

SUBMISSION TO THE PRODUCTIVITY COMMISSION

Housing supply regulation - Interim report

Evaluating Housing Reform

A Regulatory Performance Framework

CENTRAL PROPOSITION

Good regulation is not defined solely by the quality or speed of the decisions it makes. It is also defined by its ability to identify which outcomes matter, evaluate whether those outcomes are being achieved, hear evidence from across the system and improve when assumptions prove wrong.

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Prepared in response to the Productivity Commission's July 2026 interim report.
Submissions close 30 September 2026.

Executive summary

The Productivity Commission's interim report provides a strong framework for improving the design and administration of Australia's housing regulatory systems. Its four proposed best-practice principles are to adopt a 'build' mindset, regulate only where necessary, coordinate housing with infrastructure and keep processes simple. This submission supports those principles and the Commission's overarching focus on net community benefit.

The report's implementation could be strengthened through a complementary capability: a proportionate Regulatory Performance Framework that enables governments to evaluate whether significant reforms continue to achieve their intended outcomes over time.

The purpose of such a framework is not to measure more things. It is to identify which outcomes best demonstrate whether a reform is achieving its intended purpose, select proportionate indicators capable of testing those outcomes, assign responsibility for evaluation, and establish what occurs when results diverge from expectations.

Governments already collect substantial performance information. The challenge is not the absence of data, but that existing measures are often organisation-specific and are rarely integrated into a framework capable of evaluating whether reforms achieve their intended purpose.

Without a common evaluation framework, different agencies may understandably focus on different measures of success. One may report statutory processing time, another approvals issued, another enforcement activity and another stakeholder satisfaction. Each measure may be valid, yet together they may still fail to answer whether reforms are delivering additional suitable housing efficiently and without transferring unacceptable costs or risks elsewhere.

A Regulatory Performance Framework is only as reliable as the evidence available to it. Formal consultation remains essential, but it may disproportionately receive information from organisations with the greatest capacity to participate. Accessible evidence pathways are therefore needed to complement traditional submissions and surveys with operational, maintenance, product, insurance, compliance and other evidence from participants who experience regulation in day-to-day practice.

PRIMARY RECOMMENDATION

The Commission should recommend that significant housing reforms be accompanied by a proportionate Regulatory Performance Framework defining intended outcomes, assumptions, indicators, responsibility, review triggers and accessible evidence pathways. Together, these measures would help ensure that housing reform is judged not only by how efficiently it is implemented, but by whether it continues to achieve its intended outcomes over time.

Recommendations at a glance

- Recognise evaluation and learning as a complementary implementation capability within the Commission's best-practice framework.
- Recommend a proportionate Regulatory Performance Framework for significant housing reforms, rather than a uniform or burdensome reporting model.
- Distinguish process, output, outcome and learning performance, and use a balanced set of leading and lagging indicators.
- Draw indicators from multiple independent evidence streams and act when evidence converges, rather than relying on isolated observations or a single dataset.
- Create accessible, low-friction pathways for small builders, sole traders, subcontractors, certifiers, inspectors and maintenance practitioners to contribute operational evidence.
- Give coordination bodies authority, accountability and an obligation to learn from recurring cross-agency problems.
- Encourage Commonwealth incentives to distinguish formal adoption from verified performance and corrective action.
- Develop a model Regulatory Performance Framework showing how the approach could be applied to a significant housing reform.

Information requests addressed

This submission primarily responds to Information Requests 1.2, 3.3, 3.4 and 5.1, with limited comments relevant to infrastructure coordination under 4.1 and 4.2. It does not address zoning economics, heritage controls, apartment feasibility or developer contribution calculations, where I do not hold specialist evidence.

1. Purpose, scope and basis of this submission

I am a South Australian roof plumber and sole trader with around 20 years of experience in residential construction, including new housing, alterations, maintenance, defect rectification and direct dealings with builders, subcontractors, owners and suppliers. This provides a practical view of how formal requirements are translated into site conditions and completed buildings.

