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Submission: Interim Report – Housing Supply Regulation – Neil Flanagan

Dear Sir / Madam

Please accept my submission on the Interim Housing Supply Regulation Report released by the Productivity Commission on 28 July 2026.

I am happy to be contacted on any matters raised in my submission.

Neil Flanagan

Productive Commission

Housing Supply Regulation

Submission

Neil Flanagan

Table of Contents

Section	Page No.
1.0 Introduction	1
2.0 Limitations	1
2.1 Terms of Reference	1
2.2 Macro v Micro	2
2.3 Theory v Reality	2
3.0 The role and purpose of land use planning	3
4.0 Queensland planning system	5
4.1 Test case comparison	7
5.0 Infrastructure delivery and funding	1
5.1 Queensland Infrastructure Planning and Delivery Model	1
5.2 Comments on proposed model	4
5.2.1 Coordination and integration	4
5.2.2 This needs to be a government driven process	5
5.2.3 Capacity analysis	6
5.2.4 Development sequencing	7
5.2.5 Who pays?	8
5.2.6 Predictable infrastructure charges	9
5.2.7 Timing of development contributions	10
5.2.8 Transparency of Infrastructure Charges collected	10
6.0 Radical proposals	10
6.1 Lapsing of development approvals	11
6.2 Purchase off the plan products	14
6.3 Limit zoning options and control development mainly through performance outcome overlays	15
6.4 Facilitate more co-operative redevelopment opportunities	18
7.0 Comments about specific aspects of the Interim Report	19
7.1 Overall premise	20
7.2 Front loading strategic planning	20

Table of Contents

7.3 A dominate ideology	22
7.4 Housing supply and deliberately withhold supply	22
7.5 Greenfield v Infill.....	23
7.6 Over-regulation.....	23
7.7 State led assessment	24
7.8 Information request 3.1	24
7.9 Minimum building design features	25
7.10 Restrictive covenants.....	26
7.11 Remove or reduce on-site parking requirements	26
7.12 Inclusionary zoning	27
7.13 The process for approval can be challenging and costly for developers.....	27
7.14 Costs of development applications	28
7.15 Slow and costly appeal processes	28
7.16 Post-approval conditions	28
7.17 Building and construction approvals timelines	29

1.0 INTRODUCTION

By way of introduction, my name is Neil Flanagan and I am a retired town planner with over 20 years of experience in this field. My town planning experience included:

- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]

So my submission is based mainly on my technical experience of working in the planning and development fields within the Queensland context from a regulatory and operational perspective. I will occasionally delve into theory and examples of how this issue has been / is being addressed elsewhere.

I strongly believe that housing affordability is one of the most critical issue affecting many aspects of Australian society for the past 20 years and possibly for another 20 years into the future. So it needs to be addressed, but I nevertheless see this issue being far wider than just a supply issue drive by regulatory impediments.

2.0 LIMITATIONS

The following are three very general points I firstly wish to make about what I see are the limitations to this particular enquiry / report.

2.1 TERMS OF REFERENCE

My last sentence in the last paragraph of section 1 (Introduction), points to what I see as a strong limitation to this particular enquiry. I fully understand and accept these are the Terms

Productivity Commission – Housing Supply Regulations - Submission

of Reference (ToR) given to you by the Government and you can't go outside of them to respond to any other matters raised in submissions.

However, land use planning and development is a complex web with many moving parts, motivations and implications that extend far beyond just a regulatory causation or solutions. The Productivity Commission (PC) also acknowledge these limitations within your interim report, so I do question the effectiveness of this enquiry to actually provide holistic solutions. At best, you may only ever be able achieve marginal improvements, but at far greater costs to the overall "system".

Nevertheless, I will try to stick within the ToR. But the Productivity Commission must go into its final report with its eyes fully open as to what limitations exists and make this very clear and transparent in its final report.

2.2 MACRO V MICRO

Again, I fully recognise the role that the PC must take in trying to look at this issue from a bigger picture perspective. But these sorts of reports tend to focus almost exclusively on a macro level perspective and totally ignore many of the underlaying micro issues that underpin the possible real issues that drive this issue.

2.3 THEORY V REALITY

This is a continuation of the above points, but land use planning (LUP) is what I call one of the "soft" sciences. It is not like engineering, physics or some of the "harder" sciences where there exists some fundamental core set of principles or theories that can withstand extended periods of time unchanged; and where you can be reasonably certain that in doing x you will produce y. LUP and its development outcomes are different in that there are 100's of factors that determine what does or doesn't occur; and the "theory for planning" often osculate between diametric opposing positions on regular short term cycles.

My reading of this Interim Report is that, like LUP, it seems to be based on many soft science theories and cases studies that tend to bend towards a certain predefined direction, with no strong alternative viewpoints, which is a shortfall in any good policy document. Nevertheless, given the "soft" nature of any direct and causational underpinning most LUP and economic theory, I doubt any of us can put our hand over our hearts and say within acceptable levels of certainty that in doing x will result in y.

I personally I don't believe that playing around with regulatory requirements will make a significant difference to better housing affordability. After all, this is a worldwide problem, with each country having very different planning systems and regulatory controls. This indicates to me that there is something else much more impactful than just regulatory impediments that is driving this problem.

But I fully agree with the fundamental principle that everything needs to be periodically reviewed and re-evaluated to see if it is working as intended; or if it is still fit for purpose. But I would also apply this to the other aspects of our different systems that inter-act with planning and housing affordability, which is not something that the PC is looking at because your ToR.

3.0 THE ROLE AND PURPOSE OF LAND USE PLANNING

At its core, LUP legislation exists to provide for the orderly development of towns and cities, through the allocation of zones to preserve areas for certain uses and then provide a legal framework for assessing future development against the intent of those zones, whilst managing any impacts arising from any such development.

In theory, its legislative powers are limited to assessing the proposed development against the intent of the zone; and how well the proposed development complies with the adopted standards of development and managing any external impacts. So in that sense, LUP is very narrow in its statutory powers and application. In addition, it is very much proponent driven and nothing in the legislation forces development to occur.

However, in practice, LUP legislation mostly works as **facilitating** legislation. That generally occurs through two different means:

1. It provides a **trigger** by which other matters, operating under separate legislation, are triggered and (in the case of the Queensland Planning Legislation) concurrently assessed under their respective legislation. This applies to a range of other matters (e.g. environmental, building and infrastructure etc). Without this triggering arrangement, then the proponent would need to get separate approval, under the different mechanisms contained within each separate legislation.
2. It prescribes certain **legally enforceable obligations** on developers that if their proposal is approved, then they need to comply with these obligations. Again, this would apply to a range of matters. Without this legal obligation (imposed by Conditions of Approval) then future legal disputes could arise between the Council; State

Productivity Commission – Housing Supply Regulations - Submission

Government Agency or Developers as to who is responsible for what, where, when and to what standard.

