

Productivity Commission
4 National Circuit
Barton ACT 2600

From: Richard Still

16 September 2026

Re: Submission in respect of the Housing Supply Regulation Inquiry

1. Introduction

I make the following submission to the Productivity Commission (the Commission) in response to its call for submissions in relation to the Housing Supply Regulation Inquiry.

I live in Mosman, New South Wales (NSW). My observations and comments concerning contemporary housing issues are primarily based on my experience in NSW. I am a civil engineer by profession and worked for many years in the NSW public service.

2. Limitations of the Terms of Reference

I note that the Treasurer has asked the Commission to undertake an inquiry into the rules and regulations that affect housing supply. I understand that the fundamental objective the Australian Government is seeking to achieve is to ensure that sufficient residential accommodation is available to adequately house Australia's permanent and temporary population in the areas where people want to live. To achieve this, the Government has focused principally on increasing the supply of additional housing.

My work in the NSW public service was primarily concerned with responding to problems associated with utility services, particularly water and wastewater. In that context, we would typically explore and consider non-build and adaptation-based solutions before proceeding to build solutions.

In the context of the housing problem, potential non-build solutions could include:

- demand management, including reducing net migration;
- increasing average occupancy rates and thereby improving utilisation of existing dwellings;
- reducing the number of dwellings being used for short-term accommodation and making them available for long-term occupation;
- unlocking properties that are continually vacant and making them available for housing; and
- adaptive reuse of existing non-residential buildings and other structures to create residential dwellings, rather than demolishing them and replacing them with new developments.

Meaningful and material responses to some of these non-build opportunities could make a significant contribution to increasing the availability of housing in areas where people want to live.

While these matters may be outside the strict scope of the inquiry into housing regulation, I urge the Commission to note them in its final report as opportunities worthy of further consideration.

3. Urban Planning Excellence

The Treasurer's brief requests that the Commission:

“... include an assessment of how advanced states and territories are in their reform efforts, against the features of a best practice system ...”.

Clearly, this indicates a desire to pursue and implement a “best practice system”. I submit, however, that the concept of best practice should ultimately be directed towards the delivery of housing that meets the needs of the Australian community, rather than towards regulation as an end in itself.

The Commission appears to have extrapolated this element of the Treasurer's request, in the context of the Terms of Reference, to mean that the Commission should principally target “best practice regulation”. I respectfully challenge that interpretation.

The ultimate objective should surely be best practice delivery of housing. Australia needs additional housing. Regulatory reform is only one contributory element in achieving that outcome. Proposed regulatory reforms should therefore be assessed according to their contribution to the delivery of appropriate housing, rather than primarily according to the theoretical merits of the regulations themselves.

The world's most successful and liveable cities and towns are typically characterised by effective planning and management. Best practice in housing must therefore include excellence in urban planning, urban design and development management.

Urban planning excellence involves creating liveable and functional communities through thoughtful design, effective governance and a focus on the quality of life of residents. The pursuit and achievement of urban design excellence should consequently be a key element of any new housing policy or proposal.

Best practice delivery of significant urban transformation must be based on sound urban design principles.

Regrettably, the proposed reforms identified in the Commission's Interim Report do not appear to give adequate consideration to urban design excellence in the proposed transition to increased housing density. In my view, this is a significant shortcoming that needs to be addressed.

The suite of reforms presented in the Interim Report does not represent best practice. If implemented without appropriate safeguards, the reforms could diminish the quality of urban planning and undermine the orderly and appropriate transformation of affected urban areas.

The people of Australia expect and deserve increased housing density to be delivered well. Critical factors in achieving successful urban transformation include:

- alignment and consistency between jurisdictions, including State and local governments;
- well-designed and harmonised development standards and controls;
- appropriate consideration of local features and characteristics;
- appropriate transition zones between different land uses and building typologies;
- effective engagement with affected communities; and
- consistent application of prevailing development standards and controls by consent authorities.

The most successful precinct transformation projects are generally formulated and implemented through well-considered master-planning processes.

4. An Unsuccessful Case Study — the NSW Low and Mid-Rise Housing Policy

(a) What is the Low and Mid-Rise Housing Policy?