Over the past year I have pursued concerns about residential construction-site welfare facilities through site observations, freedom-of-information requests, ministerial correspondence and direct engagement with regulators. Although those enquiries began as a specific operational concern, they repeatedly revealed the same broader governance issue: different organisations often held relevant information, but no clear framework existed for determining whether regulatory arrangements were achieving their intended outcomes or how recurring operational evidence should influence future policy. That recurring observation forms the basis of this submission.

The examples in this submission are not offered as proof that the housing system is broadly failing. They illustrate the distinction between activity and outcome, the difficulty of assigning responsibility across agencies, and the challenge of converting operational evidence into institutional learning.

The interim report is principally concerned with land-use controls, approval processes and housing-enabling infrastructure. It places the National Construction Code outside the inquiry because that code is being addressed through a separate streamlining and modernisation process. This submission therefore does not ask the Commission to redesign technical building requirements. It responds to the Commission's own questions about best-practice systems, coordination, reporting, implementation and evidence-gathering.

2. Strengthening the Commission's best-practice framework

The Commission's four proposed principles establish a strong framework for improving Australia's housing regulatory system: adopt a 'build' mindset, regulate only where necessary, coordinate housing with infrastructure and keep processes simple. Together they seek to improve housing supply while preserving regulation that delivers a net benefit. This submission supports those principles.

An opportunity exists to strengthen their implementation by considering how governments determine whether reforms continue to achieve their intended outcomes after implementation. Every significant reform is an intervention. It reflects a judgement that changing a rule, simplifying a process, improving coordination or introducing a new administrative approach will produce better outcomes. Once a reform is operating, government should be able to test whether that judgement proved correct in practice.

Implementation should not be treated as the final stage of reform. It should begin a proportionate process of evaluation and improvement. High-performing organisations do not assume that new systems will continue to perform as intended indefinitely. They identify relevant outcomes, monitor performance, recognise unintended consequences and refine their approach as evidence develops. The same discipline can strengthen housing regulation. This is not a proposal for additional regulation, new approval obligations or a universal reporting regime. Nor is it a proposal to duplicate existing reporting. It is a structured method for interpreting evidence that governments, regulators and industry participants already generate, helping regulatory systems remain effective as industries, technologies, market conditions and construction practices evolve.

A COMMISSIONER'S QUESTION

If governments adopt the Commission's recommendations, what framework will they use to determine whether those recommendations are working — and whose evidence will that framework be built to receive?

3. A Regulatory Performance Framework

A Regulatory Performance Framework is a disciplined method for identifying which outcomes best demonstrate whether regulatory reform is achieving its intended purpose. It connects the objective of a reform with the evidence needed to evaluate its operation over time.

CORE DISTINCTION

The framework is the recommendation. Regulatory Performance Indicators are the evidence streams used within it.

This distinction matters. A list of indicators without a common purpose can encourage fragmented reporting. A framework establishes why evidence is being collected, how it will be interpreted, who is accountable for evaluation, and what should occur when outcomes diverge from expectations.

A framework also requires governments to identify relevant outcomes before implementation. This reduces the risk that success is defined retrospectively by whichever measures are easiest to report. It allows assumptions to be stated openly and enables later evaluation to distinguish implementation activity from actual performance.

The degree of evaluation should remain proportionate to the significance, complexity and risk of the reform being implemented.

3.1 Minimum elements

- The problem being addressed and the intended result.
- The assumptions connecting the intervention to that result.
- Baseline conditions and the evidence used to justify reform.
- A proportionate set of process, output, outcome and learning indicators.
- Leading indicators capable of identifying emerging risks and lagging indicators capable of confirming longer-term results.
- The agency and accountable officer responsible for monitoring performance.
- Review dates, materiality thresholds and triggers for reconsideration.
- Accessible pathways for verified operational evidence.
- Methods for distinguishing isolated incidents from recurring patterns.
- A clear process for communicating findings and incorporating them into guidance, administration, training or regulatory amendment.

