



# LE MOTTEE GROUP

SURVEYING | CIVIL ENGINEERING | TOWN PLANNING | PROJECT MANAGEMENT  
STRATA CERTIFICATION | ECOLOGY | BUSHFIRE ASSESSMENT

Monday, 15 June 2026

## SUBMISSION TO THE PRODUCTIVITY COMMISSION INQUIRY INTO HOUSING REGULATORY REFORM

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### *Introduction*

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I am a planning consultant who regularly prepares and manages development applications, subdivisions and planning approvals across New South Wales. My submission is based on practical experience working directly with councils, applicants, certifiers, engineers, surveyors, technical consultants and government agencies across a wide range of residential development projects.

While housing affordability and housing supply are often discussed in terms of land availability, zoning and infrastructure, my experience is that some of the greatest barriers to housing delivery arise from the administration of the planning system itself. The current system frequently creates uncertainty, duplication, delay and unnecessary cost, making otherwise viable housing projects uneconomic.

Importantly, I am not advocating for the removal of environmental protections, infrastructure planning requirements or public safety controls. These regulations serve important purposes. However, the current regulatory framework often fails to balance these objectives against the urgent need for housing. Too often, the system prioritises process over outcomes, resulting in fewer homes being built despite significant expenditure by applicants and developers.

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*Question 1: Which regulatory reforms should governments prioritise to get more homes built more quickly?*

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The most important reform is to create greater certainty within the planning and assessment process.

In many cases, the issue is not that applicants are unwilling to comply with requirements. The issue is that requirements are often unclear, inconsistently applied or continually changing throughout the assessment process. This creates significant costs, delays and risk.

**Priority reforms should include:**

- Greater weight being given to strategic planning decisions and zoning outcomes.
- A presumption in favour of development where land has been identified and zoned for housing.
- Clear and measurable assessment standards rather than subjective assessment criteria.
- Greater accountability for councils where applications are delayed through repeated requests for information or shifting assessment positions.
- Standardisation of assessment requirements across local government areas.
- Simplification of development consent conditions.
- Increased use of deferred commencement or staged approvals so that technical matters can be resolved after consent rather than preventing development approval altogether.
- Development of standardised "deemed-to-comply" pathways for common planning issues such as flooding and stormwater management.
- Deemed approval pathways and measuring homes lost, not just assessment timeframes.

If a use is permissible within a zone, applicants should have a reasonable expectation that approval can be achieved if they meet clearly defined standards. Too often, applicants spend substantial time and money

attempting to satisfy subjective requirements without understanding what outcome the consent authority is actually seeking.

### **Deemed Approval Pathways and Accountability for Assessment Timeframes**

A further reform that warrants serious consideration is the introduction of deemed approval mechanisms.

Current planning systems generally provide applicants with deemed refusal rights where councils fail to determine applications within prescribed timeframes. While this allows applicants to seek review through a court or tribunal, it does not actually resolve delays. Instead, it often transfers the matter into a costly and time-consuming appeal process that can add many additional months, and significant legal and consultant costs, before housing can be delivered.

From a housing supply perspective, deemed refusal provisions do little to encourage timely decision-making. They provide a remedy for delay but do not prevent delay from occurring in the first place.

Governments should consider whether deemed approval pathways could be introduced for appropriate categories of development.

Under such a framework, where a consent authority fails to determine an application within a prescribed timeframe, and where all required information has been provided, approval could be deemed to have been granted subject to standard conditions.

Appropriate safeguards could be included for developments involving significant environmental impacts, public safety concerns, major departures from planning controls or matters of genuine strategic significance. However, for routine residential development that complies with applicable planning controls, the current system often allows applications to remain delayed with little consequence for the decision-maker.

A deemed approval mechanism would fundamentally change incentives within the planning system. Rather than applicants bearing the financial burden of delays, consent authorities would be incentivised to assess and determine applications within reasonable statutory timeframes.

The concept is not radical. Across the development industry, applicants, consultants, engineers, surveyors, builders and developers routinely work to strict deadlines and face financial consequences if those deadlines are not met. Councils, however, often face limited practical consequences when assessment timeframes are exceeded.

This creates an imbalance in accountability. The private sector bears the costs of delays through increased holding costs, consultant fees, interest expenses, project uncertainty and, in some cases, project abandonment. Meanwhile, the authority responsible for the delay may experience little direct consequence.

