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Mr Jim Pearce MP
Chair
Infrastructure, Planning and Natural Resources Committee
Parliament House
George Street
Brisbane QLD 4000

Local Government Electoral (Transparency and Accountability in Local Government) and Other Legislation Amendment Bill 2016

HIA unfortunately missed the deadline for making submissions to the Bill but hopes that your Committee may yet be able to consider the issues outlined below. HIA's comments are specifically in relation to the proposed amendments to the planning and building legislation.

Despite the fact that State Planning and Building Legislation contains clear markers that Councils should not be incorporating what are commonly perceived as building matters within their planning schemes and should not be triggering Town Planning applications for these matters, over an extended period of time Councils have persisted in doing it and consecutive State Governments have continued to allow them to do it. This has led to increasing levels of confusion between what are building matters and what are planning matters.

Resolving this issue is undoubtedly complex and requires a detailed understanding of multiple pieces of planning and building legislation. However, for many involved in the building industry the decision handed down by the Court of Appeal in *Brisbane City Council v Gerhardt [2016] QCA 76* validated the view held by HIA that Council's insistence that they could trigger Town Planning Applications for whatever they deemed appropriate was not supported by the legislation.

As acknowledged above the matter is complex and HIA is concerned that the amendments proposed while intended to provide clarity around one issue may have unintended consequences in other areas.

For example in altering the definition of *building development application* to make it clear where the application includes assessment against matters other than the building assessment provisions it is not a *building development application* and therefore cannot be assessed by a private building certifier, is to ignore the responsibility of private building certifiers (section 84(2) of the Building Act 1975) to ensure building development applications comply with the Self Assessable Provisions set out under the relevant Local Government Planning Scheme. The majority of Local Governments are not conscious of the fact that Building Certifiers undertake the important role of the Assessment Manager ensuring building applications comply with Self Assessable Planning

Scheme requirements and if they don't then advise the client changes or additional approvals are required.

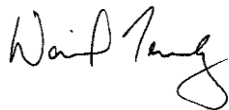
HIA is concerned that an unintended consequence of the proposed amendments could be that in modifying the definition of *building development application* the responsibility for checking compliance with Self Assessable criteria is removed from Private Building Certifiers. If this is the case, what process will replace it and at what additional cost to the consumer. To put this in perspective tens of thousands of building development applications are lodged every year that would fall into this category.

Of further concern HIA believes that the proposed amendments are opening the door for Councils to trigger a raft of additional Preliminary Approval (Town Planning) applications for what are essentially building matters. As mentioned above the Court of Appeal decision in *Brisbane City Council v Gerhardt [2016] QCA 76* reinforced that the legislation established two pathways to deal with these matters. In HIA's view the proposed amendments have the potential to essentially remove one option (concurrence referral) and force all applications down the Preliminary Approval route which no doubt appeals to Local Governments as they will generate significant additional revenue but will also deliver increased time delays.

Based on these concerns HIA would recommend to the Committee that further discussion with industry representatives is required prior to endorsing the proposed amendments.

On a related matter HIA supports the proposed amendments intended to provide clarity around what necessary approvals are required before a Building Certifier can issue a building development approval.

Yours sincerely
HOUSING INDUSTRY ASSOCIATION LIMITED

A handwritten signature in black ink, appearing to read 'Warwick Temby', written in a cursive style.

Warwick Temby
Executive Director