3.2 Four dimensions of performance

Dimension	What should be evaluated
Process performance	How long, predictably and transparently the regulatory process operates, including the complete applicant journey.
Output performance	The approvals, dwellings, referrals resolved, infrastructure projects or other immediate products of reform.
Outcome performance	Whether additional suitable housing is completed without unacceptable safety, quality, infrastructure, environmental or community consequences.
Learning performance	How quickly verified evidence of delay, failure or unintended consequence is assessed and converted into a documented response.

4. Regulatory Performance Indicators

Regulatory Performance Indicators are measurable sources of evidence that help governments determine whether housing regulation continues to achieve its intended outcomes after implementation. Their purpose is not to measure everything. It is to select the indicators most capable of showing whether the system is performing as intended and whether emerging trends require attention.

The challenge is therefore not simply collecting more information. It is distinguishing meaningful signals from background noise, recognising patterns across independent evidence streams, and ensuring that verified findings are translated into timely and proportionate improvement.

Emerging analytical tools, including artificial intelligence, may assist governments to identify patterns across multiple evidence streams that would otherwise remain disconnected. Such tools should support, rather than obscure, identifiable human accountability.

4.1 Leading and lagging indicators

Some indicators become visible only after a significant problem has become established. Others provide earlier signals that regulatory settings, administrative processes, market conditions or industry practices may require attention. A balanced framework should consider both.

Leading indicators may include increasing interpretation disputes, repeated requests for further information, unusual product substitutions, emerging maintenance patterns, warranty notifications or recurring operational observations. Lagging indicators may include completed dwellings, tribunal outcomes, established insurance claim trends, major rectification costs or long-term asset performance. Leading indicators support early inquiry; lagging indicators help confirm whether a concern is material and systemic.

4.2 Indicative indicator families

Indicator family	What it can reveal
Process and approval	Where delay or uncertainty occurs, and whether costs are transferred between stages.
Operational	Whether regulation and guidance function clearly and consistently in day-to-day practice.
Building performance	Whether completed buildings perform as intended beyond approval and handover.
Asset life-cycle	Long-term performance that becomes visible only after buildings enter service.
Product performance	Whether products and systems continue to satisfy expected performance under real conditions.
Insurance and dispute	Whether independent post-completion evidence is converging around recurring problems.
Market capability	Whether reforms can be delivered without creating new workforce, insurance or specialist-capability constraints.
Compliance and enforcement	Whether formal obligations are understood, implemented and producing measurable improvement.
Institutional learning	Whether government can recognise evidence, assign responsibility and learn from implementation.

4.3 Convergence, not anecdote

No single indicator should determine whether reform is succeeding. Confidence increases when multiple independent indicators converge on the same conclusion. Operational observations should not be treated as conclusive merely because they come from the frontline; nor should insurance, warranty, compliance or survey data be interpreted in isolation.

A single maintenance report may be an isolated event. Repeated reports of the same failure, combined with warranty claims, technical bulletins, inspection findings and recurring product substitutions, may justify structured investigation. This protects against overreaction while reducing the risk that early warnings are dismissed until a costly systemic failure is established.

4.4 Buildings spend far longer being used than being built

Buildings spend most of their life in service rather than under construction. Consequently, some of the most valuable evidence about regulatory performance becomes visible only after occupancy. Maintenance and repair practitioners observe corrosion, failed flashings, waterproofing defects, sealant deterioration, cladding movement and premature product failure that may not have been visible at design approval, inspection or handover.

This does not mean maintenance observations should determine regulation. It means asset life-cycle evidence should be recognised as one part of a wider Regulatory Performance Framework, capable of testing whether assumptions made at design and approval remain valid through the period in which the building is actually used.

5. Accessible evidence pathways

A Regulatory Performance Framework is only as reliable as the evidence available to it. Formal submissions from governments, councils, industry associations, researchers and professional bodies remain essential. However, those processes may disproportionately receive information from organisations with the greatest capacity to participate, rather than from those who experience the practical operation of regulation on a day-to-day basis.