At a minimum, governments should investigate deemed approval pathways for straightforward residential applications, subdivisions and developments that demonstrably comply with applicable planning controls and strategic planning objectives.

Such a reform has the potential to significantly improve assessment efficiency and increase housing supply without compromising planning outcomes. If governments are serious about increasing housing supply, the regulatory framework should encourage timely decision-making rather than merely providing applicants with a right to challenge delays after they have already occurred.

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*Question 2: Which steps of the housing approvals process are the most onerous, time consuming and costly?*

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In my experience, uncertainty is the single greatest cost within the approvals system.

Applicants are frequently required to commission expensive specialist reports without receiving clear guidance regarding what outcomes are expected or what level of mitigation will be considered acceptable.

One example involved a proposed six-lot subdivision at Medowie. The proposal became significantly delayed due to vegetation-related concerns. While environmental protection is clearly important, the site was surrounded by extensive cleared and developed land. The vegetation present on the site was of insufficient scale and quality to support meaningful ecological outcomes in isolation.

Despite this, substantial time, money and consultant resources were spent addressing concerns regarding vegetation impacts. The cumulative effect was that the applicants seriously considered abandoning the project entirely.

A similar example occurred on a subdivision project at Morisset. Council required a series of specialist environmental reports at considerable expense to the applicant. However, after those reports were prepared, the assessment appeared to rely largely on council's own views rather than the conclusions of the experts whose reports had been requested.

This raises a fundamental question. If councils intend to rely on their own assessment position regardless of expert evidence, why require applicants to incur significant expense obtaining specialist reports?

The regulatory burden arises not from preparing reports themselves, but from uncertainty regarding how those reports will be assessed and whether they will be given meaningful consideration.

### **Councils Should Identify Solutions, Not Merely Problems**

A recurring issue throughout the assessment process is that councils frequently identify concerns without clearly identifying how those concerns can be resolved.

Historically, assessment officers often worked collaboratively with applicants to achieve compliant development outcomes. It was common for council officers and engineers to mark up plans, identify specific issues and provide clear direction regarding the amendments required to achieve approval. Applicants understood what changes were necessary and could respond accordingly.

Increasingly, however, applicants are simply advised that a proposal is unacceptable or does not satisfy a particular requirement without being provided with practical guidance regarding what changes would make the proposal acceptable. This can result in multiple rounds of redesign, additional consultant costs and prolonged assessment periods while applicants attempt to interpret what outcome the consent authority is seeking.

Where a concern is capable of resolution, councils should be encouraged, and in some circumstances required, to clearly identify the changes necessary to achieve compliance. This would improve transparency, reduce uncertainty and significantly reduce the costs associated with redesign and repeated information requests.

The objective of the planning system should not be to identify reasons why development cannot occur, but to work collaboratively with applicants to achieve compliant development outcomes wherever possible.

### **Requests for Information (RFI) and Incremental Assessment**

Another significant source of delay and cost is the increasing reliance on Requests for Information (RFIs) throughout the assessment process.

While RFIs serve an important purpose where genuinely additional information is required, they are increasingly being used as a substitute for comprehensive

assessment. In many cases, applicants respond to one request only to receive further requests addressing issues that could reasonably have been identified at the outset.

This creates a cycle of incremental assessment that significantly extends approval timeframes and increases costs for applicants. Each request may require additional consultant input, revised plans, technical investigations and further correspondence, all of which add time and expense without necessarily improving planning outcomes.

From an applicant's perspective, one of the most frustrating aspects of the process is that concerns often emerge progressively rather than being clearly identified upfront. This makes it difficult to understand the true scope of issues requiring resolution and creates uncertainty regarding the likely timeframe and cost of obtaining approval.

Governments should consider reforms that require councils and assessment authorities to undertake a comprehensive review of an application before issuing an RFI. Where possible, all information requests should be consolidated into a single request, with subsequent RFIs limited to genuinely new issues arising from information subsequently submitted.

Assessment authorities should also be encouraged to distinguish between information that is genuinely necessary to determine an application and information that would simply be desirable to have.

Reducing unnecessary RFIs and preventing incremental assessment would significantly improve efficiency, reduce costs and shorten approval timeframes without compromising planning outcomes.