So LUP is much more than just the adoption of zones and development assessment. It provides the means by which many other things are triggered, facilitated, coordinated and integrated into (hopefully) some semblance of an orderly, efficient whole that seeks to deliver some form of balanced social, economic and environmental outcomes. I am not saying it is perfect, or we get this balance right all the time, but that is the over-arching intent.

It seems to me that the central theme of this Interim Report is to break or weaken this nexus between LUP and other outcomes, by trying to do away with some considerations in the certain belief that it will achieve better housing affordability.

This will be constant theme for me, in that I believe that in trading off these other mostly desirable functions for some **uncertain gains** – then you are destroying the fundamental role and function of LUP. If the PC can state with a **very high degree of certainty** that any such changes will result in more affordable housing then it may be worthwhile. But in my opinion I believe that **the premise this Interim Report is based on, is one of pure theory with no certainty that it will deliver the intended desired outcomes**. I see no positive nett benefits for more affordable housing flowing on from the (often abstract) proposals put forward in this Report. By breaking this nexus between LUP and other systems, then you are only ever going to leave behind a more fragmented, combative and expensive development system in its place. Be careful of what you wish for!

Opinion No 1

There is no certain net benefit in the often vague proposed changes to the current planning system that it will achieve the desired outcome of more affordable housing. This desired outcome is in itself uncertain given the number and range of “externalities” that affect this issue, which are in turn outside the given ToR.

I accept that some things can be reviewed and possibly changed. But I would say that you need to look at the consequences of any such changes with open eyes (not through these narrow ToR) and even here I doubt that any such changes will result in a strong conclusion that these will result in a positive nett benefit for housing affordability.

4.0 QUEENSLAND PLANNING SYSTEM

All my work experience has been within the Queensland Planning System (QPS), so I will draw heavily on this in framing my submission. However, whenever I heard media discussion / criticism about the planning system and its role in housing affordability issues, I could not understand what the issue was from a LUP perspective.

I don't know how deeply the PC looked into the QPS for analysis and comparison purposes. But in my mind the QPS has evolved over my working lifetime to be one of the most **permissive** planning systems I have ever seen, or read about elsewhere (apart from Texas). I don't intend to fully outline here how it operates, but a few key things I would like to point out are:

1. Under State Planning legislation, there are only a **few very select prohibited uses**. That is, by law you cannot make a land use planning application (either through State or Local Government land use planning assessment processes) for these particular land uses.
2. Under State Planning legislation, **a local government (LG) cannot stop an applicant from lodging a planning application for any form of development in any location**. In other words, if a proponent wanted to lodge a Development Application for a high rise apartment within a Conservation Zone – there is no way for the LG to immediately “kill off” any such application by simply refusing to accept it. The LG must accept it and assess it against the planning scheme (PS) requirements based on the merits of how well the Development Application addressed the identified matters.
3. The QPS is based entirely on a **performance based assessment model**. So while it may seem counterintuitive for some uses (e.g. an apartment building being built within a Conservation Zone), there may be cases where the proponent can demonstrate that they can still achieve the higher order performance outcomes and put in place some measures to address / mitigate the overall zone intent. This allows for possible “left field” developments that were unforeseen at the time of drafting the PS; or a proposal that could make a case for approval despite the perceived limitations imposed by the regulations contained within the existing zoning.
4. The QPS does not require “spot” rezonings to give force and effect to a development proposal. **You apply for the specific use** and thus you do not need to change the zone in order to give you access to a range of future possible uses, or do the intended development. This works in tandem with Points 3 and 5 – as long as it addresses the

Productivity Commission – Housing Supply Regulations - Submission

performance based assessment requirements, then it is assessed on its merits and there are statutory timeframes and requirements set for different levels of assessment.

5. Under State Planning legislation, there are **statutory timeframes for assessing different types of Development Applications**. If the LG, or in some cases the relevant State Government Agency, doesn't assess the application within these timeframes, then the application is **deemed approved**. There are certain clock stopping events, some of which are applicant driven and some assessor driven that can stretch out these timeframes, but not excessively so. For example a Code Assessable Development has a 10 Business Day timeframe for assessment. Provided the applicant adequately addresses all the clearly enunciated requirements outlined in the Code, they are assessed solely against that Code/s and they will get a decision within 10 Business Days. Hardly a long drawn out or "black box" process!
6. When drafting our Planning Scheme **great care was made to ensure that the lowest level of assessment was required for each particular use given the zoning ascribed**. This is just good operational practice in seeking not to force applicants to jump through unnecessary hoops. As a failsafe the State Government often performs the same exercise when it reviews a Local Government PS for "State Interests". For example, you expect a standard house in any of the residential zones, so all that is required for that use is a Building Application. In other cases, Council may wish to allow townhouses within a Low Density Residential Zone, but you would still like to see the proposal and make sure it addresses some key limited factors – so you would make this a Code Assessable planning application. Again, Point 5 above would apply – **bounded assessment against pre-identified requirements** and provided you tick those boxes, it is a straight forward application and assessment.
7. In 1997 the Queensland Government introduced the **Integrated Planning Act**, which I believe was ground breaking in the Australian context and a herculean task in what it sought to achieve. In essence it sought to roll in the many different and separate approvals contained in other State Legislation (e.g. Heritage or Environmental) into a single approval process triggered by a Development Application. That mean rules were established as to what different State Government Agencies (SGA) wanted to see and the limits of their assessment. The Development Application was sent then to those SGA to be assessed concurrently with the LG assessment. It was not perfect, but it streamlined the assessment process significantly. This same process, with some modifications, is still in force in later reiterations of the Queensland Planning Legislation.
8. The Queensland Government has an over-arching planning framework that includes **State Planning Policies (SPP)** covering a range of matters including "*Housing Supply*

and Diversity". However as a retired planner being outside the system for a while, it is not clear to me what is the current status of these SPPs. All their website states is that they are "under review", but no detail is provided about processes and timeframes for this review.

9. Queensland LGs have had an **infrastructure planning and charging model** in operation for a number of years based on State Planning Legislation. I will go into that in more detail in another section. But I am assuming that you have involved [Redacted] of SGS Economics and Planning in your research, as he was the original architect of the Queensland Model and I am sure that he would be a great source of expertise about the system as proposed and as enacted.

Recommendation No 1

Hold detailed consultations with the Queensland State Government and a selected range of large, medium and smaller Queensland Local Governments about the operation of the QPS and whether this can be adopted, with or without modifications, to provide a model for planning and development assessment that will address many of the regulatory problems outlined in this Interim Report.

4.1 TEST CASE COMPARISON

It would seem to me that what this Interim Report is proposing has already been done in Queensland and it would make for an interesting test case for what outcomes did reducing LUP regulatory burdens actually have in delivering more affordable housing and supply.