The Commission published 100 initial submissions. The published list is dominated by governments, industry bodies, professional organisations, researchers and advocacy groups, while identifiable submissions from practising tradespeople or sole traders appear uncommon. The point is not that peak-body evidence is invalid. It is that direct operational evidence may be underrepresented because the standard written-submission format requires time, confidence and familiarity with policy conventions that many small operators do not possess.

This submission itself illustrates the practical barrier. Converting trade experience into structured recommendations, information-request responses and page-referenced policy language has required considerable time and repeated drafting. Silence from frontline participants should therefore not automatically be interpreted as an absence of relevant experience or interest.

EVIDENCE-PATHWAY PRINCIPLE

Evidence systems should be designed around how participants already communicate, rather than requiring every participant to communicate like a government agency.

5.1 Low-friction intake mechanisms

- Oral or phone-based intake, transcribed by Commission or agency staff and treated as a valid evidence format.
- Plain-language short-form intake that is explicitly presented as an alternative to a full submission.
- Aggregation through trade associations, licensing bodies and industry training organisations using a short, consistent template.
- Use of existing regulator correspondence, complaint data and licensing-body enquiries as admissible evidence streams, without requiring the same information to be resubmitted in a new format.
- Capacity to attach photographs, documents and technical material while protecting personal and commercially sensitive information.
- Acknowledgement, classification and documented disposition so participants can see whether evidence led to investigation, guidance, training, enforcement, administrative change or regulatory review.

5.2 Segmenting surveys and reporting

Where surveys remain the chosen instrument, results should distinguish participant groups rather than treating “developer” or “industry” as a single category. An average response may conceal that a process is manageable for a large organisation with dedicated planning and compliance staff but disproportionately difficult for a small operator.

- Large and volume developers.
- Small builders and individual developers.
- Sole traders and subcontractors affected by post-approval requirements.
- Building surveyors, certifiers and inspectors.
- Infrastructure and utility contractors.
- Maintenance and defect-rectification practitioners.
- Metropolitan, regional and remote participants.

Results should be published by participant category where sample sizes permit. Segmentation would help identify burden differentials, points of friction and evidence that would otherwise be averaged out.

6. Coordination bodies require authority, deadlines and learning obligations

The Commission identifies conflicting advice, poorly sequenced referrals and unclear responsibility as significant sources of delay. Its proposal that coordination bodies possess decision-making power where agencies provide conflicting advice is strongly supported.

Coordination should not be measured by the number of meetings held, emails forwarded or agencies consulted. It should be measured by whether responsibility was allocated, the issue was resolved and recurring causes were addressed.

Feature	What it prevents or enables
Named lead	Prevents responsibility being dispersed across agencies.
Decision authority	Turns coordination into a decision pathway rather than another consultation layer.
Binding timeframes	Makes whole-of-process delay visible and manageable.
Whole-of-process visibility	Prevents statutory measures from understating the actual applicant experience.

Feature	What it prevents or enables
Written reasons	Improves transparency, consistency and institutional memory.
Unresolved-issue register	Prevents recurring boundary issues from disappearing between agencies.
Learning obligation	Converts coordination experience into system improvement.

6.1 Case study: a cross-agency residential construction issue

My work on portable toilets and handwashing on residential construction sites illustrates the boundary problem in practice. The matter engages workplace safety, public health, waste classification and environmental responsibilities. Site observations suggested poor conditions, while responsibility for different aspects sat across several bodies.

The relevant lesson for this inquiry is not the technical toilet standard. It is the difficulty of identifying who owns a cross-agency operational problem, how improvement will be measured, and how frontline evidence is converted into a coordinated response. A system can undertake inspections, correspondence and compliance activity and still be unable to demonstrate whether conditions are improving across the sector.

A Regulatory Performance Framework would measure the complete pathway from verified issue to assigned responsibility, consequential response, communicated learning and measurable improvement.

7. Performance reporting should measure effectiveness, not only speed

The Commission's support for transparent end-to-end approval reporting is welcome. Its concern that statutory timeframes and stop-clock practices can understate the applicant's actual experience is particularly important.

