

**Submission
No 94**

INQUIRY INTO LOCAL GOVERNMENT IN NEW SOUTH WALES

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SUBMISSION BY THE
Housing Industry Association

to the
**NSW Legislative Council General Purpose Standing
Committee No. 6**
on the
**Inquiry into Local Government in
New South Wales**

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HIA :



HIA is the leading industry association in the Australian residential building sector, supporting the businesses and interests of over 43,000 builders, contractors, manufacturers, suppliers, building professionals and business partners.

HIA members include businesses of all sizes, ranging from individuals working as independent contractors and home based small businesses, to large publicly listed companies. 85% of all new home building work in Australia is performed by HIA members.



1. Introduction

- 1.1.1 HIA is Australia's peak residential building industry association with nearly 13,000 members in NSW and 40,000 members nationally.
- 1.1.2 HIA members comprise a diversity of residential builders, including all Top 100 builders, small to medium builders, residential developers, trade contractors, major building product manufacturers and suppliers and consultants to the industry. In total HIA members construct over 85 per cent of the nation's new building stock.
- 1.1.3 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 development industry.
- 1.1.4 HIA welcomes the opportunity to provide comments to the NSW Legislative Council's General Purpose Standing Committee No. 6 Inquiry into local government in NSW (**Committee**).
- 1.1.5 HIA notes that the Committees Terms of Reference seek to examine the 'Fit for the Future' reform agenda, including the financial sustainability of the local government sector.
- 1.1.6 HIA supports local government mergers as a mechanism to drive greater efficiency in new housing delivery and urban renewal. To that end HIA would encourage the Committee to consider the broader housing needs of NSW.
- 1.1.7 HIA forecasts and analysis show that NSW needs to build 50,000 dwellings, year on year, to meet population growth and underlying demand, such has been acknowledged by the Baird Government.
- 1.1.8 However, to achieve this outcome consistently, significant improvements in efficiency and outcomes must be implemented within the planning system, most notably through the operation of local government.
- 1.1.9 HIA members express significant frustration with the sheer number of councils and the considerable variation in detailed information that is required with planning and development assessment processes. At the very least, a merger of metropolitan councils, particularly inner city councils, would effectively reduce the variation in paper work, processes and planning controls that add little value to the end result.
- 1.1.10 Since the 1970's, NSW has been considering local government reform; amalgamations were most recently recommended by the Independent Local Government Review Panel (**ILGRP**).
- 1.1.11 In 2013, the ILGRP found that NSW did not have the resources to support 152 councils. It was further determined that Sydney metropolitan councils should be significantly reduced from 41 to between 15 and 18 and that smaller councils whether regional or city based were unable to operate efficiently and effectively with no long-term visions to assist growth.



1.1.12 An assessment of the role and scope of local government must not be considered in a vacuum, in HIA's view local council reform is:

- a pivotal component in growing NSW to meet the Government's target, as outlined in the Metropolitan Plan for Sydney, to build 664,000 new homes by 2031; and
- imperative in order to support works arising out of large scale infrastructure developments, the injection of further funds into the Housing Acceleration Fund and the work of the Greater Sydney Commission.

1.1.13 HIA would strongly encourage the Committee to recognise that the current structure of local government places significant road blocks in front of the residential construction industry to meet housing demand. Measures must be implemented as a matter of urgency in order to redress this continual source of frustration for the industry.

2. Amalgamation

2.1.1 HIA supports local government amalgamations as a mechanism to drive greater efficiency in new housing delivery and urban renewal.

2.1.2 HIA agrees with the ILGRP that sooner or later amalgamations have to happen to assist in the back log of infrastructure delivery and the overarching need to be financially sustainable.

2.1.3 There are too many councils that do not function effectively in their capacity to deliver services to the community, including crucial maintenance to infrastructure such as roads, parks and playing fields.

2.1.4 Equally important when examining the prospect of local council amalgamations is a consideration of current council boundaries.

2.1.5 Industry has long held a position that local government boundaries are out of date and fail to acknowledge the growth patterns of commercial and residential development compared with revised transport corridors recently announced by the NSW Government.

2.1.6 HIA supports the ILGRP's belief that boundary changes can achieve a more productive and efficient use and distribution of government functions across infrastructure.

2.1.7 However, where mergers are considered appropriate, any change must not adversely impact outcomes, as such, proposals for changes must ensure newly formed councils and/or newly formed council areas are up and running across all their functions in a timely manner, in particular building, strategic and statutory planning and timely assessment of development applications.

2.1.8 HIA would also highlight the need to ensure that any transition period is not excessive to the extent that such periods can jeopardise the realisation of the stated benefits.

