

TRANSCRIPT

LEGISLATIVE ASSEMBLY ENVIRONMENT AND PLANNING COMMITTEE

Inquiry into Apartment Design Standards

Melbourne—Tuesday, 15 February 2022

MEMBERS

Ms Sarah Connolly—Chair

Mr David Morris—Deputy Chair

Mr Will Fowles

Ms Danielle Green

Mr Paul Hamer

Mr Tim McCurdy

Ms Cindy McLeish

WITNESSES

Mr Roger Cooper, Senior Planning Adviser, and

Mr Mike Hermon, Executive Director, Planning and Development, Housing Industry Association.

The CHAIR: I advise that the sessions today are being broadcast live on the Parliament's website. Rebroadcast of the hearing is only permitted in accordance with Legislative Assembly standing order 234.

Thank you, Roger and Mike, so much for joining us today at this public hearing for the Inquiry into Apartment Design Standards.

On behalf of the committee I acknowledge the traditional Aboriginal owners of this land, and we pay our respects to them, their culture and their elders past, present and future and elders from other communities who may be joining us today. I also extend a warm welcome to any members of the public who have just joined or rejoined us and of the media watching this committee inquiry today.

This is one of several public hearings that the Environment and Planning Committee is conducting to inform itself about the issues relevant to the inquiry. Before I begin I need to point out a couple of things to you, Mike and Roger. The first is that all evidence taken today will be recorded by Hansard and is protected by parliamentary privilege. What this means is that you can speak freely without fear of legal action in relation to the evidence that you give here. However, it is very important to remember that parliamentary privilege does not extend to or apply to any comments that you make outside this hearing, even if you are just simply restating what you said here today.

You will receive a draft transcript of your evidence in the next week or so to check and to approve, and corrected transcripts are published on the committee's website and may be quoted from in our final report.

The committee members will introduce themselves, and then I will throw over to both of you to state your full name and position and then perhaps make a 5-, 10-minute opening statement—if you have got one prepared, great; if you do not, no problem. I know committee members will have lots of questions, and we will just have a discussion.

My name is Sarah Connolly. I am the Chair of the Environment and Planning Committee and the Member for Tarneit.

Mr MORRIS: And I am David Morris, the Member for Mornington and Deputy Chair of the committee.

Mr HAMER: Paul Hamer. I am the Member for Box Hill.

Ms GREEN: Danielle Green. I am the Member for Yan Yean, and I am Parliamentary Secretary for Regional Victoria and for sport, but regional Victoria is probably more relevant to this inquiry.

The CHAIR: Mike.

Mr HERMON: Thank you. As you said to do, stating my full name, my name is Mike Hermon, and I am the HIA Executive Director of Planning and Development. This is a national role within HIA, but I base myself at the Melbourne office. I am joined today by Roger Cooper, and Roger is the HIA Senior Planning Adviser for Victoria. I would just like to take this opportunity to thank the members of the Environment and Planning Committee for the opportunity to provide feedback in relation to this very important component of Victoria's planning system, that being the apartment design standards. We do have some opening statements, and I will carry on with those now.

For some time now planning controls in relation to apartment design have featured heavily when discussing appropriate and desirable reform of the Victorian planning provisions. I have just got a couple of dot points to outline those. Apartments make a significant contribution to the urban fabric in metropolitan Melbourne, inner suburbs, further afield and nominated locations within the outer suburbs, but also in larger regional towns. And apartment complexes have the ability to change the urban fabric and have an impact on the public/private interface.

Something worth noting is that the lead time for when an apartment complex is conceptualised, designed, financed and constructed and goes to market is often one of the longest lead times in terms of urban development, and I guess that is in some ways a comparative statement, say, to doing a commercial development—maybe factories in Dandenong or something like this. We all know that apartments have a very, very long lead time. For these reasons financiers and developers are required to predict market trends and to really be ahead of the curve in that regard. And they need to respond to and deliver what the market is seeking at that time. This may include applying to amend approved designs in response to market demand. So once the approval has been granted, they then have to tweak things a little bit and apply for amendments to that so that they are hitting the mark when it comes to market demand.