As mentioned in Point 7 above, in 1997 the Queensland Government introduced the *Integrated Planning Act* (IPA), which sought to roll in the many different and separate approvals contained in other State Legislation into a single approval process triggered by a Development Application.

Then in 2012 the Queensland Government decided to introduce a **separate planning and development assessment process** through the introduction of the *Economic Development Act* (EDA), which would only apply to specific designated areas (**Priority Development Areas**). Effectively this lifted these designated PDAs out of the Local Government's Planning Scheme control and put them under the control of the relevant State Government Agency for planning and development assessment purposes (Minister for Economic Development Queensland). The Local Government may be consulted about certain matters,

but it has no effective say or jurisdiction over planning or development assessment decisions¹.

Under the EDA, each Priority Development Area (PDA) has its own unique Development Scheme that has its own planning framework and development assessment regulations. As the name implies, these PDA were planned and regulated in such a way that future development can proceed quickly, with greater certainty and with minimal regulatory requirements. For me, **this provides a perfect real life test case to compare and contrast how well these PDAs performed in delivering housing supply and benchmark this against the results under the normal system that applies elsewhere in Queensland.** Did these PDAs achieve their stated aim and outperform the other system operating in Queensland and by extension the rest of Australia?

Currently there are 42 designated PDA in Queensland, but for brevity sake I have listed 20 of the most relevant ones in South East Queensland that should be used for this comparison test case in the following table. As can be seen from the Table:

- Some of these PDA date back to 2008 (nearly 20 years ago) and to the best of my knowledge they have not been fully developed as yet. In a time of unprecedented housing shortages, record demand and soaring housing costs, one would expect that conventional economic theory would dictate that private developers would react swiftly to meet this market opportunity. Every regulatory tool has been paired back through these PDA to make any such development as easy and certain as possible, but it hasn't happened! Why not?
- Where the State Government has publicly stated the residential development potential within these PDA – there is capacity for well in excess of 204,950 new dwellings. Some of these have commenced development, but I would estimate that collectively a maximum of 40% of these PDA full residential development potential have been reached thus far. Again why, given these areas are potentially replicating what the PC is proposing as the panacea for the housing supply and affordability problem?

¹ In some cases, specific enabling Legislation was introduced to facilitate development of large greenfield sites (e.g. Springfield in 1997). Even with this legislation in place, large parts of Springfield remain undeveloped nearly 20 years after this legislation was enacted.

Productivity Commission – Housing Supply Regulations - Submission

Name	Designated	Area	Proposed Dwellings	Website
Northshore Hamilton (Brisbane City Council)	27 Mar 2008	304 ha	Unstated.	https://www.edq.qld.gov.au/projects/northshore-hamilton-pda/
Bowen Hills (Brisbane City Council)	28 Mar 2008	108 ha	Unstated.	https://www.edq.qld.gov.au/projects/bowen-hills/
Fitzgibbon (Brisbane City Council)	25 Jul 2008	295 ha	Unstated.	https://www.edq.qld.gov.au/projects/fitzgibbon/
Oxley (Brisbane City Council)	10 Aug 2018	19 ha	Unstated.	https://www.edq.qld.gov.au/projects/oxley/
Yeronga (Brisbane City Council)	10 Aug 2018	3 ha	Unstated.	https://www.edq.qld.gov.au/projects/yeronga/
Woolloongabba (Brisbane City Council)	22 Sept 2023	106 ha	16,000	https://www.edq.qld.gov.au/projects/woolloongabba/
Yarrabilba PDA (Logan City Council)	8 Oct 2010	2,222 ha	20,000	https://www.edq.qld.gov.au/projects/yarrabilba/
Greater Flagstone (Logan City Council)	8 Oct 2010	7,188 ha	51,500	https://www.edq.qld.gov.au/projects/greater-flagstone/
Ripley Valley (Ipswich City Council)	8 Oct 2010	4,680 ha	48,750	https://www.edq.qld.gov.au/projects/ripley-valley/
Moreton Bay Central (Moreton Bay City Council)	2 Sept 2016	460 ha	Unstated.	https://www.edq.qld.gov.au/projects/moreton-bay-central/
Waraba (Moreton Bay City Council)	2 Aug 2024	2,900 ha	25,000	https://www.edq.qld.gov.au/projects/waraba/
North Harbour (Moreton Bay City Council)	30 July 2025	420 ha	3,700	https://www.edq.qld.gov.au/projects/north-harbour/
Toondah Harbour (Redland Shire Council)	29 May 2014	67 ha	Unstated.	https://www.edq.qld.gov.au/projects/toondah-harbour/
Weinam Creek (Redland Shire Council)	21 June 2013	42 ha	Unstated.	https://www.edq.qld.gov.au/projects/weinam-creek/
Southern Thornlands	4 Apr 2025	890 ha	8,000	https://www.edq.qld.gov.au/projects/southern-thornlands/

Productivity Commission – Housing Supply Regulations - Submission

Name	Designated	Area	Proposed Dwellings	Website
(Redland Shire Council)				
Southport (Gold Coast City Council)	4 Oct 2013	198 ha	Unstated.	https://www.edq.qld.gov.au/projects/southport/
Caloundra South (Sunshine Coast City Council)	28 Oct 2010	2,323 ha	20,000	https://www.edq.qld.gov.au/projects/caloundra-south/
Maroochydore City Centre (Sunshine Coast City Council)	19 Jul 2013	60 ha	Unstated.	https://www.edq.qld.gov.au/projects/maroochydore-city-centre/
Halls Creek (Sunshine Coast City Council)	17 Jul 2026	1,231 ha	12,000	https://www.edq.qld.gov.au/projects/halls-creek/
Toowoomba Railway Parklands (Toowoomba Regional Council)	12 Dec 2014	50 ha	Unstated.	https://www.edq.qld.gov.au/projects/toowoomba-railway-parklands/

Recommendation No 2

The PC undertake, in consultation with the Queensland State Government (Department of State Development, Infrastructure and Planning), to:

1. Do an audit to verify the number of new dwellings constructed under each of the 20 listed PDA over their lifetime.
2. Identify the average approval time for any such residential development and then benchmark that against similar types of development within the same LGA under the mainstream legislation (i.e. Planning Act).
3. Compare and contrast the two results and determine if there is any significant statistical difference between the two different planning and development assessment processes in terms of: approval timeframes; actual construction rates; housing costs; and diversity of housing choice.
4. Identify the current un-used capacity for each of the 20 listed PDA and seek an explanation from the major developer² for why this capacity has not been better utilised at what would be expected, or realistic, take up rates.
5. Provide a section within your Final Report outlining this study and its findings.

I would like to think that the Productive Commission actually makes recommendations based on hard factual data and not on some collection of soft theoretical assumptions, or hearsay, that might sound economically scientific, but often doesn't play out in the real world.