### **Assessment Timeframes and Perverse Incentives**

A further issue is the unintended consequences arising from the way planning assessment performance is measured.

Many councils are assessed, both internally and externally, on development application determination timeframes. While improving efficiency is a legitimate objective, these metrics can create incentives that do not necessarily align with housing delivery outcomes.

In practice, there is increasing pressure on applicants to withdraw and resubmit applications where additional time is required to address assessment issues, provide further information or undertake design modifications. This may improve reported assessment statistics but can significantly increase costs and delays for applicants.

One current example involves a proposed motel development where council issued a substantial Request for Information requiring significant redesign of the proposal. Rather than allowing additional time for the applicant to address the issues raised, the applicant was advised to withdraw the application and receive a partial refund of fees before resubmitting a revised proposal.

In this instance, the original application fees exceeded \$23,000. Withdrawal would result in the loss of a substantial portion of those fees, in addition to the significant consultant and redesign costs required before a new application could be lodged.

From a housing and development perspective, this outcome is difficult to justify. The proposal still requires assessment. The redesign work still needs to occur. The only practical effect is that assessment statistics are reset, while the applicant bears the financial consequences.

Where applicants are genuinely working to address assessment concerns, councils should be encouraged to facilitate amendments and additional information rather than encouraging withdrawal and resubmission solely to manage performance metrics.

Performance measurement frameworks should focus on successful housing and development outcomes rather than simply measuring how quickly applications are determined. Assessment statistics should not create incentives that increase costs, duplicate work or delay development delivery.

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*Question 3: Which recent reforms have been most and least effective?*

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The increased digitisation of planning systems has improved transparency in some respects. However, some reforms have created unintended consequences.

One example is the use of assessment timeframes within the Planning Portal as a measure of council performance. While intended to improve efficiency, this approach can create incentives for councils to focus on statistics rather than outcomes. In practice, there is concern that some councils are less willing to work collaboratively with applicants to resolve issues because prolonged negotiations negatively affect assessment statistics.

Historically, assessment officers often worked directly with applicants and consultants to resolve issues through practical plan amendments. Engineers would mark up plans and clearly identify what was required to achieve

approval. Applicants understood what changes were necessary and could respond accordingly. Increasingly, however, there appears to be reluctance to provide clear direction. Applicants are left attempting to interpret broad concerns without understanding exactly what changes are required. This significantly increases both time and cost.

Performance measures should focus on outcomes achieved, including the number of compliant applications facilitated and approved, rather than simply measuring determination timeframes.

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*Question 4: Which zoning and land-use controls most limit housing supply?*

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In my experience, the issue is often not the zoning itself but the way environmental and character-based controls are applied. Environmental protection remains an important planning objective. However, there are circumstances where highly localised environmental constraints are given disproportionate weight relative to broader strategic planning objectives supporting housing delivery.

Where land has been identified for housing and is surrounded by existing urban development, assessment should place greater emphasis on overall housing outcomes while still protecting genuinely significant environmental values.

The planning system should recognise the difference between protecting environmental assets of genuine regional significance and imposing substantial development constraints that deliver limited environmental benefit.

### **Balancing Environmental Outcomes and Housing Supply**

Planning systems routinely require assessment of environmental impacts arising from development. However, there is often little consideration of the housing impacts arising from planning restrictions themselves.

Governments should consider requiring councils to prepare Housing Supply Impact Statements when introducing significant planning restrictions or additional development controls.

These statements should identify the likely impact on dwelling yield, housing affordability and housing supply, and consider whether the same planning objective could be achieved through less restrictive means. This would encourage a more balanced assessment of competing public interests.

The planning system should recognise the difference between protecting environmental assets of genuine regional significance and imposing substantial development constraints that deliver limited environmental benefit.

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*Question 5: How important are land release arrangements?*

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Land release is important. However, significant housing supply gains could be achieved by improving the efficiency, consistency and certainty of existing approval pathways.

Many projects are delayed not because land is unavailable, but because development applications, subdivision approvals, servicing approvals and post-consent requirements become protracted and uncertain.

The housing debate often focuses on releasing additional land while overlooking the substantial supply that could be delivered from land already identified for development.