The stated objective of the NSW Government's Low and Mid-Rise Housing (LMR) policy is to increase housing supply by encouraging the development of additional low-rise and mid-rise housing, including townhouses, terraces and apartments, in areas within walking distance of transport, shops and services. 171 centres across NSW have been nominated under the policy.

Within the LMR areas, the policy mandates permissibility and introduces non-discretionary development standards for two principal parameters: building height and floor space ratio (FSR).

In practice, this means that the pre-existing building-height and FSR limits established under Local Environmental Plans (LEPs) and Development Control Plans (DCPs) are overridden to permit substantially taller buildings and increased floor space.

The policy commentary states that other applicable planning controls, including those contained in State Environmental Planning Policies (SEPPs), LEPs and DCPs, continue to apply and operate as they did before the introduction of the LMR.

In my view, this creates a fundamental inconsistency. The two controls that have the greatest direct influence on the scale and form of development - height and FSR - are materially changed, while other local controls remain in place. The result is a planning framework in which the various controls are no longer properly integrated.

(b) Pre-existing Planning and Development Controls

As noted above, I live in the Mosman Local Government Area (LGA) in NSW. The LEP and DCP for Mosman were, and remain, well-considered and harmonised planning instruments based on sound urban planning principles and local conditions.

Their underlying objective is to achieve and maintain built environments appropriate to the various precincts within the Mosman LGA, having regard to the prevailing topography and other natural features. These include the harbour and associated waterways, iconic vistas and bushland settings.

I expect that other local government authorities across NSW, and indeed across Australia, have similarly developed planning regimes that are appropriately tailored to their respective local circumstances.

The building-height and FSR allowances introduced under the LMR are materially different from those established under the local planning controls. This has created inconsistency, confusion and disharmony in the development controls applicable within LMR areas.

(c) State Significant Development

Generally, State Significant Development (SSD) in NSW encompasses large-scale or complex projects considered to be of State significance because of their economic, environmental or social importance, or because of their potential environmental impacts.

Examples include:

- major hospitals and health facilities;
- significant education facilities;
- major infrastructure and energy projects;
- mining and industrial developments; and
- significant developments on designated State sites.

The NSW Government determines whether development proposals constitute SSD by reference to a range of criteria, including the scale of the development, its location and potential environmental impacts, and estimated development cost.

The development-cost threshold can have unintended consequences. It can result in relatively modest residential developments becoming classified as SSD simply because the cost of constructing premium quality apartments exceeds the relevant threshold.

There is currently a development proposal in the street where I live involving the demolition of an existing block containing six residential units. Those units are modest in size and quality and, in the context of the Mosman LGA, relatively inexpensive to rent. Several are occupied by families with children. In common terms, these are low-cost rental housing units.

The developer proposes to demolish the existing six-unit building and replace it with 14 high-end luxury apartments. The proposal would therefore deliver only eight additional dwellings. However, because of the exceptionally high estimated cost of the proposed development, the proposal is considered to be SSD.

In my view, this illustrates a significant problem with using development cost as a determinant of State significance. A proposal to replace six relatively affordable residential units with 14 high-end apartments is, by virtue of its cost alone, treated as a matter of State significance. That outcome appears difficult to reconcile with the ordinary meaning and intended purpose of the SSD regime.

The SSD designation also has important consequences for the application of local planning controls. In the case of the development described above, the proposal is subject to the LEP but the DCP does not apply in the same manner as it would to an ordinary local development. This creates the anomalous situation in which a relatively modest residential development of very expensive apartments can avoid development controls that apply to surrounding properties.

In my view, the NSW SSD criteria require review to ensure that they operate in the public interest. Stand-alone residential apartment developments within ordinary LGA residential zones, such as R2 and R3 zones, should not become State Significant Developments merely because their construction cost exceeds a financial threshold.

(d) Initiation of the LMR

Australia is currently experiencing a significant shortage of housing, which has been widely described as a “housing crisis”. The underlying shortage, however, has developed progressively over many years. It is the consequence of decisions and policies adopted over successive periods by governments at all three levels.