5.0 INFRASTRUCTURE DELIVERY AND FUNDING

5.1 QUEENSLAND INFRASTRUCTURE PLANNING AND DELIVERY MODEL

Again, I will refer back to my experience working within the QPS as I worked on both sides of the fence in this area. Firstly, I was working as part of team within the State Department of Planning to prepare this infrastructure funding and delivery initiative. Then I wasted 5 years of my life in Local Government working on preparing our Local Government Planning and Infrastructure Plan (PIP) in line with the Queensland Government (QG) then Guidelines. Finally the QG pulled the pin on their Guidelines (under pressure from the Development Industry) and simply adopted our ([Redacted]) flat infrastructure charges all across the State.

² Many of these PDA are under the control of a single major developer, but this is not the case for each PDA.

Productivity Commission – Housing Supply Regulations - Submission

I no longer have copies of the original Guidelines³ ([Redacted] may still have them), but this exercise started out as a pure economic rationalist approach. In summary, that was:

- It was limited to development infrastructure only (water, sewerage, drainage, roads, parks and community land).
- It was based and costed on the “fair apportionment” of their expected usage demand they placed on the overall system.
- It only applied to their usage of the greater trunk infrastructure network.
- Any extra demand for local development infrastructure (e.g. road frontage work; or connection to the wider water and sewerage networks) was the responsibility of the developer and imposed as a condition of development approval to be done prior to the use commencing.
- It operated on the principle that:
 - If you developed in areas where this truck development infrastructure was already well established – then your Infrastructure Charge (IC) was minimised.
 - If you developed in areas where this truck development infrastructure was poorly serviced – then you (as the developer) either:
 - Paid for the bring forward costs with the LG doing the work; or
 - Do the bring forward works yourself; and
 - If Council did the works (which was elective) – then it recovered the IC from other development as it proceeded. If the developer did the work (either voluntary or as required by Council) – then the initial developer recovered the IC from other development as it proceeded. In both cases, **whoever did the works assumed the risks and paid (the often very large) up-front costs**; and
 - In both cases, this was seen as a mechanism to bring about some urban efficiencies + flexibility, in terms of sequencing development infrastructure delivery. In some cases, a developer may take a commercial decision to develop “out of sequence” and Council could still approve it, but the developer carried all the financial risks if other development did not follow for them to recoup their costs.
- All infrastructure charges were payable at the commencement of the use (i.e. at completion). While the actual amount was calculated at the time of development

³ <https://dsdmipprd.blob.core.windows.net/general/infrastructure-guideline-1-04.pdf> & IPA Guideline No 2/04 Infrastructure Charges Schedule (no web link found)

Productivity Commission – Housing Supply Regulations - Submission

approval and indexed, the actual payment was not made until the development was completed and signed off by the approving authority (generally the LG).

Over time there were many variations to the initial model and ultimately the Development Industry strongly opposed the proposed market based approach. Eventually the State Government adopted a flat IC. So this broke the intended economic nexus between in and out of sequence development, because **now the developer was indifferent to whether they were developing in well serviced infrastructure areas or not** – they paid the same amount no matter where the development was located.

In my opinion, you will never get the Development Industry to go along with a purist market based approach to infrastructure delivery. They simply don't want to pay for their fair share of development infrastructure. In my experience, this was another example where a purist economic theory came crashing head first into political reality and politics always wins.

The consequence of this outcome was that governments (Local or State) have to step in and pick up the balance of the true cost of this infrastructure through either LG rates levied across the whole LGA; or State funding through consolidated revenue. **The principle should be “users pays”**, but when push comes to shove this principle is not accepted by the Development Industry. Why should some poor sod living in a low socio-economic area pay through higher LG Rates for development infrastructure in another higher socio-economic area that they will never get to use? This is **inequitable and it appears from the Interim Report that the PC is seeking to “bake in” this inequity**.

There has been some further tinkering of this IC regime since my retirement to pick up some of the shortfalls of the QPS model. However in discussions with some of my former work colleagues, they state that each new subdivision is now costing Council \$40,000 per lot, which is the shortfall between what Council considers its fair share of any such truck infrastructure and what the developer contributes minus the real and actual cost of delivering the said infrastructure. Inevitably, **this is a slow strangulation of Council finances** to the point where it has to fund this shortfall either by rate increases or cutting back on legitimate Council services (e.g. fixing road potholes). These decisions don't exist in isolation and they have real world implications for a wide range of people well beyond development proposals.

5.2 COMMENTS ON PROPOSED MODEL

I will only make some generalised comments here, as in principle I mostly support the thrust of what you are saying. However, in my experience it is the operationalisation of these principles where most of the failures occur.

5.2.1 COORDINATION AND INTEGRATION

This has always been my biggest bug bear when planning – the complete lack of coordination and integration between mostly Local and State Government Agencies and the privatised utility companies.

If you can work out a model that brings these parties together to better coordinate and integrate all the disparate elements that make up a well serviced and functioning urban environment, then that would be a big outcome from this report. **My own personal preference is for a Metropolitan or Regional Authority with shared responsibility, funding and delegated authority to perform planning and delivery of the bigger items that make a city / region “work”.** Just as one example, under our Infrastructure Planning Delivery Model each LG has a publicly accessible 20 year forward plan of every Development Truck Infrastructure Item to be funded by Council and IC. **For SG, no such equivalent plan exists** – anything outside the 4 year future funding cycle doesn’t publicly exist on their books – it belongs in the bottom drawer and often only comes about through “squeaky wheel” pressure. If the SG were forced to come clean about the true cost of servicing mostly new greenfield areas with necessary hard and soft infrastructure over the same 20 year horizon – then we may see some greater enthusiasm for more infill development with supporting infrastructure and services. Then there is the issue of privatised infrastructure providers who have to make their own commercial decisions as to where and when they will service a new development front. There is no way to C&I this lot, now they have been privatised.

Much is made of the New Zealand model of upzoning whole swathes of their metropolitan area. But a recent article (<https://thefifthestate.com.au/columns/spinifex/auckland-isnt-a-simple-story-of-blanket-upzoning/>) points to another reason for the success of this model (still in contention) was the fact that **upzoning was not wholesale, but carefully considered and coordinated to only occur in selected areas where the “whole” can be better C&I.** Perhaps the PC may wish to contact this author (a member of the Planning Institute of Australia) to get further details of how this occurred and what lessons we can

take from this model (recognising that NZ has a completely different governing arrangements and responsibilities).

Recommendation No 3

The PC, through the State Planning Ministers yearly meetings, work towards developing a growth management model that can effectively coordinate and integrate future planning and development that will deliver the necessary efficiency and certainty that can create “good” communities. It is a big task, but one that **will deliver the biggest bang for bucks** across a number of areas.

5.2.2 THIS NEEDS TO BE A GOVERNMENT DRIVEN PROCESS

Following on from the above section, in my opinion, this holistic infrastructure planning and delivery model needs to be government lead (ideally through an over-arching Metropolitan or Regional Authority).