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*Question 6: How do development contributions affect housing supply?*

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Development contributions increase housing costs and can affect project feasibility. However, in my experience, uncertainty often imposes a greater burden than the contributions themselves. Developers can generally account for known infrastructure contributions during project feasibility assessments. What is far more difficult is managing situations where expectations, requirements or assessment positions change throughout the approval process.

Reducing uncertainty would improve project feasibility even where contributions remain unchanged.

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*Question 7: What other regulations should be prioritised for reform?*

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### **Duplication of Assessment – Assess Once, Rely Many Times**

One of the most significant inefficiencies within the planning system is the repeated assessment of the same issue at multiple stages of the approval process. Matters are often assessed during the development application stage, revisited during construction certificate assessment, reconsidered during subdivision works approvals and then reviewed again during subdivision certification or utility authority approvals.

This duplication creates cost and delay without necessarily improving planning outcomes.

Governments should adopt an "assess once, rely many times" principle. Where a matter has already been assessed and accepted by a suitably qualified professional or consent authority, there should be a strong presumption against requiring further assessment unless new information or circumstances arise.

### **Private Certification**

The private certification system requires review.

Private certifiers have become increasingly risk-averse due to growing regulatory complexity and liability concerns. As a result, many applicants no longer view private certification as providing a faster or more efficient pathway than council certification.

The cost of navigating regulatory requirements and managing risk has significantly reduced the effectiveness of the private certification system.

Governments should review whether current liability settings and regulatory frameworks are discouraging efficient decision-making and undermining the original purpose of private certification.

### **Simplification of Development Consents**

Development consent conditions have become increasingly lengthy, technical and difficult to interpret. In many cases, even experienced planning consultants struggle to understand precisely what is required by consent conditions.

If qualified professionals find consent conditions difficult to interpret, it is unrealistic to expect ordinary homeowners and small developers to understand their obligations.

Consent conditions should be simplified, written in plain language and clearly identify the actions required to achieve compliance.

### **Flood Planning Reform**

Flooding is another area where regulatory settings may be unnecessarily restricting housing opportunities and imposing substantial costs on applicants. Public safety must remain the highest priority. However, in my experience, flood assessment frameworks are often applied in a way that treats flood risk as an absolute constraint rather than a risk that can be managed through appropriate design measures.

This differs significantly from the approach adopted for bushfire-prone land. In bushfire planning, governments have developed clear and well-understood frameworks that allow development to proceed where applicants can demonstrate compliance with specified protection measures. Applicants generally know what is required and can design accordingly.

By comparison, flood-prone land is frequently treated as a development prohibition, even where practical mitigation measures are available.

One example involved a proposal for a dwelling on a rural property affected by flooding. The applicant proposed extensive mitigation measures, including elevating the dwelling above flood levels and constructing a building platform designed to remain operational during flood events. Despite these measures, the proposal was effectively treated as unacceptable due to flood risk.

In this case, the applicant operated a cattle enterprise with more than 100 head of livestock. It was argued that allowing the occupants to reside safely on the property during flood events would reduce risk by enabling them to manage livestock and respond to emergencies locally. Refusing the dwelling instead required the occupants to travel through flood-affected areas to access the property during emergencies, potentially increasing rather than reducing overall risk.

This example highlights a broader concern that flood planning frameworks do not always adequately consider site-specific circumstances, practical risk mitigation measures or the realities of rural land management.

It is also important to recognise that many coastal and regional areas contain significant areas of flood-affected land. Blanket restrictions can therefore

remove large amounts of potentially developable land from housing supply, even where risks can be appropriately managed.

Reform should focus on adopting a more performance-based approach to flood planning. Governments should develop standardised flood-resilient design pathways similar to those used in bushfire planning. These pathways could address matters such as:

- Minimum floor levels.
- Building platform requirements.
- Evacuation and access arrangements.
- Structural resilience measures.
- Flood-compatible building materials.
- Site drainage and stormwater requirements.

Applicants who adopt these standardised solutions should be able to proceed through a simplified approval pathway without requiring extensive site-specific studies. Similarly, governments should consider developing standardised stormwater management solutions for common forms of residential development.