The Federal Government has established a target of delivering 1.2 million new, well-located homes across Australia over five years from 1 July 2024. Achievement of such an ambitious target necessarily requires the active cooperation of the States and Territories. This was formalised through the National Housing Accord.

The NSW Government committed, under the National Housing Accord, to deliver 377,000 new well-located homes across the State by 2029.

Following a relatively brief consultation process, the NSW Government introduced the LMR policy in July 2025. In my view, the process did not involve adequate engagement with affected councils and communities.

(e) Policy Flaws

By promoting substantially taller buildings and increased FSRs, the LMR creates inconsistency and disharmony within the development controls applying to particular areas. It has been imposed on a broad scale without sufficient consideration of the local characteristics and features of individual communities.

The LMR areas are located around the nominated town centres and are essentially defined as catchments extending 800 metres walking distance from the boundaries of those centres. This represents a common approach applied across the 171 nominated centres. As previously mentioned, this approach gives no consideration whatsoever to the local topography or to the other physical, environmental and urban characteristics of the subject areas. From an urban planning perspective, adopting a uniform 800-metre walking-distance catchment without considering the specific circumstances of each area is, in my view, fundamentally inappropriate and unprofessional.

In the case of Mosman, a carefully considered DCP containing specific development controls for 22 separate townscape areas has effectively been displaced in respect of the two controls most directly responsible for determining building scale and density. The resulting tension between State-imposed density controls and locally developed planning controls appears likely to arise across many, if not all, of the 171 nominated centres.

As might reasonably be expected in such circumstances, developers are seeking to take advantage of the development opportunities created by the LMR. In some cases, proposals appear to be directed towards maximising development potential rather than achieving outcomes consistent with the existing character and planning objectives of the locality. Developers have also sought to take advantage of opportunities arising from the NSW Government's affordable-housing provisions.

In Mosman, this has resulted in development interest being concentrated in highly valued areas, including areas with harbour views adjacent to the Mosman Scenic Protection Area. Most of the LMR based proposals involve tower-style apartment buildings of up to eight storeys, comprising the six storeys permitted under the LMR together with an additional two storeys associated with the provision of affordable housing.

Many of the LMR zones are unattractive to developers and have generated no interest because higher development profits are available elsewhere. Developer attention is highly concentrated on the most sensitive areas of the LGA. All of the LMR development proposals here in Mosman are for high end luxury apartment developments with large underground basement car parks. This is not a prudent response to the current housing crisis.

Clearly, the uniform 800m walking-distance criterion for defining the LMR areas is not delivering outcomes consistent with the objectives of the policy.

The introduction of the LMR and the subsequent sudden emergence of multiple incongruous high-rise development proposals have generated significant concern and opposition by both Council and the community in Mosman. I understand that similar concerns have arisen in other communities affected by the policy.

The conflict between the NSW Government's approach and the planning objectives of local government has also created considerable community opposition. Instead of facilitating the accelerated delivery of additional housing, the LMR has generated development proposals that have attracted hundreds of objections from members of the community and, in some cases, substantial objections from the relevant council.

Many of these proposals have subsequently become subject to protracted review and amendment processes, with some proceeding to the Land and Environment Court. Approvals are consequently being substantially delayed. This outcome should cause the Commission to question whether the current approach is achieving the intended objective efficiently and effectively.

(f) An Alternative Development Framework

A number of local councils have concluded that the LMR, as currently framed, will result in undesirable urban planning outcomes. These councils have put forward alternative proposals intended to achieve the NSW Government's additional housing targets while taking account of local knowledge and circumstances. Typically, these alternative proposals are in the form of strategic plans (master-plans)

In response to the NSW Government's housing reforms, Mosman Council has developed the draft Mosman Masterplan. The Masterplan provides a locally led, evidence-based framework for managing growth and achieving the additional dwelling target set by the NSW Government while seeking to preserve the unique qualities that define the municipality of Mosman.

Mosman Council is seeking State Government approval to proceed with the Mosman Masterplan.

(g) A Better Approach

A better approach would have been for the NSW Government to engage actively with affected local government authorities and communities to secure their genuine support for the additional dwelling targets.