For that reason, flexibility and discretion in terms of apartment design standards along with regulatory process that streamlines decisions and avoids unnecessary delays to applications and amendments are crucial to applicants. These can otherwise negatively impact the final price point of apartments. It is therefore imperative that those who assess and determine apartment applications—essentially here I am talking about local government planners—have a thorough understanding of the assessment framework and the statutory time frames as well as the needs, obligations and commitments of the applicants. In addition to timely decisions, this extends to fair, reasonable and transparent permit conditions. So conditional changes to apartment designs can blindside applicants at times, and even what is considered by the responsible authority to be a minor amendment may threaten a project's financial viability, add significant cost to the final price point of the apartment and compromise that apartment's aesthetic value. So they are our broad comments about apartment design standards.

We now have some more specific comments. These specific comments are not exactly but to some degree a repeat of our written submission that we made in October last year to the inquiry. I am going to start by talking about some of the economic factors that are key considerations in terms of apartment design standards. Present and forecast economic conditions have a significant impact as to the scale, the design and the target market of an apartment development. And the effect COVID-19 has had on interstate and international travel, on supply chains and possibly on a short-term shift away from a preference for high-density living have all impacted the economic viability of constructing apartments.

The graph below—when I say that, I thought I was going to be handing out some things today, but the graph is in our written submission also. I do have copies if you want me to hand out my written submission.

Ms GREEN: I wouldn't mind one.

Mr HERMON: Okay, yes. Sure.

The CHAIR: It is on page 5 of your submission?

Mr HERMON: Yes. It is. But it is also coming around now.

The CHAIR: Okay.

Ms GREEN: Thanks.

Mr HERMON: The graph below demonstrates the likely downturn in the apartment market ostensibly due to COVID, and the design standards must be suitably flexible yet robust to allow for the economic impacts. HIA expects the multi-unit sector in Victoria to be hit harder from the impact of COVID than elsewhere across the country. This sector was already coming down from a previous peak as previous housing shortages were being met by new supply, and the weight of the credit squeeze accelerated this decline. The COVID pandemic and associated closure of international borders made the situation for multi-units in Victoria worse.

Just a little bit of history: historically the Victorian population has had a higher resistance to apartment living than in New South Wales, instead favouring detached dwellings. ABS data from the 2016 census shows that there were just around 1.2 million occupied apartments in Australia. Nearly half of those or 47 per cent were in New South Wales, where they also make up almost 21 per cent of private dwellings. In comparison, in Victoria occupation only makes up 23 per cent of occupancy and 12 per cent of private dwellings. So I guess they are trying to establish and identify that the apartment market in Melbourne is probably a little bit more fragile than elsewhere. There is potential upside risk to the multi-unit market as international borders begin to reopen. A

resurgence in migrant, student and tourist numbers could revive the multi-unit market faster than the current forecast. So it could have a supply versus demand issued there. They are just a few economic considerations that we wanted to bring to light today.

We would now like to comment on some of the prescription and technical regulations which HIA submit are seldom needed as part of the apartment design standards. As apartment buildings are often required to be constructed on heavily constrained sites—those typically being dense urban environments with built-form constraints on each boundary—it is not appropriate that planning and building regulation be written in a prescriptive and/or mandatory form. In order to achieve an efficient and effective use of the site and achieve an optimal design outcome, planning and building regulation must be written such to allow a tailored design response depending on the particular features of the site and the surrounds and allow for a range of apartments at different price points.

It is also HIA's longstanding view that regulation should not mandate a minimum apartment size. Owners and occupiers of apartments have a diverse range of needs that must be catered for. This is reflected in occupants' needs for a particular sized dwelling, and the construction industry will provide what the market needs. Designers and builders of apartments are incredibly adept at producing a range of apartment products with good amenity that satisfy the varying price points within the apartment market.

HIA does not support technical building regulation as a consideration of the planning system. It is considered of vital importance that a clear separation is kept between matters governed by the planning regulatory environment and the technical/building environment. What we are trying to draw out here is that the level of detail that local government think they need sometimes to assess an apartment development application may not be the case. It is maybe nice to have all that information, but it may not be the case that all that information has to be known at the planning stage. Also, whilst industry builds a product that complies with relevant planning and building regulation, it must also take into consideration the needs and preferences of the market. Market forces will dictate the types of apartments that will be built, and the end product provided will be one that the market will bear. It is simply a matter of economics that building a particular sized apartment—for example, a three-bedroom apartment—will not simply generate demand for three-bedroom apartments.