In much the same way that land use planners are not all knowing or infallible, developers are also in the same boat. Developers tend to be mostly individualist and opportunist who assemble large land parcels and then use other means to get the decision makers to favourably treat their land parcels through planning or development decisions. The fact that many of these areas still remain mostly undeveloped after 20 years would indicate to me that this is not good or efficient planning. Looking back on my experience within my LGA, I could honestly say that if I was to do a “blind” assessment of where future urban development should occur – I would not pick some of the areas designed by either the State Government (greenfield Priority Development Areas) or Council (Undullah). Take out major developers owning these land holdings and you would come to a different conclusion. In saying that, I fully recognise that major developers are big and ugly enough to get these developments done and generally know the rules and play along to deliver better quality developments, as opposed to “mom and dad” developers. But they often act through self-interest and not from a wider metropolitan or regional interest.

So while I believe that governments are not infallible, it is still better that any such arrangements are government driven. Major developers or their representative bodies should, at best, have a limited role in any such arrangements (i.e. advisory role, but no decision making role). This major developer influence over city planning and major developments is a long running (“Cities for Sale” by Leonie Sandercock) and insidious

problem that won't be completely wiped out (e.g. recent NSW ICAC Investigation), but we need to put up enough friction points to make any such occurrences that much harder.

Recommendation No 4

Any proposed growth management model devised through Recommendation 3 above, has at its core and multi-level government lead agency approach.

5.2.3 CAPACITY ANALYSIS

Section 4.2 of the Interim Report talks about what I would call capacity analysis. That is major infrastructure providers need to clearly identify: what spare capacity already exists; and when new major infrastructure is to be provided. **While I don't disagree with the principle, it is a hard thing to quantify and then execute it according to any proposed plan.**

Zooming out to a metropolitan level, there are often multiple development fronts or hot spots occurring at any one time. Some take off and continue. Some take off and come to a grinding halt. It is hard for any major infrastructure provider to firstly respond to these multiple demands; or to pivot away from one target and towards another target when situations change. The water and sewerage network providers tend to have good systems in place, but the factors mentioned above still put them in a next to impossible position to say with any degree of certainty that x infrastructure will be delivered in the year y.

The softer infrastructure network providers tend to "manage" their networks more on expressed needs; or a just in time management approach. Schools and public transport providers are a good example of this approach, but that tends to have wider implications. Speaking as a LG Strategic Planner, we consulted with such network providers on major new greenfield developments and made allowances for their needs⁴, but when development started the infrastructure providers did not step up, mainly because the funds were not in their 4 year forward funding budget.

⁴ As one example, the last Master Plan I did for a new greenfield suburb, we identified with the Department of Education the best site for a new P-12 school facility. However when it came time to adopt the Plan, the DoE refused to identify this site on our zoning maps, fearing that it would trigger bring forward claims from affected land owners to buy them out well ahead of actual need for any such facility. Over time, if a development application for another use came in over that same land, Council would have no legal basis to refuse that application on the basis it was intended to be a school site and that optimal school site will be lost forever.

Some capacity analysis could be done based on population triggers. That is when an infrastructure network catchment reaches a certain population figure (based on dwelling numbers and assumed occupancy rates) – then that will trigger the need for a certain infrastructure item or service⁵. But then they will come up against the age old problem of funding and budget constraints to be able to react when needed. This is where I think a Metropolitan or Regional Authority can be a bit more flexible in being able to move money around its overall operational budget to transfer money to these network providers where and when the actual real need arises, which then can be paid back by these same network providers as they get their revenue streams flowing and budgets re-allocated.

Personally, I think any such proposal is creating an impossible ask for infrastructure providers to make public and then realistically be held accountable for any failures to deliver on any such plan. However the actual infrastructure network providers will be in a better position to comment on this proposal than me.

Recommendation No 5

One of the first tasks of any proposed growth management model devised through Recommendation 3, should be to do a capacity analysis of the different infrastructure networks to determine where spare capacity currently exists and where future development is best placed to located (independent of land ownership).

5.2.4 DEVELOPMENT SEQUENCING

Following on from the above section, the idea of development sequencing is in my opinion necessary and part of good planning. However this concept was identified and then dropped from the original Queensland Planning model for infrastructure planning and delivery (presumably because of political pressure from the Development Industry).

I favour a “floating” use it or lose it preferred development sequence nomination process. That is the Metropolitan or Regional Authority identifies a limited number of optimal and most cost effective development areas and these are monitored on a yearly basis and reviewed every 5 years to assess how well they were / are in achieving the stated goals. If the goals are not being achieved, then the Metropolitan or Regional Authority then nominates another suitable development area. Nominated development areas should not be used as a holding exercise to inflate the book value of properties located within such areas. After 5 years you

⁵ Building construction data or small area census data can both be used for this calculation.

should have a good idea whether the nominated areas are working or not. If not, move on and land owners playing the holding game will soon realise that you either use that right or you will lose it. This is another way of kick starting actual desired development.

Recommendation No 6

Adopt a “floating” Development Sequencing model where people are given fair time to develop such areas (5-7 years max), after which the Development Sequencing moves onto the next best and most suitable area.

5.2.5 WHO PAYS?

Again, this is mostly based on my experience working within the QPS, where I think we have got it about 90% right. In my opinion:

- Water, sewerage and drainage is a no brainer. It is necessary and the existing calculations and methodologies are well established to the point where you are only arguing around the margins as to the fair apportionment contribution.
- Roads was always the most contentious IC, mainly because the costs of roads and associated works is so prohibitive expensive that the resulting IC for that network was always very high. Also the modelling under-pinning traffic generation and flows is based on a lot of assumptions that often don't match reality, but it is the best we have⁶.
- Parks are a necessary IC if we want liveable places, but it is a bit dicey about some of the assumptions used to calculate fair apportionment. It is one of those grey areas where you could make a reasonable case why you should contribute less, but it is also one of those things that you need everyone to contribute towards the pie, because we all benefit from a variety of good quality passive and active green spaces.
- I was always uneasy with the Community Land IC. It was limited to the land component only, but even then for me that was veering away from a strong nexus between new development and the demand for community infrastructure. Still the IC for this network was never high, so it seems like a piece of meat thrown to the LGs to support Infrastructure Charging.

I understand that in other States, Infrastructure Charging has crept into other areas that should fall more upon the broader community to fund. I personally feel this incremental creep is a step too far and it is neater and cleaner to exclude many of these from the IC regime. Nevertheless, I know that each network provider have their own “standards” as to when they deliver an infrastructure item or service. Personally **I believe that such**

⁶ Maybe AI will solve this problem, it seems like it is saving the world in all other areas of life!

standards should be built into or linked to forward budget processes of the SG or respective SGA or privatised network provider. But I suspect that the total costs will far exceed their financial capacity to provide for.