At present, applicants are often required to commission specialist reports to address relatively routine drainage issues. Standardised designs could reduce costs, increase certainty and shorten approval timeframes while maintaining appropriate engineering outcomes. Specialist reports should remain available for applicants seeking alternative solutions, but they should not be mandatory where applicants are prepared to adopt established and approved design standards.

A greater focus on risk management rather than risk avoidance would improve housing outcomes while maintaining community safety.

### **Measuring Homes Lost, Not Just Assessment Timeframes**

One aspect of the planning system that receives little attention is the housing that is never built.

Current planning performance metrics focus heavily on matters such as assessment timeframes, determination rates and appeal statistics. While these are important indicators, they fail to capture one of the most significant consequences of regulatory burden: projects that are abandoned, significantly reduced in scale or never lodged due to excessive cost, uncertainty and delay.

Throughout my experience as a planning consultant, I have seen numerous projects where applicants have abandoned or seriously considered abandoning developments after repeated requests for information, escalating consultant costs, prolonged assessment periods or constantly shifting assessment expectations.

In the Medowie subdivision example discussed earlier in this submission, the applicants reached a point where they questioned whether it was worth continuing at all. Had the project been abandoned, it would not have appeared in any planning performance statistics. No refusal would have been issued. No appeal would have been lodged. The housing opportunity would simply have disappeared.

This is a significant blind spot in the current system.

The Productivity Commission's focus is housing supply. Therefore, it is important to recognise that the greatest impact of regulatory inefficiency may not be reflected in applications that are approved or refused, but in the developments that never proceed because the process becomes too costly, uncertain or complex.

Governments should investigate ways to better measure the housing supply impacts of regulatory burden, including:

- Projects abandoned during assessment.
- Projects significantly reduced in scale to address regulatory requirements.
- Delays that materially affect project feasibility.
- Consultant and holding costs associated with prolonged assessments.
- Housing yield lost as a result of additional planning restrictions.

A planning system should ultimately be judged not only by how efficiently it processes applications, but by whether it facilitates the delivery of housing while balancing environmental, infrastructure and community objectives.

If governments wish to meaningfully increase housing supply, they must consider not only the applications that reach a determination, but also the homes that are never built.

Current planning metrics can unintentionally incentivise behaviour that improves statistical performance while reducing development efficiency.

Governments should ensure that planning performance measures reflect housing outcomes rather than merely administrative processing times.

### **Referral Agency Timeframes**

Delays are frequently attributed to councils when, in practice, significant delays often occur within referral agencies and infrastructure providers. Applicants and councils are frequently left waiting for responses from external authorities with limited ability to influence response times.

Governments should introduce statutory response timeframes for referral agencies and infrastructure providers, supported by public reporting of performance. Consideration should also be given to deemed concurrence provisions where agencies fail to respond within prescribed timeframes.

Improving agency responsiveness would unlock housing supply without reducing planning standards or environmental protections.

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### *Conclusion*

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Australia's housing shortage is often discussed as a problem of insufficient land supply, restrictive zoning or inadequate infrastructure. While these issues are important, my experience suggests that significant housing supply gains could be achieved by improving the administration of the planning system itself.

The common theme throughout this submission is that Australia's planning system often prioritises process over outcomes. Environmental protection, infrastructure planning and public safety are critical objectives and should remain so. However, the current system frequently imposes uncertainty, duplication, delay and unnecessary cost that discourages housing delivery and, in some cases, causes otherwise viable projects to be abandoned altogether.

Importantly, the reforms proposed in this submission are not directed at weakening planning controls. Rather, they seek to create a planning system that is clearer, more accountable, more predictable and more efficient while maintaining appropriate safeguards.

One of the most significant shortcomings in the current system is the way success is measured. Planning performance is often assessed through determination statistics, assessment timeframes and appeal rates. While these are useful indicators, they do not capture the housing that is never built.

Governments should seek to better understand how many projects are abandoned, reduced in scale or rendered unviable due to regulatory burden, uncertainty and delay. The housing that is never built rarely appears in official statistics, yet it may represent one of the most significant consequences of an inefficient planning system.

Future planning reforms should focus not only on measuring process efficiency, but also on measuring housing outcomes. The key question should not simply be how many applications were processed, but how many homes were ultimately delivered.

Planning authorities should be encouraged to work collaboratively with applicants, provide clear guidance, focus on practical solutions and adopt more standardised assessment pathways where risks can be effectively managed.