In the multi-unit sector there are generally some builder-developers who redevelop sites for the sale of units to both owner-occupiers and investors. Large commercial construction companies are generally engaged to undertake the construction of high-density projects, but the cost structure for building apartments is influenced by many factors, and I will just list these off. The factors can be land cost; higher construction costs as compared to on-ground housing; planning delays, a very big issue; development taxes and charges, noting that they make up an estimated 38 per cent of the sale price per dwelling in Victoria; higher labour wages; stringent safety requirements; and excavation and mechanical factors, such as lifts; then, more recently, access to materials—having ready access to materials is probably a more common and more recent matter that is influencing the price of developments and their construction.

Innovative and cost-effective designs are always encouraged and promoted by the housing industry. It is important that council recognises that innovative, cost-effective design solutions are unlikely to be the solutions that can be quantified and codified. They will not be delivered through mandatory maximum unit sizes and other controls. These options are disincentives to innovation and only create further red tape in an already complex design process.

Just finishing on a few more general points and other considerations, the timing of any review of the current apartment guidelines may be too early, as not many apartment buildings have yet been constructed under the provisions of clause 58 of the VPP, so we may just not have enough evidence, for want of a better word, to base this on. Land and construction costs are also creating affordability issues in the detached market. A continuation of these trends may start to push people back to medium-density and apartment-style living in existing suburbs. Economies of scale created through apartment construction have a tendency to produce more affordable housing products.

There has also been a modest increase in demand for multi-units in regional Victoria, which was noted in 2021, suggesting that people leaving the city may be bringing their taste for medium-density housing into the regions. Apartments and shop-top housing, particularly around major commercial and transport areas, may become more desirable in the context of adding more affordable products to the regional housing mix. If there is a

sudden resurgence in demand led by overseas migration, builders will only be able to respond with lag. There is currently around a year between sale and completion for detached housing. Apartments take even longer. A steady flow of new housing, in the meantime, is crucial to ensure a recovery in demand does not lead to a rapid deterioration in housing affordability. Thank you once again, members, for the opportunity to provide feedback today. That is the end of our presentation. Thank you.

The CHAIR: Thanks, Mike. Roger, are you happy if I jump into questions?

Mr COOPER: Yes. Please.

The CHAIR: I have got lots of questions, Mike, particularly because the other witnesses that we have spoken to as part of this inquiry submission have really called for more regulation and mandates. And from what I am hearing from you just in that opening statement, you would like to see less and leave it up to the developers and builders to create apartments that are really driven by the market. My question to you: you talked about encouragement of innovation and improvement in apartment design for builders and developers, and at HIA that is where you think one of your roles is in helping improve apartment design. Can you tell the committee: do you think that is working? In your opinion, do you think that works?

Mr HERMON: My answer to that would be: industry has many, many runs on the board of building apartments. The amount of market research that goes into building an apartment is amazing—it really is surprising—and how far ahead they are thinking is surprising too. So in answer to your question, ‘Do you think the market can do that?’, yes, I do. They know they have a reputation they have to live up to, and sometimes what is preferred or dictated to them to do is not the best outcome; it is not what the market wants. It is what the market gets, but it may not be what the market wants.

If I can just go to a point about local government involvement, I made a point in my submission that even a minor condition to amend something in a proposal can have pretty big impacts on the overall development—how much it costs, what it ends up looking like, things like that. I think what needs to be understood about apartment design when it is being assessed and determined by local government is that local government is coming in at a particular point in time in a very, very long development process. So all the work has been done. They have conceptualised it, they have financed it—either have finance or have conditionally financed it—then you move to more detailed design, and then at some point in this very long development process local government becomes involved and wants to put its own stamp on it, I guess, so to speak. But I think they are very sometimes unaware as to the impact that has when they do that, when they apply that regulation, when they make those minor suggestions for amendments and things like that. With no disrespect, but it has already been considered. The best design outcome has already been considered, because someone—some team, an applicant—has lived with this for two years prior to when local government got a hold of it. So that is my point.