Recommendation No 6

Infrastructure Charges are best based on “closed systems” (i.e. water, sewerage and drainage). I accept the need for some limited Infrastructure Charges for “open systems” (i.e. roads and parks), but the methodology used to determine such charges needs to be fair for all (i.e. not gold plated, nor minimalist). But as an outsider looking in, I think some of the IC issued in other States for some “social” infrastructure have gone too far and is more reflective of the paucity of funding available to these states for adequately funding any such infrastructure, let alone recurrent funding.

5.2.6 PREDICTABLE INFRASTRUCTURE CHARGES

This is another example where I don't understand the argument. It may be different in other States, but in Queensland the rules and charges are so well documented that any developer can do IC calculations with a high degree of certainty that they can plug into their feasibility analysis. When they actually prepare their firmed up proposal they should know exactly what their IC will be; and when they do get their development approval for either subdivision or material change of use, the actual IC contribution is included in the Development Approval Conditions. So in my mind there is no grey area here.

Any variations to the IC will only ever happen when the developer submits an amended Development Application. In such cases this is on the developer to take into account and accept any IC variation.

To me this whole section reads like a beat up. They firstly buy the land, then they do the hard feasibility analysis, including engineering costs and find problems. **It is not the cost of the IC that defeats the feasibility, but a lack of due diligence that makes it unfeasible.** Again, developers are not all knowing and perfect. There are a lot of stupid or cowboy developers out there who just make bad decisions and then seek to defect their bad decisions onto others (i.e. regulations or charges etc).

Recommendation No 7

Adopt the transparency approach used in the Queensland Planning System for calculating the Infrastructure Charges. In other words a competent consultant can accurately identify their IC as part of their due-diligence feasibility analysis.

5.2.7 TIMING OF DEVELOPMENT CONTRIBUTIONS

This is another example where I don't understand the issue. In Queensland all IC are paid on commencement of the use (i.e. after the development is completed and has all the necessary certificates). It is just common sense (if that is still a thing) that this should apply. It truly astounds me that it doesn't apply in other States.

Recommendation No 8

Adopt the payment timing approach used in the Queensland Planning System for Infrastructure Charges.

5.2.8 TRANSPARENCY OF INFRASTRUCTURE CHARGES COLLECTED

In Queensland each LG allocates a budget line item number for the IC collected to the specific network and specific catchment. This provides a clear auditable trail of IC collected and where they are allocated. I didn't work in this particular area, but I assumed it was open to the public upon request. It might not have been publicly available on our website, as I doubt that it would have been a highly viewed item. But it certainly was no secret about what money was collected and for what purpose. This was then cross linked to each Council's Local Government Infrastructure Plan in terms of the infrastructure items to be delivered, location, costings and timing.

Recommendation No 9

Consult with the LGAQ about the methodology used by QLG as to how they account for the IC to see if this can be used across the nation.

6.0 RADICAL PROPOSALS

The following are what I am suggesting are some more radical ways that can also achieve better housing affordability through regulatory measures.

6.1 LAPSING OF DEVELOPMENT APPROVALS

Every State Planning Legislation will have provisions relating to the lapsing of development approvals. This set out in legislation the timeframe that the Development Application remains valid, after which it legally lapses. Nevertheless these approvals often remains legally valid for much longer timeframes as a consequence of Court appeals and the legal precedents set by these Court decisions, which are then often never written into later legislative amendments.

Again, I can only draw upon my experience within the Queensland Planning System. But I would make the following points:

1. Historically, these timeframes were set in Queensland Planning legislation at 4 years. In my opinion, this was a more than reasonable enough time to get your act together and do the development that you sought and received approval for.
2. Currently, these timeframes are set in Queensland Planning legislation at 6 years⁷. In my opinion this is a very generous timeframe for all aspects of the Material Change of Use (MCU) development to be secured and completed.
3. In past public submissions for the Queensland Planning Act, the Development Industry put in a submission for this MCU timeframe to be extended to 8 to 10 years. Ultimately, the Government of the day decided on 6 years.
4. In reality these timeframes are not set in stone, because there are numerous court decisions that have set out various facts and circumstances where the approval is still deemed “alive” and can continue on beyond the statutory timeframe. However, these court decisions have never been codified into later reiterations of the Planning Legislation⁸. Nor has there been any later decision made by the Executive Government to determine whether these facts and circumstances are still desirable or reasonable. For example, one Court case found simply having a For Sale sign on the land was sufficient grounds to extent the timeframe. The Executive Government can decide to over-ride these past Court precedents by explicating stating those facts and circumstances in which a Development Approval can be extended or not. But to date it has failed to do so for reasons unknow to myself.

My long winded point here is - **when does a Development Approval move beyond its original role to then become a tradable Financial Instrument?** I am pretty sure that the

⁷ This is for a Material Change of Use (MCU). A subdivision has a lifespan of 4 years and other minor planning approvals have a lifespan of 2 years.

⁸ Generally this is good legislative practice to bring these Court decisions within the framework of the governing legislation whenever it is next updated.

Productivity Commission – Housing Supply Regulations - Submission

PC has not sought nor collated information from all the various metropolitan local governments on Development Approvals that have not been enacted within the statutory timeframe. I am also pretty certain that there will be a substantial number of Development Approvals for residential dwellings that sit out there that may be technically still “alive”, despite what the legislation states. From a LG perspective, the only certain way you can rule in or out these past Development Approvals is take each current land owner to court and get a definitive legal judgment. Surely the PC can see this is an equally onerous burden placed on LGs⁹.

But to get back to my main point, I have seen plenty of Development Approvals where in my opinion, there is no way these developments will ever be built and **they are clearly sought solely to be traded on the open market for profit** (i.e. while technically it is a Development Approval, they exist solely for sale at a sizable marked up profit). These Development Approvals can potentially be sold and on-sold numerous times, with each seller taking a profit clip along the way and in doing so just inflating the value of the “asset” and making the desired housing product more and more expensive over time, if they ever get built at all.

In my mind many of these Development Approvals are no longer operating as intended (i.e. you have a proposal that is intended to meet an immediate identified need and you have all your ducks lined up in a row to facilitate the development once the approval is granted). Instead a number of development proposals are only ever intended to function as tradable financial instruments¹⁰.

If the PC believes in **nudge economics**, then a simple, but likely fiercely resisted, solution is to **take Development Approvals back to their original intent and put in place friction points to stop this continuous gradual creep towards them being used as tradable financial instruments**. Use it, or suffer some economic costs. In this way, it is more likely that the Development Approvals will get acted upon (thus increasing supply); and the

⁹ As a side point, when doing a Master Plan for a new greenfield residential development area, I had a land parcel that had a Development Approval dating back 20 years, which our Development Assessment experts could not say definitively whether it had lapsed or not. In this case I was downzoning these land parcels, so Council was potentially opening itself up to compensation claims as a consequence. Money for nothing I would argue!