2.2 Local Council Red Tape

2.2.1 When dealing with a myriad of local councils a constant source of frustration for HIA members is the significant amount of red tape currently embedded within the planning system. This coupled with the sheer degree of subjectivity endowed on local council decision makers leads to systemic delay, inconsistent decisions and uncertainty. Such factors have led to calls from HIA for greater scrutiny of the performance of councils in the delivery of new housing to meet the States targets.



- 2.2.2 While there has been some examination of local government ‘red tape’ by a range of agencies and stakeholders, little has been done in a practical way to address these issues. To that end, HIA has put to relevant Ministers that instead of engaging in further reviews of red tape an action plan be developed to address what has already been submitted.
- 2.2.3 Mergers provide an opportunity to reduce the complexity and variability of the planning and building system for the residential building industry. Such moves are key to achieving the delivery of housing needed to meet population growth and underlying demand.
- 2.2.4 Central to the consideration of local council amalgamation should be the removal of unnecessary duplication in all areas, but in particular the development lodgement and assessment processes. For example, one simple way to achieve this is the effective use of *‘Exempt and Complying Development’*.
- 2.2.5 Any proposals to merge local councils should ensure the community and the building industry has an effective pathway to advance new housing that can keep pace with market demands. Further to this consideration should be given to the centralisation of the assessment of complying development. HIA member feedback and data from Local Development Performance Monitoring indicate that comply development is inconsistently applied and significantly under-utilised, of note, complying development comprised only 29% of all development approvals for the 2013-14 period¹.
- 2.2.6 Further, notwithstanding that a majority of NSW councils now have a standard instrument (LEP) the ability to convert vacant unzoned land to residential allotments or increased densities in appropriate localities needs to be a target for merged councils.
- 2.2.7 Also key to housing delivering is the timely rezoning of land. It is HIA’s view that there needs to be an improvement in both the pre-Gateway and Gateway system to fast track the plan making processes.
- 2.2.8 The overlapping or duplication of State and council regulatory requirements is a significant obstacle faced by the residential construction industry. For example, there is no clarity around the process for environmental referrals particularly which referral authority has priority. Further it is unclear for councils whether they can make a determination when conflicting advice is received.
- 2.2.9 It is HIA’s view that having merged councils will also facilitate a review of the use and application of Development Control Plans (**DCP**). The Department of Planning should play a much stricter role in their drafting and not accept a compilation of all separate documents as the standard. DCPs are very complex in their requirements for residential development and most have unnecessary controls that have no bearing on the intended development outcomes.
- 2.2.10 In HIA’s view appropriate local council amalgamations can shed light on these systemic deficiencies and force their remediation.

¹Local Development Performance Monitoring, accessed 020715 < <http://datareporting.planning.nsw.gov.au/ldpm-data-highlights> > accessed 020715



2.3 Income, Cost and Contributions

- 2.3.1 While HIA is supportive of council amalgamations caution should be exercised when considering how such newly formed larger councils should be funded and generate income.
- 2.3.2 With larger councils servicing a greater population and thus requiring new infrastructure and housing, it is crucial that this does not lead to demands for increases in developer contributions or levies for community infrastructure.

Development Contributions

- 2.3.3 Development contributions are calculated by estimating the future population of an area in combination with an arbitrary analysis of the likely facilities and services that will be necessary for new residents and their predicted costs. The analysis is not obligated to consider the actual use of the facilities and the potential broader population that may benefit.
- 2.3.4 Both state and local governments have made steady progress in increasing their reliance on new home buyers to contribute to local and state infrastructure funding, to the detriment of new housing supply and affordability.
- 2.3.5 The majority of councils which levy local infrastructure charges do not apply a cap on the maximum charge, nor do they all consistently apply a limit on the types of infrastructure which can be funded through section 94 and section 94A. This lack of oversight has enabled councils to expand the wish list of infrastructure needs for new communities and to set their own prices for that infrastructure with no avenue available to the home buyer other than through legal appeal of a condition of consent. The timeframe for the expenditure of these levies is changeable and where one does apply, it is seldom enforced or challenged.
- 2.3.6 The general reliance on levies particularly for items of community and social infrastructure, from which the whole community benefits (not just the new homebuyers who fund it) is of concern.
- 2.3.7 Private public partnerships provide a potential alternative source of funding for infrastructure for debt as opposed to state and local governments. These partnerships deliver governments the same advantage as borrowing in that the cost of providing long lived infrastructure can be spread more equitably over a longer period of time.
- 2.3.8 The recent increase in investment through the Housing Affordability Fund is welcomed and this type of support must be maintained to ensure housing supply can continue in a timely and cost effective manner.