It is a longwinded answer, sorry, but my short answer is, yes, I think the private sector can provide what the market wants and do it responsibly, and they know they have a reputation to uphold.

Ms GREEN: Chair, after you, can I just have a follow-up on that?

The CHAIR: Yes, sure. It is just interesting, Mike, because you are just the first witness, so we probably all think, ‘Wow, this is, I guess, a different opinion that is being put to us’. What is HIA doing to improve things? We know apartments are being built, and we often hear the media talking about dog-box designs and apartments that have poor ventilation and poor light, the living space is very constrained, it is not conducive for families, communal living areas. I am sure you are aware of all of this and can see why this inquiry is taking place. If these things are not mandated, how are apartments, once they are built—

I mean, if you look at the apartment towers around the city, just as an example, they are there for really long periods of time. So if they are not done with good design but also quality, they are there for such a long period of time and they are very difficult to change. Particularly over the last two years with the global pandemic and COVID and people spending more time than ever indoors, one of the things that this committee has been hearing is people are realising that things like no windows, lack of ventilation, lack of natural light—the effect that is having on their physical and mental health. If this is not done through mandatory standard designs and regulation, are you confident that developers and builders will in fact make that change that you say has to be market-driven to change it?

Mr HERMON: Yes. I guess I want to be clear in the distinction we are making here. We are talking about what we believe should be or should not be in the planning basket and what is okay to be in the building approval/technical basket. The point I am making is that those mandates, talking about them sitting in the planning basket—probably do not belong there. Yes, we believe they are adequately dealt with in the building approval/technical basket. I think one of the issues when you are assessing and determining an application in local government is they think they need to know everything right down to the detailed design. They do not. The detailed design, the way it functions mechanically and things like that do not have to be so considered at the planning stage. They are adequately dealt with in the building regs. That is the point I was making. I do not think we have ever said ‘no mandate’ over things like that. Everything gets lumped into the planning basket to be resolved right up-front. But in the development approvals process, planning is like here, fairly early in the process—not too early but fairly early—but building approval is like a few months down when you can sort out all the technical issues. Once you know you have got the in-principle approval to say, ‘Well that site’s suitable for 60 apartments’ or ‘It’s suitable for 80’, ‘It’s suitable for this many levels’ or that many levels—once you have got those broad parameters set down—then deal with the technical issues, you know.

Mr COOPER: Can I add to your answer too, Mike?

Mr HERMON: Yes.

Mr COOPER: Certainly HIA is well aware and respectful of the fact that there is a clause 58 setting design standards—the *Better Apartments Design Standards*. That has been reformed over a number of years and has a pretty stringent set of controls really. That has recently had these two VC amendments, which has introduced additional requirements and design changes through that. So we just need to be respectful of that regulatory process that is in place that has already been down the path of addressing, I guess, what are perceived to be some shortcomings in the apartment design process. HIA has a planning committee. When these sorts of things are floated and put on public consultation early on by government, HIA is invited to actually review this with government: do workshops, get some of our members involved. We discuss it at our planning committees, we go through the details of what is proposed—what impact it will have on design, what are the good and bad outcomes—and we do provide all that feedback back to government. Our planning committee as a result of that stay ahead of the curve in terms of a lot of these changes, and they understand that their input along with HIA’s comments is what eventually goes into a pool of knowledge that helps to determine what final regulations are. So we feel that we contribute positively toward those regulations in that way.

Just further to Mike’s points, it is just important that these *Better Apartments Design Standards* do not set too many mandates—that there is some discretion. We are more on the discretionary side of things that allows our members and our apartment developers to be a little bit more innovative, and there are a number of different outcomes that they can achieve through discretion rather than mandate.

The CHAIR: Okay. Thanks, Roger. Danielle.