Local councils could then have been required, or strongly encouraged, to prepare strategic plans or master-plans demonstrating how those targets could be achieved while taking proper account of prevailing local conditions, infrastructure capacity, environmental constraints, heritage, urban character and community expectations.

Such an approach would not lead to councils to resist increased housing density. Rather, it would require them to determine where and how increased density can best be

accommodated. As previously mentioned, some councils are pursuing this pathway as an alternative to the LMR by choice, on behalf of the communities they serve.

The key objections to the LMR proposals appear to relate primarily to their adverse impacts on urban planning and design more broadly, and their locally focussed environmental and character impacts, rather than to the principle of providing additional housing.

5. Developer Behaviour

Development proposals submitted by developers based on the LMR standards are typified by the following features –

- (a) full use of the NSW Government's affordable housing bonus height provisions to extend the permitted building height to the absolute maximum;
- (b) exceedance of the maximum permitted building height referred to in (a) above by way of a Clause 4.6 variation application;
- (c) full use of the available FSR with affordable housing bonus;
- (d) deep multi-level underground basement car parking with minimal or no setbacks to site boundaries;
- (e) consequently, inadequate deep soil areas to accommodate canopy trees, resulting in the permanent loss of tree canopy to the detriment of the surrounding neighbourhood;
- (f) also consequently, interception and permanent lowering of the existing groundwater table, significantly impacting soil moisture conditions in surrounding areas with large zones of influence;
- (g) inadequate (non-compliant) above ground setbacks;
- (h) disregard for existing building alignment patterns;
- (i) in light of the above, building envelopes that are incongruously massive in bulk and scale, and therefore unacceptably oppressive in residential neighbourhood settings;
- (j) blocking of existing public and private views;
- (k) blocking of solar access in respect of neighbouring properties (overshadowing);
- (l) intrusive overlooking of existing properties giving rise to loss of privacy;
- (m) disregard for the significance and cultural value of heritage listed properties (by ruining their settings);
- (n) etc. – the list goes on.

Developers are commercial enterprises. They act entirely in their self-interest, not the public interest. They routinely propose over-development in pursuit of profit and will seek to breach or circumvent regulations and development controls where possible to further their own interests.

6. The Commission's Draft Recommendations

The existing development controls that apply across Australia have been progressively developed and implemented over time in response to issues and problems associated with development to protect the public interest and ensure planned and orderly development consistent with community demands and expectations.

Communities, members of the public and owners of existing property both deserve and rely on the continued presence of well-considered and appropriate controls to prevent the deterioration of the environments they currently enjoy due to inappropriate profit-driven development.

The Commission's proposal to eliminate and reduce existing development controls with a view to allowing developers freer rein to get on with building higher density housing is both chilling and alarming. There is no possibility that this is in the public interest.

7. Conclusion

The objective of increasing housing supply is both legitimate and important. However, the means by which that objective is pursued matter greatly.

Housing policy should seek not merely to maximise the number of additional dwellings theoretically capable of being produced, but to deliver housing that is appropriately located, well designed, supported by infrastructure and integrated into liveable communities. Regulatory reform should therefore be assessed against the broader objective of best-practice housing delivery, rather than treated as an end in itself.

The experience of the NSW Low and Mid-Rise Housing Policy illustrates the risks of imposing broad, State-wide changes to development controls without sufficient regard to local circumstances and without genuine engagement with local government and affected communities.

I respectfully submit that the Commission should give greater consideration to:

- the role of urban planning and design excellence in housing policy;
- locally led strategic planning and master-planning;
- the importance of retaining coherent and harmonised local planning controls;
- the need for meaningful engagement with local government and affected communities;
- the unintended consequences of development-cost thresholds in the SSD regime; and
- non-build measures that can increase the availability and utilisation of existing housing.

Australia needs more housing, but it also needs good housing delivered in the public interest. In summary, the people of Australia need and deserve increased density done well. The pursuit of additional housing supply should not come at the expense of the quality, liveability and long-term sustainability of Australia's urban environments.

Yours sincerely,

Richard Still