Housing Regulation in Victoria: Building Better Outcomes

A Property Council response to the draft report prepared by Victorian Competition and Efficiency Commission

August 26 2005
The Property Council of Australia

The Property Council of Australia represents the broad interests of the commercial property sector. The Property Council is the largest and most influential industry organisation within its sector. We have in excess of 2000 member companies throughout Australia, with approximately 500 of those in the Victorian Division, representing property assets of over $140 billion nationally.

The context of this response

This response is in addition to the Property Council’s initial submission in March 2005. The information contained in this response builds on the positions in the previous submission.

The Property Council asserts that many of the drivers that impact on the housing construction sector are not addressed in this inquiry. The Property Council’s view is that the main costs associated with the cost of housing are taxes and levies, delays in the development process, skills shortages and infrastructure costs. While efficiencies may be gained in the regulatory environment, it is not the main contributor to housing construction costs. The Property Council questions whether the effort and upheaval of administrative or regulatory changes would provide a worthwhile dividend to the consumer.

The draft report covers a number of areas which are of peripheral or little interest to Property Council members. Such matters are best addressed by other industry groups and have not been referenced in this paper.

This response focuses on recommendations from the draft report that are of significant interest to the residential members of the Property Council, and the wider industry. Many recommendations in the draft report will also impact on the wider development industry and should therefore be considered more broadly.
Response to Draft Recommendations

The following headings correspond to recommendation numbers in the draft report.

5.3 The 5 star scheme should be more clearly related to the government’s energy efficiency objectives…

The Property Council supports the recommendation that the 5 star scheme should incorporate more flexibility. This would allow tailored solutions to particular needs, as well as foster innovation in energy efficiency.

5.4 The water saving regulation in the 5 star scheme should be more clearly related to the government’s water efficiency objectives…

The Property Council supports this recommendation on the same grounds as recommendation 5.3.

5.5 The Department for Victorian Communities should report on a timetable for implementing the Government’s intention to consider an appropriate scrutiny process for local laws

The Property Council supports more accountability for the development, enforcement and review of local laws. Too often local laws are a means of achieving building regulations that do not exist in state legislation.

6.5 That the Building Commission include information about the role of the inspection process and the certificate of occupancy…

The Property Council supports greater understanding of this process and would welcome additional information to the building permit applicant.

8.2 That the Victorian Government simplify and clarify the current objectives of the Building Act…

The Property Council would welcome additional consideration to net community benefits in the event of new requirements or regulations. Changes to regulations must be realistic and fair. If changes to regulations only benefit a narrow portion of the population at a large cost to the wider community, other alternatives must be sought.

The most current example of this scenario is the question of whether to regulate a level of accessibility for new homes. The Property Council has recently provided two submissions to Jaguar Consulting on this matter and would be pleased to provide copies to VCEC.

9.1 The Building Commission and the Plumbing Industry Commission should not have the primary responsibility for providing policy advice to the Minister…

The Property Council believes the Building Commission’s structure, operations and presence in the construction industry are, in the majority of cases appropriate. Industry has strong working relationships with the Commission and its various departments and is well represented on the various advisory bodies. The Property Council’s overall experience is that the Building Commission’s advice on policy matters takes into consideration a wide range of stakeholders and points of view.

To restructure the arrangements so that policy functions would reside within the Department would result in a disconnect between policy, regulations, administration of regulations and the general information flows associated with these functions. The Building Commission “brand” has a strong presence in industry, and increasingly with consumers. To bury certain policy issues within the Department would reduce efficiencies and effectiveness in building policy and would result in a loss of intellectual capital, experience and working relationships with staff of the Commission.
If the Commission’s policies on building matters become out of step with national regulations, industry capacity or community expectations, there are avenues to voice these concerns. Again, industry is represented at BRAC and BAC and can voice concerns at this level, or elevate concerns to the Deputy Secretary, Built Environment or indeed the Minister for Planning.

The Property Council does not endorse the separation of the policy function and the regulatory administration function of the Building Commission.

The Property Council’s interaction with the Plumbing Industry Commission is minimal and therefore we have no opinion on matters relating to the PIC.

9.3 The Building Commission’s function ‘to promote better building standards both nationally and internationally’ should be replaced by ‘to represent Victoria’s interest in the development of national building regulation

The Property Council acknowledges that the Building Commission has made a significant contribution to the national building regulation process. However the Property Council agrees that it is not necessarily in the interests of the community for Victorian regulations to exceed national or international standards.

Setting state based standards could compromise national harmonisation of regulations. Excessively high standards may be too costly for the industry to achieve. In other cases, trying to adopt leading practice in a country with low population and density may be unrealistic and may not provide the dividends experienced in other countries.

The Property Council agrees with the recommendation of considering Victoria’s interests first in such matters and not chasing “world-best practice” merely on ideological grounds.

9.4 The Building Advisory Council should not approve the Building Commission’s budget…

The Property Council is a member of the Building Advisory Council (BAC). It is our understanding that the BAC does not currently sign off on the Building Commission’s budget, rather it performs a review function. However, to facilitate an increased level of accountability of the Building Commission’s operations, this option has merit for further investigation. Therefore the Property Council does not endorse the recommendation; rather it suggests the role of the BAC should include signing off the Building Commission budget.

9.8 That the Victorian Government should streamline advisory bodies…

The Property Council believes that the current advisory bodies such as the Building Advisory Council and the Building Regulations Advisory Committee are an important link between Government and industry. The membership of the advisory bodies comprises the key industry groups with high levels of technical expertise and is a vital communication channel on building regulation and broader matters.

It is important to consider that these bodies address a range of regulatory matters that affect the domestic and commercial construction sectors. A major restructure of these bodies could adversely impact on one or both of these sectors.

The Building Commission is known for its extensive consultation with industry, and these bodies are a vital part of the Commission’s consultation processes.

The Property Council does not endorse recommendation 9.8. The current arrangements should remain.

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1 The Property Council is a member of the Building Advisory Council. The BAC submission provides additional information on the role of BAC.
11.1 The Building Advice and Conciliation Victoria levy should only apply to building permits for residential building activity…

The Property Council fully endorses this recommendation. Commercial construction should not subsidise residential dispute resolution. To compensate for lost revenue, the cost of the service may need to increase. This would also deter vexatious claims.

12.1 Local councils should in their annual report provide a statement of compliance with the Development Contributions Guidelines…

The Property Council fully endorses this recommendation. Greater accountability and transparency of the development contributions system is needed. Inappropriate or excessive development contributions could have a significant impact on the final cost of new homes.

12.2 There should be an annual audit of a sample of councils to assess their adherence to the conditions of their development contribution plans…

Again, this recommendation promotes transparency of the system. If councils are compliant with their plans, they should be willing to be open to scrutiny. The Property Council endorses this recommendation.

12.3 That the Department of Sustainability and Environment produce revised guidance material need to support the December 2004 reforms to the development contribution system…

The Property Council endorses this recommendation. Industry should be provided the opportunity to provide input to the material. It is important to determine the audience of the material – the development industry, local council planners, and/or the general public etc.

**Next Steps**

The Property Council would be pleased to meet with the members of the Inquiry to further discuss this submission.

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