Ms GREEN: Thank you. I was thinking about how I represent an outer suburban electorate and have a lot of interaction of course with regional cities as well and, you know, I am a fan of having more diversity in the outer suburbs. We have not had enough, which is why you have young people moving out and all that sort of thing. In the Mernda town centre, which is the geographic heart of my electorate, the community is sort of saying they are not going to like it, but I like it because it is right next to the train section we have built and all of that and it has just been the economic downturn otherwise we would have had more there by now.

I am a bit of a disciple of the late David Turnbull and his approach to planning. He was the CEO of Whittlesea and Mitchell, and the approach he used to take with greenfield development in particular was just to have development conferences and just sit down for a number of days and just argue it all out. I wonder whether that might be a solution for apartment dwellings when they are quite sizeable for those local governments that you are talking about that want to make changes at a later point—if you are actually able to just sit around the table and just talk those things through. I mean, David’s approach was he just felt that taking that time up the front meant that there were less issues with the councillors, with community and with lack of understanding between all the parties and it just got a better outcome. So I just wondered whether you thought that would work.

Mr HERMON: My first response to that would be it sounds a little bit ideal, to be honest. If you can imagine a developer—as I say, I talk that this process, and this process is way beyond the planning process; it is

a long development approvals process—they go out scouting for land based on its zone and price, okay? So that is two things they go out for. What concerns me about what you are saying is if a developer goes out and says, ‘Parcel of land A is zoned to be developed for apartments and I have paid a fair price for it’, then I think the truth-in-zoning principles should apply and they should have a reasonable expectation of what they can build on that land without then having to go to some development assessment forum or whatever it is that we are talking about and potentially have that concept for an apartment design whittled down by the public because they are saying, ‘Now I don’t like it’.

Ms GREEN: No, that was not what I was saying.

Mr HERMON: No? Sorry.

Ms GREEN: No, no, no. They just would actually have all the parties from council, essentially, and they might have actually had the utilities providers and things like that. So, no, it is not public input.

Mr COOPER: Potentially like a big sort of pre-application meeting with all the key decision-makers?

Ms GREEN: Yes. Well, it is kind of like, ‘Okay, we’ve got in-principle agreement here’—and that would be, yes, this is the zoning—‘so let’s sit down and work out how this is going to work’.

Mr HERMON: That is still not dissimilar to where I was heading with my answer. I think the problem with that—problem for want of a better word—is that you would still have the conservative nature of council staff, those that are responsible for assessing and determining an application, for whatever reason wanting to whittle it down and make it smaller and trying to appease the public and all that, when in fact the land has already been zoned for that. I do not know. I must admit I can see pros and cons.

Ms GREEN: David has passed away now, but I used to like the way that he did it, and especially because it was linked in with the fact that that municipality had a ‘one job per every new unit built’ target. That was their target, and they were way past it for some years. That part of the north was the only part of the growth areas where they were surpassing that, and I think because they had that fundamental of ‘We support economic development’ they were not always about cribbing back. So it was having that linkage of jobs, whether it was in construction or jobs for the people who were going to be living there. It just seemed to be, in my experience, that the many developers that I dealt with over 20 years just loved working in that process compared to any other local government area. And my perception of what I see is especially where there are more of those apartment dwellings there seems to be more controversy.

What you were saying about coming at the back end—it just seemed to me that everyone just got around the table, got on the same page, and you got a really good outcome. There was just this understanding. So you did not have the new officer coming in going, ‘Oh well, I’ve got a different view, and I wasn’t here when this was approved last year’. I live in the Shire of Nillumbik, and let me tell you, that happens all the time—because they do not actually have a fundamental of ‘We want local jobs’. They have got the highest number of people that leave the municipality to work. So for being environmentally friendly, they are terrible at it. And it does not matter what colour the council has been—e’er it has been.

Mr COOPER: I was going to say I think there would be a strong core of HIA members that would be in agreement with your view. They would love to be able to get in front of these decision-makers and have this discussion, set the agenda from the beginning and feel like the groundbreaking stuff (i.e. key assessment criteria) in the project is all established up-front. There would be some that probably would not necessarily want to go through that. It would be more of an individual preference.