¹⁰ One of my favourite examples is an 8 star tourist resort with approximately 250 residential dwellings in Carbrook, not too distant from a sewerage treatment plant. Approval was given sometime in 2015 and it is unlikely that it ever will be built (there is no logical case for such a use at this location), but the zoning has since been changed to reflect the past approval. I estimate that for an \$800k outlay (technical studies and development fees), the proponent has increased the land value of this parcel by 25 times over its initial raw land valuation and not a single sod has been turned.

number of purely speculative development applications will drop off (thus freeing up time and resources of the assessing agency to focus on the real applications).

Recommendation No. 10

1. Harmonise all State Planning Legislation so that they each have consistent timeframes for the DA “currency periods” (the wording will most likely be different in each State).
2. I am suggesting that 2 or 3 years is more than sufficient for this currency period. It should be a case that before you lodge your Development Application you should have an identified market, financing arranged and the ability to execute any approval. To not have these things in place would indicate to me that any such development application is purely speculative in nature.
3. The various State Planning Ministers should agree on a strictly limited set of exemptions where this currency period can be extended and this is written into their respective Planning Legislation. In addition, each Planning Legislation should explicitly state that all other past court precedents are no longer relevant. State Planning Ministers can review these exemptions at their regular meetings to address any unforeseen circumstances, but it must remain consistent across all States and any further exemptions should not err towards speculative development.
4. Once a Development Approval has reached its Statutory timeframe and it has not substantially commenced construction or been completed – then the Development Approval should be automatically treated as a Financial Instrument under the relevant Federal Legislation and some financial penalty is also imposed at the same time. Personally, I favour a Yearly Betterment Tax on any such approvals not yet enacted within the reduced statutory timeframes as the possible financial penalty, but other options may be considered more applicable by the PC. The amount of this tax can be: a percentage that can be scaled up according to the timeframe left unused; or indexed against movements in local property prices + a small % penalty¹¹. Personally, I favour the latter as it is more closer to market realities and it is more likely to force the issue one way or the other (i.e. use it or suffer an actual cost penalty).

¹¹ In the case where the calculated Betterment is a negative in that financial year, then no tax is applicable.

5. Recommendation 10.4 can be immediately null and voided by the current land owner rescinding any past Development Approvals with the relevant approval authority and also providing document evidence to the relevant Federal Government Agency of that action.

6.2 PURCHASE OFF THE PLAN PRODUCTS

Following on from the above section, but likely outside the scope of your ToR, is the persistent practice of high rise apartment developers reneging on “off the plan” purchase contracts.

I am sure the PC is well aware of the practice, so I won't go into chapter and verse about it here. But it operates similar to what I described above – a developer gets a Development Approval and then seeks out purchasers who buy an apartment “off the plan”, usually at a fixed price and with some deposit. It also contains a sunset clause that can null and void the purchase contract after a certain period of time and the developer can then resell the apartment at a higher price point, whilst retaining the original deposit.

<https://www.news.com.au/finance/real-estate/buying/property-giant-loses-sunset-clause-battle-over-485-million-gold-coast-tower-contracts-in-huge-win-for-buyers/news-story/53db17f7d0d455cf51b44674fba47422>

This is just another form of extending the life of the Development Approval without ever doing the development and churning over the sales and upping the book valuation each time. I would recommend that certain forms of developments (mainly high rise apartments in major urban centres) are immediately treated as a tradable Financial Instruments and have penalty clauses for non-completion within a reasonable timeframe. After all, if the intent of this Report is to get more dwellings built quickly, then this matter should be addressed.

Recommendation No 11

1. The respective State Governments come to some agreement about consistent treatment of this form of practice and adopt a standardise mandatory and enforceable Sales Contract that offers greater consumer protection and certainty that they will get these apartments built for the agreed price and within a reasonable timeframe.

Alternatively

2. The various State Government Planning Ministers identify the type of developments that have a high risk of not meeting their contractual obligations (historical searches can quickly identify these instances).
3. These identified developments are subject to Condition of Development Approval that they will be classified as Financial Instruments under the relevant legislation and will also be subjected to a suitable nudge non-completion penalties at various time points if progress is not being satisfactorily progressed.

6.3 LIMIT ZONING OPTIONS AND CONTROL DEVELOPMENT MAINLY THROUGH PERFORMANCE OUTCOME OVERLAYS

I fully concede this is a truly radical proposal and it will likely suffer from significant pushback from Councils and the community.

Zoning has been the bedrock of LUP since its inception and there is still good reason to maintain some zones, but I personally believe that we have too many zones, especially in the metropolitan cities. I have long dreamed of a metropolitan planning scheme that had approximately five (5) zones in total. Those being:

- **Major Centres Zone.** This would accommodate those larger centres, being a mix of uses including: retail; commercial; and residential. The designation of these centres through zoning need to be well considered in relation to multifactorial considerations.
- **Mixed Industry and Business Zone.** This would include those types of business that do not need a location within a Major Centre. It can accommodate both clean and dirty industries, although not together, but possibly if they satisfy performance outcomes. The intent is to create a dedicated and sometime specialised business area that can also accommodate retail and some residential uses if they can make a performance outcome case.
- **Urban Zone.** This is where it gets more radical. Instead of having multiple residential zones, you have a single zone where the type of use (i.e. residential, retail, business or light industry / warehousing etc) is determined firstly by Overlays that dictate performance outcomes and anything else on a case by case basis in consultation with the approving authority (mostly Local Governments).
- **Community Zone.** This is a catch all zone that can be used to accommodate a range of existing or proposed community uses, such as: parks; education or health facilities; or infrastructure facilities etc.

Productivity Commission – Housing Supply Regulations - Submission

- **Conservation Zone.** This zone is intended to capture those areas that have strong environmental values; or natural hazard attributes that make most forms of development undesirable within such zones.

In my experience:

- Zoning doesn't deliver outcomes. It only hinders the desired outcomes either by: property owners trying to maximise their upzoned use rights by upping their sales price; or developers sitting on the improved valuation of upzone properties without ever undertaking the allowable use rights.
- Planners don't always get it right. This goes back to my earlier point that LUP is a soft science and is often based on theoretical premises that are not matched by hardnosed commercial decisions. What planners think will happen, or is more desirable at a particular location, does not always pan out. Or it doesn't fit the reality of actually making it happen, or simply "things change".
- Zoning decisions made at the strategic planning stage are often taken from the macro perspective (i.e. larger areas) and don't necessarily allow for more micro consideration of what could work on a site by site analysis. This can be overcome in the QPS with proponents being able to apply for the specific development and performance based assessment approach, but I can see how it might be an issue in other States with a different system.
- Developers are often reluctant to take up the full development rights ascribed by the zoning. This happens for a multitude of reasons, but the end result is often you can lead a horse to water, but you can't make him drink¹².
- Zoning decisions often encourage developers to push the envelope in unintended places. Given developers often face an uninformed and greedy seller as to the true value of their (upzoned) property for development purposes, developers instead seek to push the development potential in a lower zoned property in order to realise higher profits. This only serves to put the developer and Council into an immediate conflict situation (time, costs, further studies and compromises); and also creates community angst where no-one truly wins, often with bad development and poor planning outcomes.