Speed is only one dimension of performance. A fast decision may still produce poor coordination, transfer costs to another stage or create consequences that become visible only after development. Conversely, a slower decision may be justified where it resolves a material risk. Reporting should preserve the distinction between timeliness and effectiveness.

7.1 Illustrative learning-efficiency indicators

Indicator	Purpose
Verified issue-to-response latency	Elapsed time between verification of a recurring problem and a consequential response, such as amended guidance, an alert, changed practice, enforcement priority or regulatory review.
Inter-agency responsibility resolution time	Time from referral of a cross-boundary issue until a lead agency and accountable decision-maker are assigned.
Operational evidence disposition rate	Proportion of substantiated reports that are aggregated, assessed for systemic significance and receive a documented disposition.
Closed-loop learning rate	Proportion of recurring findings that produce public guidance, training, inspection changes, administrative improvement or formal review.
Unintended-consequence detection time	Time between implementation of a reform and credible identification of a material adverse effect.
Small-operator burden differential	Difference in time, professional cost and rework experienced by small applicants compared with larger organisations undertaking comparable processes.

These indicators are illustrative. Detailed definitions, data standards and materiality thresholds would need to be developed with governments, regulators, industry and affected communities.

8. International caution: learning from long-term building performance

New Zealand's weathertightness experience provides a useful methodological caution, although technical building-code reform remains outside this inquiry and the comparison should not be overstated. The Hunn Group's 2002 review examined systemic weathertightness failures, and New Zealand's current E2/AS1 compliance pathway now incorporates a risk matrix for assessing weathertightness risk.

The broader lesson is not that flexible or performance-based regulation should be abandoned. It is that flexibility and innovation should not move faster than product assurance, practitioner capability and verified field-performance feedback.

When governments introduce faster, simpler or more flexible pathways, they should also establish indicators capable of testing whether the assumptions underlying reform remain valid over time. Without a feedback loop, paper compliance and implementation milestones can be mistaken for long-term performance.

9. Infrastructure coordination and construction-phase conditions

The Commission gives high priority to infrastructure planning and sequencing, particularly in greenfield areas. The same governance discipline can be applied during the construction phase of large estates, which may continue for many years and involve numerous small businesses operating across dispersed worksites.

In selected cases, estate-level shared construction facilities or services may be more efficient than expecting each small allotment to reproduce temporary arrangements independently. Governments and major developers could be encouraged to pilot shared construction-phase welfare infrastructure in suitable long-duration greenfield estates, with clear ownership, servicing verification and evaluation. This proposal is secondary to the main submission and should be tested rather than universally mandated.

10. Commonwealth incentives should reward outcomes, not formal adoption

The interim report asks how the Australian Government can support state, territory and local governments to move housing regulatory systems towards best practice. National funding agreements and implementation support provide an opportunity to distinguish formal adoption from verified performance.

There is a risk that implementation measures reward the existence of a new policy, pathway, code amendment or coordination body without establishing whether it works. Commonwealth agreements should distinguish formal adoption from verified performance and corrective action.

- Baseline conditions and intended outcomes agreed before implementation.
- A proportionate set of Regulatory Performance Indicators.
- Public reporting of end-to-end performance and material unintended consequences.
- Evidence that small-operator, operational and asset life-cycle experience is being captured.
- Periodic independent review of reported results.
- Corrective-action plans where outcomes materially diverge from forecasts.
- Proportionate consequences where governments repeatedly report activity without demonstrating progress.

11. Direct responses to selected information requests

Information Request 1.2 - Features of best practice

The Commission's objective and four principles are strong. Their implementation would be strengthened by recognising evaluation and learning as a complementary capability. Best practice should include a proportionate Regulatory Performance Framework with explicit objectives, baseline evidence, relevant indicators, accountability, review triggers, accessible evidence pathways and public reporting. A system that is fast and simple but unable to evaluate whether its reforms work is incomplete.

