priority objective of the Act.
- c)** Remove the need to comply or be consistent with the outdated Greater Sydney Region Plan (published pre-Covid and pre housing supply crisis in 2017) and assess rezoning applications against a short set of key criteria, the top of which must be housing supply and targets set for each LGA.
- d)** Review the Apartment Design Guidelines to ensure that it is understood that they are guidelines only and are not necessarily applicable in many cases.
- e)** Allow for non-compliance with the controls prescribed in Local Environment and Development Control Plans, including on permissible height, the land use permitted by the zoning, density controls, and the separation between buildings, all based on a merit-based assessment. This could be brought in for a set period to assist in achieving the Housing Accord targets. This used to be allowed through SEPP 1 but was abolished when the Template LEP was adopted over a decade ago. The replacement was too complex and convoluted.
- f)** There is an urgent need to review the time consuming, repetitive and expensive Design Review process to allow for exemption for applicants that use a top tier architect. This was foreshadowed by the Premier in the 2023 Bradfield Oration, but has not yet happened.

Then, having built confidence and also moved the entire planning system forward, any longer-term review of the Act should:

- g)** Allow for a Land and Environment Court appeal processes for rezoning applications (at the moment there is no appeal to the Courts possible. An applicant can appeal a DA assessment, but not a rezoning). Many NIMBY Councils know this, so they are super tight on their local controls, forcing an

applicant to make a rezoning application, adding to time and costs, and undermining housing supply.

- h) Introduce a voluntary mediation process to offer a low-cost option which assists in resolving disputes between Councils and applicants (this can be done through the Court or independently) but overall, there must be a reduction in time not just a new or additional process.
- i) Establish a simple process for medium-density, complying development framework for buildings up to 8 storeys. Where there are non-compliances with the “code” (which will happen with the varying landscape and typography of our city and across the State). Only those aspects assessed to be non-compliant should be subjected to detailed assessment.
- j) Adjust the community consultation process to require this to primarily take place when land is rezoned. Once that has happened, only significant variations should require re-exhibition. If this is the case, only the variation should be subject to consultation and comment.
- k) The Act should explicitly acknowledge applicant-initiated proposals for the rezoning of land (and abandon the fantasy that councils are the proponent for all planning proposals).
- l) There should be a single process (not the simultaneous undertaking of two separate processes) for considering rezonings (strategic merit) and development applications (site specific merit) utilising a single set of consultant reports and planning submissions. This would reverse a change made by the former Government in August 2016.
- m) Infrastructure fees, taxes and charges, including exorbitant affordable housing requirements, all require urgent review in the context of their impact on the cost of new housing supply. The Act should enable competition for the delivery of essential infrastructure and encourage Works-in Kind in lieu of infrastructure levy payments. The concepts of nexus, apportionment and fairness need to be re-introduced to the process of considering fees and charges, either through the Housing Productivity Contribution (HPC) or through a Voluntary Planning Agreements (VPA).

2. Would reducing delays and/or increasing developer certainty in the planning timeline help reduce the cost of developing new housing?

Yes. The longer the planning system takes to navigate, the higher the direct cost to the developer and this flows onto the price of the home. This has particularly been the case with the higher interest rates. The cost of the land, obligations to pay land tax, the price of preparing a Development Application and the mountain of consultant reports are all extremely costly. Risk also results in banks being resistant to lending, or alternatively, them lending the funds but at a higher interest rate to compensate them for the greater risk.

In many cases, developers can not secure access to bank finance for the full sum of their borrowings, so they rely on secondary financiers where interest rates are much higher. The significant time taken to navigate the planning system in NSW compared to other States adds to the cost of servicing those

loans. In short, time is money and any reduction in the complexity of the system or improvements to the certainty of outcomes will reduce the cost of the homes when they are built and go onto the market.

3. In your view, will the Housing Delivery Authority help facilitate the development of more housing, including affordable and essential worker housing? (Transcript, p 67). a. What are the benefits of this body and their approach?

The Housing Delivery Authority is a game-changing initiative. The assessment and decision making has been removed from Councils (though they will continue to have a significant role in representing community views). By having the HDA comprised of the Head of Premier's Department (Simon Draper), the Head of Planning and Housing (Kiersten Fishburn), and the CEO of Infrastructure NSW (Tom Gellibrand), the HDA has the gravitas to cut through.

The change in policy that now allows a concurrent re-zoning and SSDA assessment is a major improvement in the system.

Dealing with infrastructure agencies will also be streamlined. Infrastructure agencies like Transport for NSW or Sydney Water, or the SES, Health or Education will pay attention and address concerns when they get a call from the HDA. Unfortunately, that simply isn't the case when Council staff call. The complexity of large housing and mixed use projects was beyond the capacity and scope of many planners in Councils. The HDA will focus on these larger projects. The former NSW government effectively handed assessment responsibilities for all housing projects over to Councils. Sadly, that resulted in a chronic shortfall in housing supply, even when interest rates were close to zero.

What is critical now is to see the DPHI State Significant Development Application Assessment team resourced as the response from the private sector has been very strong. Urban Taskforce understands that over 150 Expressions of Interest have been submitted. To date, 28 EOIs have been assessed. 12 have progressed to the SSD assessment team and if approved, represent over 6,855 homes. 5 other EOIs were already in the SSD stream and will continue to be monitored. Further questions were asked of 3 other EOI and they are still under consideration. Only 8 were deemed to not meet the EOI HDA criteria and must progress through alternative planning pathways.

The HDA published its recommendations and reasons for their decisions. This is also very welcome. Contributions to affordable housing are part of the EOI process and because the system is based on calling for Expression of Interest from the private sector, there is a greater chance that what is considered will be feasible and will progress to commencement and completion of the new dwellings. The HDA will drive housing supply forward which will result in downward pressure on both rents and housing prices.