Income

- 2.3.9 HIA has recognised for many years that local government is underfunded and under resourced.
- 2.3.10 In our submission to the Productivity Commission in 2007 HIA acknowledged the need for councils to seek other funding sources due to the constraints on them. In particular, HIA raised concern over broader community infrastructure being directly funded by up front development charges.
- 2.3.11 As councils merge, they will have access to a larger pool of rate payers and should be able to reduce certain overheads and streamline delivery. However it is important that



larger councils do not lead to an expectation that the 'tax take' through rates and other levies and charges needs to increase to function efficiently, in particular within the planning and building areas, which also deals with land rezoning and subsequent subdivision.

- 2.3.12 While council charges for planning and subdivision services are prescribed there is constant tension between the view that council fees for these services do not reflect cost recovery, and the view that the service provided does not generally meet statutory time frames; the latter being one of the greatest sources of cost to the housing industry.
- 2.3.13 Moreover, land holding costs whilst waiting for planning processes to be undertaken adversely affects housing affordability for new home buyers and new larger councils must be accountable for any unnecessary delays which add to costs.

3. Fit for the Future

- 3.1.1 HIA notes that in June 2015 the Independent Pricing and Regulatory Tribunal (**IPART**) released a paper entitled *'Methodology for Assessment of Council Fit for the Future Proposal'* (**June 2015 IPART Report**).
- 3.1.2 IPART have been asked by the NSW Government to assess local councils in accordance with four criteria developed by the Government based on the work of Destination 2036, the assessment of the sector by the ILGRP and the NSW Treasury Corporation, as well as input from the local government sector and the IPART Final Report of September 2014 entitled *Review of criteria for the future – Final Report*.
- 3.1.3 The four criteria include:
- Scale and capacity to engage effectively across community, industry and governments;
 - Sustainability;
 - Effectively managing infrastructure and delivering services for communities; and
 - Efficiency.
- 3.1.4 In relation to the latter the June 2015 IPART Report states
- 'A FFTF council that meets the Efficiency criterion would seek to provide services and deliver infrastructure in a manner that achieves value for money for current and future ratepayers.*
- ...real operating expenditure is the benchmark we will consider when measuring the performance of councils efficiency².*
- 3.1.5 HIA is concerned that relying purely on a financial assessment of real operating expenditure to determine 'efficiency' severely understates the complexity and importance of such a criterion.
- 3.1.6 In HIA's view 'efficiency' must be determined in light of qualitative outcomes such as performance benchmarks and indicators relating to service delivery, the latter encompassing factors associated with the management of the planning and

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development approval process and the establishment of effective and appropriate accountability measures to assess the performance of councils.

- 3.1.7 It would seem that the methodology to be adopted by IPART as set out in the June 2015 IPART Report is ignorant of the current operational deficiencies within local government which have a significant adverse impact on the delivery of new housing and urban renewal.
- 3.1.8 It is HIA's view that the annual Local Development Performance Monitoring provides a gauge with respect to development assessment and building control by councils and, as a starting point, these measures should be used as part of the assessment of a council's *fitness* for the future.

4. Conclusion

- 4.1.1 HIA urges the Committee to focus on the much needed benefits that can be derived from council mergers and a review of local government boundaries; it has been broadly recognised that now is the time for reform³.
- 4.1.2 Further, it is imperative that structure of local government reflects the current and future development growth potential of the state, having regard to opportunities such as major transport corridors; currently this is not the case.
- 4.1.3 There is a need for reform and to hasten local government to take a more business-like approach to achieving efficient financial management, reliance on subjective decision making processes often results in poor administrative management which lack any connection to the wider metropolitan strategic outcomes.
- 4.1.4 HIA submits that the Committee should support the objective of creating a revitalised local government system that will remain sustainable and fit for purpose well into the future.
- 4.1.5 In HIA's view the current structure of NSW local government suffers from the same deficiencies identified by the Barnette Committee in their 1974 report notably:
- '...local government suffers from the existence of too many small uneconomic areas, resulting in fragmentation of authority unnecessary duplication of assets, the under-utilization of plant, equipment and human resources and the inability to provide the varied kinds of expertise required by local councils in the modern world'.⁴*
- 4.1.6 HIA is committed to supporting reforms to local government that underpin the delivery of new housing, reduce red tape and find the right balance between existing and new approaches to governance.

³ See the Independent Local Government Review Panel website accessed 020715 < <http://www.dlg.nsw.gov.au/Index.asp?areaindex=LGR&index=42&acode=TR&mi=2>>

⁴ Report of the Committee of Inquiry into Local Government Area and Administration in New South Wales, 1974 (C J Barnett Committee Chairman), pg. 33 accessed 020715 < <http://www.dlg.nsw.gov.au/Index.asp?areaindex=LGR&index=42&acode=TR&mi=2>>