The example I wanted to start talking about was the recently exhibited Improving the Operation of ResCode provisions. We are talking about multidwelling development there and ResCode development, and that process whereby it essentially allows applicants to submit a ResCode-compliant development at the outset and then essentially be told, ‘Okay, you can progress from the beginning through to the back end of the process quite quickly’—something that our members are very, very passionate for. Again, they will work within the framework. There will be some discretion, but they will have ResCode Standards/Objectives at a point that need to be met. They understand that, the architects understand that. They can do the design process swiftly, with confidence, and it is the most cost-effective way to get the development through to approval.

The CHAIR: Thanks, Danielle. David.

Mr MORRIS: Thanks, Sarah. Mike, you just talked about, I think it was, truth in zoning.

Mr HERMON: Truth in zoning—yes.

Mr MORRIS: Which sounds like a reasonable proposition. But then in the written submission there you explicitly reject minimum apartment sizes and regulation of any sort. There is some degree of inconsistency in there, saying, ‘We want certainty in the zoning, but we want to be able to do what we like at the same time’.

Mr HERMON: So truth in zoning—my understanding is it is a strategic planning principle. So if the land is zoned for residential, then you should reasonably be allowed to develop that for residential within the constraints of the zone—height, site coverage, things like that. When I talked about truth in zoning, that is what I was referring to there. It is having that reasonable expectation that if a developer buys land parcel A and it is zoned high-density residential, then they can develop that for high-density residential and it will not get whittled down any more. And yes—I was quickly going to use the word ‘freedom’, but I do not think that is exactly what I want to use—they should have the ability to develop that in a way that meets market demand.

Mr MORRIS: But surely if you have got a zoning that says, ‘You can do this’, you need to have some definition of what is permitted in the zone.

Mr HERMON: Sure. So we do not oppose reasonable height requirements, reasonable site coverage, things like that, but it is when you see the assessment and determination at local government level try and play around with that for something lesser, then you are not getting that truth in zoning. That is the point I was trying to draw out there.

Mr MORRIS: Where in that context do you see clause 58? I will just flesh that out, because clause 58 would seem on the face of it to be contrary to what you are suggesting in the submission. I do not want to put that construction on if that is not the intent. I am just wanting to—

Mr HERMON: Yes, look, I understand. We do not want to be perceived as being anti-regulation and anti things like Clause 58. The point we want to make is that expectation is created by the zone—the zoning of the land—and then what that can be developed as must be reasonable. So I am not saying that you take a broom and sweep out all regulation and just let the market rule. We are not suggesting that at all; we are just saying it has to be reasonable, that is all, and create a reasonable expectation. We understand that regulation needs to be there. And to take that a step further, to the point I was making earlier, regulation has to be about the principle of developing that land when you talk about planning approvals. But I think many, many times the decision that planning tries to make bleeds into another approval space, being building, and that is where we object to that happening. Let planning do the planning and let building do the technical stuff and the ventilation and whatever else it is. But just let planning do planning and maybe peel it back a little bit sometimes. That is the point we are trying to make.

Mr MORRIS: I think that is an interesting distinction because, you know, as I have already referred to this morning, I go back to the late 80s when I started looking as a councillor at planning applications, and of course that was in the context of prescriptive schemes. Basically the whole thing was served up—working drawings; the whole bit was finished. You could see exactly what you were getting, and of course there was far less discretion, but we were not talking about multi-apartments, we were just talking about six units on a block or something like that.

I think the points you make about the distinction between planning and building is a good one. I mean, I must admit when you said, ‘Local government gets involved at a relatively late point in the process’ my immediate reaction was, ‘Yes, but they’re the responsible authority, so surely if you’ve been working on a project for two years ahead of bringing it to the council, you’ve got in mind what the responsible authority is going to want to see’. But I am just wondering how we could build into the process that distinction between the planning and building sides of it, and I think an element of that—I would be interested to hear the HIA’s view on this as well—is there would certainly be a view on the council side that enforcing planning decisions is problematic, and they would argue, I am sure, without me putting words in their mouth, that if you separate planning and building considerations too much, then that is going to add even more difficulty in terms of enforcing the planning requirements on a lot.