A planning system that delivers certainty, transparency, accountability and timely decision-making would reduce costs, improve productivity and enable more homes to be delivered more quickly while maintaining appropriate environmental protections, infrastructure standards and community safety outcomes.

Ultimately, the success of Australia's planning system should be judged not by how effectively it manages paperwork, but by how effectively it facilitates the delivery of safe, sustainable and well-located housing for current and future generations.

Warm Regards,

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## Appendix A – Practitioner Case Studies

### Case Study 1 – Medowie Subdivision

**Proposal:** Six-lot residential subdivision.

**Issue:** Vegetation assessment requirements.

**Background:** The site was surrounded by extensive cleared and developed land. While vegetation existed on the site, it was relatively isolated and unlikely to provide meaningful ecological outcomes in isolation. Despite this, substantial assessment resources were directed towards vegetation-related concerns.

**Outcome:** Multiple rounds of assessment and consultant input were required. The applicants reached a point where they seriously questioned whether continuing with the project was financially worthwhile.

**Key Lesson:** Environmental assessment should recognise proportionality and broader strategic planning objectives, particularly where housing supply benefits are significant and environmental outcomes are limited.

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### Case Study 2 – Morisset Subdivision

**Proposal:** Residential subdivision.

**Issue:** Specialist environmental reporting requirements.

**Background:** Council requested a series of specialist reports which were prepared at significant cost to the applicant. Following submission, the assessment appeared to place limited weight on the findings of the reports and instead relied largely on council's own assessment position.

**Outcome:** Significant expenditure was incurred without providing the applicant with greater certainty regarding the assessment outcome.

**Key Lesson:** Where specialist reports are required, applicants should have confidence that the reports will meaningfully inform the assessment process.

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### Case Study 3 – Rural Dwelling on Flood-Affected Land

**Proposal:** Dwelling associated with a cattle enterprise exceeding 100 head of livestock.

**Issue:** Flood planning controls.

**Background:** The applicant proposed significant flood mitigation measures, including elevated building platforms and flood-resilient design. The proposal sought to allow occupants to safely reside on-site and manage livestock during flood events.

**Outcome:** Despite the proposed mitigation measures, the proposal was effectively treated as unacceptable due to flood risk.

**Key Lesson:** Flood planning frameworks should place greater emphasis on risk management and resilience measures rather than relying solely on avoidance-based approaches.

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#### **Case Study 4 – Motel Development (RFI and Withdrawal Pressure)**

**Proposal:** Motel development.

**Issue:** Extensive Request for Information (RFI) and pressure to withdraw and re-lodge application.

**Background:** During assessment, Council issued a substantial RFI requiring significant redesign of the proposal. The issues raised were substantive and required architectural and engineering input to resolve.

Rather than progressing the application through the existing assessment process, the applicant was advised to withdraw the application and receive a partial refund of fees, then submit a revised proposal as a new development application.

At the time of withdrawal consideration, the original application fees exceeded \$23,000, in addition to sunk consultant and design costs already incurred.

**Outcome:** The applicant faced a choice between continuing within the existing application framework or withdrawing and absorbing financial loss to reset the assessment process. The substantive planning issues remained unchanged and still required resolution under either pathway.

**Key Lesson:** Assessment systems that incentivise withdrawal and resubmission to manage timeframes or performance metrics can increase costs, duplicate effort, and distort efficient decision-making, without improving planning outcomes or accelerating housing and development delivery.

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## Case Study 5 – Planning System Incentives and Assessment Timeframes

**Issue:** Planning Portal performance metrics.

**Background:** Current assessment performance measures focus heavily on determination timeframes.

**Observation:** There is concern that this can discourage collaborative problem-solving and incentivise quicker refusals over working with applicants to achieve compliant outcomes.

**Key Lesson:** Planning performance should be measured by housing outcomes and quality decision-making rather than assessment speed alone.

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## Case Study 6 – Increasing Complexity of Development Consents

**Issue:** Complexity and interpretation of consent conditions.

**Background:** Development consents have become increasingly lengthy and technical.

**Observation:** Even experienced planning consultants can struggle to interpret some modern consent conditions.

**Key Lesson:** Consent conditions should be simplified, written in plain language and focused on clearly communicating compliance requirements.