Information Request 3.3 - Coordination bodies

Coordination is a high priority where legitimate requirements are dispersed across agencies. Reducing requirements may be preferable where controls lack a clear purpose or duplicate another process; the two approaches should not be treated as substitutes. Successful coordination bodies require authority, an accountable lead, binding deadlines, whole-of-process visibility, transparent reasons, escalation powers and an obligation to learn from recurring disputes.

Information Request 3.4 - Reporting, technology and reform priorities

States should report the complete applicant journey rather than statutory processing time alone, including requests for further information, referrals, external inputs, appeals, building approval and the period between planning and construction readiness. Technology and artificial intelligence may help identify requirements, check completeness and detect conflicts earlier, but should not obscure accountability. Automated recommendations and triage processes should retain a clear human decision owner, auditable reasons and a review pathway.

Information Request 5.1 - Implementation and Commonwealth support

Quick wins include complete end-to-end reporting, clearer ownership of referrals, and a standard Regulatory Performance Framework template with an accessible evidence intake option built in from the start. Harder reforms include changing institutional incentives, sharing data across agencies and evaluating long-term outcomes. The Australian Government can support best practice by establishing common definitions, funding data interoperability, requiring periodic independent evaluation, and making verified outcomes and corrective action part of national agreements.

This submission does not address the Closing the Gap element of Information Request 5.1. Aboriginal and Torres Strait Islander housing outcomes require evidence I do not hold and are better addressed by participants with relevant expertise.

12. Consolidated recommendations

No.	Recommendation
1	Recognise evaluation and learning as a complementary implementation capability within the Commission's best-practice framework.
2	Recommend a proportionate Regulatory Performance Framework for each significant housing reform.
3	Require frameworks to identify which outcomes best demonstrate whether a reform is achieving its intended purpose.
4	Report process, output, outcome and learning performance as separate dimensions.
5	Develop balanced leading and lagging Regulatory Performance Indicators drawn from multiple independent evidence streams.
6	Build accessible, low-friction evidence pathways, including oral intake, short-form submissions, structured aggregation and use of existing regulator evidence.
7	Segment surveys and future government reporting by participant type, business scale and location where sample sizes permit.
8	Give coordination bodies authority to assign responsibility, resolve conflicts, enforce timeframes and escalate unresolved issues.
9	Publish measures of verified issue-to-response latency, inter-agency resolution time and closed-loop learning.
10	Encourage Commonwealth housing incentives to assess verified outcomes and corrective action, not only formal reform adoption.
11	Pilot shared construction-phase welfare infrastructure in suitable long-duration greenfield estates and independently evaluate the results.
12	Ensure technology and artificial intelligence improve clarity and consistency while preserving identifiable human accountability and review rights.
13	Develop a model Regulatory Performance Framework illustrating how the proposed approach could be applied to a significant housing reform.

13. Conclusion

The Productivity Commission is right to focus on reforms that make housing regulation more proportionate, coordinated, predictable and supportive of supply. Those reforms will be stronger if governments can also demonstrate how they will know whether the reforms work.

A framework for knowing which outcomes matter is not an additional layer of regulation. It is the means by which government distinguishes implementation from success. Regulatory Performance Indicators provide the evidence needed to test assumptions, recognise emerging trends and determine whether refinement is required. Accessible evidence pathways help ensure that this assessment is informed not only by those best equipped to participate in formal processes, but also by those who observe regulation in operation and buildings throughout their service life.

A best-practice regulatory system must be capable of more than making decisions. It must identify relevant outcomes, detect patterns, assign responsibility, distinguish isolated incidents from systemic signals and convert verified evidence into proportionate improvement.

CLOSING PROPOSITION

Good regulation is not defined solely by the quality of the decisions it makes. It is equally defined by its ability to evaluate those decisions, recognise emerging evidence and improve before isolated issues become systemic failures.

References

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- Ministry of Business, Innovation and Employment 2025, Acceptable Solution E2/AS1, 4th edition, effective 28 July 2025, New Zealand Building Performance.
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