Mr HERMON: I think Victoria generally needs to try harder to put planning in one basket and building in another basket, but I understand what you are saying: there are times when they have to come together, that is undeniable. Then you made reference to when the planning schemes changed—they were very descriptive and then we went to the new format planning scheme that was far more strategically led planning, which I think is a far more desirable outcome, to have strategically led planning then statutory planning, which has got its place, as of course 58 has its place as a statutory planning tool or instrument. But HIA would definitely prefer to see strategically led planning guidance put in place as to how it could be developed—guidance—and then the market can take it from there and deal with it.

I just want to be clear what I was saying when I made that point about local government becoming involved. I am not trying to pinpoint exactly where in the process they become involved, whether it is early, middle, late or whatever. I am just saying they become involved in the process at a point in time when a lot of commercial considerations have had to be made which council do not need to turn their mind to, so when they have some skin in the game and they actually do have some involvement it can have huge impacts on the commercial viability. That is the point I am making. I do not know if they come in, you know, at the 20 per cent mark or the 40 per cent mark or the 70 per cent mark, but wherever they become involved I just think they need to be very, very aware of the decisions they are making. You know, do they understand holding costs, do they understand contract negotiations, do they understand all those things? And a little decision they might make—

Mr MORRIS: If I can just, and I am not disagreeing at all, but I guess the—and, no, they are probably not going to understand those sorts of things. I mean, some senior officers might have a pretty good grasp, but the average person involved is not, whether they be elected or staff. I guess what I am thinking is if everyone has a clear understanding right at the start of what is permitted, be it the zoning, be it—within the context of a performance-based scheme—a fairly precise summary of what you can do with a space, you know, if the industry understands that and the council understands that and it is clear to everyone before anyone starts, then you cannot get further down the track and be having a fight about what you can do. That is why I am just sort of—

Mr HERMON: I guess what is not factored into that is the market responding to other consumer wants, so producing a product—that would make that more difficult. It does make that more difficult, to produce a product that the market wants. And they are—when I say ‘they’, I say the applicants, the developers—doing their research two or three years ahead to say, ‘Well, when we finally land that apartment block in Caulfield to the market, we’re actually going to deliver what the market wants at that point in time’.

There is a whole discussion we could have here too around flexibility in approved designs and things like that. You could talk about why we are so fixated on, for example, nominating this car space to that apartment? Why can’t you leave that to a later stage, for example? I might buy apartment 3 and want two spaces and Roger might want apartment 7 and want one space. Providing it is still within the realms of meeting the car parking requirements, why shouldn’t we be able to do that? But unfortunately you are so locked into, ‘I buy apartment 3; therefore I get car parks 3A and B’. Do you know what I mean? There are flexibilities around there that we could look at. There are flexibilities around the number of rooms. Is there an option to have apartments that you could finish the subdivision once it has been sold? Because once again I might come along and say, ‘Well, I want this floor plate with two bedrooms’, but someone else wants another floor plate with one bedroom. You know, providing on that level you have only got X amount of rooms and it does not go beyond, let us say, 12 rooms, for example. There are things like that. Can we be more innovative, can we be more flexible? Can we just do things differently to make it more appealing to the market?

Mr MORRIS: Time does not permit us to explore that. I can think of three or four points I would like to pursue on that. Would it be feasible, for example, to say—if we stick to car parks because it is simple—if we agree that you need 48 car parks for this development, but how they are allocated is something that is dealt with administratively later on as long as it complies with whatever code? These things have got to be agreed. Planning elements, they have got to be there, but whether they are associated with apartment 12 or apartment 43 is something you sort out later.

Mr HERMON: That is right. Whether they have to be that rigid to do that, I do not know. And of course you do not want one apartment owner buying all 48 car parks. That would just be silly, but I mean there are ways you can do it.

Mr MORRIS: I will stop. I would like to keep going, but I will stop.

Ms GREEN: I was interested.

The CHAIR: Yes. It is very interesting. Paul.

Mr HAMER: Thanks, Sarah. Look, I think that last element of the discussion would be an interesting topic in its own right. But I want to go back to what Sarah was saying about how the regulation would impact the housing industry and how it would change it, particularly in the context of what we have heard from quite a few witnesses about the lack of natural daylight, natural sunlight, in terms of apartments. I guess it is less of a question of why, but a question of how. If that was not mandated, how would the industry respond to that requirement or that demand—without it being mandated?

Mr HERMON: It is mandated in the building controls. Sorry to sound like a broken record, but the question is: does it have to be mandated in the planning controls? You see, that is the point I am making. We are not anti-mandate by any means. We are anti unreasonable mandates and we are interested in making sure they stay in the right basket, and planning is not always the right basket to have those mandatory controls in. That is our point. I do not know if you can expand on that and articulate it better.

Mr COOPER: No, I totally agree with Mike. I just want to say that the National Construction Code review that is underway is the primary code that we believe would essentially deal with something like that, and then that is replicated to the minimum possible extent required through planning. But when the working drawings are done, these architects know what's required to comply in terms of that one example you mentioned about natural daylight.

Mr HAMER: The evidence we have heard today talked about there being quite different standards in different states of Australia about the level of daylight and sunlight requirements in different rooms and percentages in midwinter and all that sort of thing. So you are saying that is actually set across the board nationally, within the national code?

Mr HERMON: Yes. So the structure of the NCC is that it has climate zones and what have you, so there might be subtle variances depending on the climate zone and there might be subtle variances depending on the orientation of the building. But primarily, yes, those controls are set in the National Construction Code.

Mr COOPER: There has got to be a satisfactory outcome achieved for the National Construction Code. Essentially if that is the bar that is set, it does not have to be reinvented and replicated and written in a different way in order to put it in a planning instrument.

Mr HAMER: And do you see that there then is any element of the building codes that needs to be changed or strengthened in any way, or would your assessment be that the building codes as they currently are basically fully meet the expectations of the market?

Mr HERMON: I will take that question if you do not mind. Roger and I are both planners. We are not technical or building people, so I may have to take that question on notice if you do not mind. Yes, I will happily take that question on notice if that is okay. But we are not planning or technical people, and we did not come prepared today to talk to that level of technical-type detail if you know what I mean. We came as planners to talk about design standards as opposed to design detail. Sorry, but I just cannot answer that today.

Mr HAMER: That is fine.

The CHAIR: Mike and Roger, we have gone over time. This is a really interesting discussion, and I think there are a lot more questions we could ask.

Ms GREEN: Could I ask one last quick question, sorry.

The CHAIR: Sure, Danielle.

Ms GREEN: Just in relation to COVID, you identified the economic hit and the vacancy rates. But in terms of design standards with now the obvious health issues—needing better ventilation, shortened hallways and maybe different communal spaces to allow for many more people working from home and children learning—

what do you think, if anything, needs to be done in relation to the design standards? And I would be interested in how your members are responding, given their two-year lead time of projects.

Mr HERMON: Yes. The short answer is I do not know how they are responding, to be honest—specific to apartments, that is. All I can say is that the whole residential industry is beavering away. Even in a house design—so, you know, a single-storey detached house in the suburbs—even people whose bread and butter it is to design those are now looking at those and going, ‘Is there something different we could do?’. Is open-plan living going to be something of the past, for example? Are we going to start compartmentalising our houses and having two distinct areas we live in, for example, in case someone does become ill—and we can go, ‘Well, the ill person is up here for the week’? So I think that question is a much bigger question than just about apartments, and the best answer I can give you today is that I know all designers of residential buildings, from detached right up to your biggest apartment building, are thinking, ‘Do we need to do things differently to respond to that?’.

Ms GREEN: I was mainly thinking more about the common spaces in apartment dwellings and how that might be done differently.

Mr COOPER: Look, my very brief answer to that, in conclusion, is that a lot of this work was previously done in terms of consultation with HIA through these amendments that have happened to clause 58. We provided exhaustive comments from a very specific apartment building set of our members as well as some broader comments. So we have now acknowledged the changes that have all come through—and communal open space, as you mentioned, is one that has changed in the VPPs—and it is just too early to actually tell. That change has literally just landed on the doorstep, so we are unable to really talk about any member feedback in terms of design standards yet.

Ms GREEN: Thank you. Thanks, Sarah.

The CHAIR: Really interesting. Thanks, Mike and Roger. We will have to leave it there.

Witnesses withdrew.