¹² As an example, my old LG has allowed and sought in discussions with developers to include residential development as part of (shopping) centres (either existing or new). But for the most part, it is not part of their business model and they see it as having more issues than benefits. But this doesn't stop Development Industry representatives raising this as an issue in papers such as your Interim Report. In another example, we have had 90m high mixed use development rights as Code Assessable development in a location adjacent to a major highway and within a designated major centre since the 1990s and thus far only two (niche) developments have utilised this permissive approach. The rest is developed with two storey shopfront businesses.

Productivity Commission – Housing Supply Regulations - Submission

- Most, but not all, of the push-back in development assessment occurs at the inter-face of zones. This won't be done away with my proposal, but it would be helped by what else I am proposing.

I am proposing that:

- 1 We reduce the number of zones in each city or major town to the 5 zones nominated above.
- 2 Identify the full range of permissive land uses that could be expected to operate within each zone. This will require some unshackling of old preconceived ideas of what land uses should or could be located within any of these zones. These then become permissible Code Assessable Development, subject to points 3 & 4 below.
- 3 Then apply some localised analysis of discrete desirable outcomes you wish to achieve within each of these areas. Some examples could include:
 - (a) Heavily or moderately car dependant development only.
 - (b) High, moderate or low amenity areas¹³.
 - (c) Development that supports / complements existing public transport facilities or other forms of active transport.
 - (d) Maximum height limits that need to be applied¹⁴.
 - (e) Preferred Development Sequencing Areas¹⁵.
- 4 These desirable outcomes then form the basis of specific “performance overlays” that will be supported by clearly enunciated codes for Development Assessment purposes^{16,17}.
- 5 Development can then proceed in line with the elements outlined in the section on the QPS (section 4). That is:
 - (a) You apply for the development you wish to provide, not the zone.
 - (b) It is a performance based assessment.

¹³ Every city needs some low amenity areas where you are expecting mess and ugliness. Likewise, there are some areas of natural or built beauty where you wish to preserve its charm through high levels of amenity. In between you will have an acceptable level of amenity that should achieve certain standards that are either not too onerous or too low.

¹⁴ In theory, height limits should only be applied where there are physical infrastructure constraints that need managing (i.e. capacity analysis) or for some safety reasons (i.e. airports). However, many height limits are arbitrary selected and often based on stopping views being built out, often in wealthy areas.

¹⁵ This can be either: preferred, but transferrable (see 5.2.4) development areas; or indicating likely IC costs (high, medium or low).

¹⁶ “Constraint Overlays” are still necessary, but “performance overlays” just provide clearer direction and certainty as to what type of development you want in terms of actual performance, not definitions.

¹⁷ These performance overlays don't have any legal “use rights” and therefore can be easily changed in response to changed circumstances and without any fear of potential compensation claims.

- 6 Impact Assessable Development is still applicable, but the performance outcomes needs to be tighten up to what currently applies within the QPS¹⁸.

So in theory, within a proposed Urban Zone you could allow any form and intensity of residential; low impact; or complementary non-residential uses as Code Assessable Development, provided it meets the clearly articulated performance overlay outcome requirements (along with any other constraints overlay requirements). With enough fine-tuned local area planning you could even allow certain forms of highly intensive residential uses in selected areas (e.g. elevated areas with good aspects).

Recommendation No 12

The PC consider the above proposal as one alternative to be adopted in its Final Report.

6.4 FACILITATE MORE CO-OPERATIVE REDEVELOPMENT OPPORTUNITIES

This is a concept that I have been thinking / working on for some time, but not yet fully formed in my mind. So it is only a concept, but a concept that already exists in other guises elsewhere (e.g. Vienna). I also note that the Interim Report also hinted at a similar, but different, commercial model.

Based on my experience, especially in working on larger infill development plans. Most of these plans fail to realise their planned potential, mostly because:

- Existing home owners are asset rich and too cash poor to do the redevelopment themselves. So the property sits undeveloped, until someone comes along and buys them out.
- Existing home owners are not cognisant of the true cost of redevelopment. They only see the real estate price of the final product and hence they tend to over-estimate the actual realistic price of their existing dwelling. This puts the developer in a bad position straight away – pay the higher price or walk away.
- Very few of the larger development companies work within this space. So it tends to be the mid or smaller scale builders / developers who generally work to a set product.
- It tends to be a scattered gun approach. You get a few developments here or there, so you get no economies of scale; and there tends to be no coherent or integrated development of the whole area.

¹⁸ Some of these higher order outcomes are so generalised and non-specific that the proverbial truck can easily drive through them.

Productivity Commission – Housing Supply Regulations - Submission

- Often you get under-development in the areas that you designate as having the greatest development potential because they: don't have the expertise; finance; or it is not what they do.
- Conversely, you often get developers pushing the envelope in areas that are designated for less intense development because that is more profitable (e.g. seeking 15 stories in an area designated for 10 stories).

My concept, which works in with minimum zone approach and greater flexibility within each zone, is that the Local Government works as an honest broker between: these land owners; potential buyers; a Co-Operative venture partner; and (if necessary financiers) to **amass a super block** that can be:

- Eventually owned and managed by a Community Land Trust, who owns the land in perpetuity, thus taking out the land cost component for future occupiers.
- Existing property owners can sell or buy back into the redevelopment at agreed timing and costs. This can flatten the initial cost of any redevelopment.
- Future property owners will sign up and make progress payments as works reach certain stages. This won't provide all the necessary finance for redevelopment upfront (especially in the early stages), but it will give financiers greater confidence and certainty that the development has a ready market and hence borrowing costs should be lower.
- Council can work with future property owners and the Co-Operative Board to work up a detailed Development Plan that it is willing to accept and meets the expressed needs of future owners (i.e. a greater diversity of built form, dwelling sizes and ancillary uses / spaces).
- Once a Development Plan is finalised and approved, this can be developed through a competitive tender bid. In this way any profits / savings flow back to the Co-Operative and future property owners.

To my knowledge this hasn't been done in Australia and it is probably too far "out there" to get traction. But I still think it is possible and feasible, but it requires much more work to iron out the specific details.

7.0 COMMENTS ABOUT SPECIFIC ASPECTS OF THE INTERIM REPORT

The following are some more general comments about matters stated or raised in / by the Interim Report.

7.1 OVERALL PREMISE

If I could personally summarise the overall premise of this Interim Report, then it is:

1. Housing is currently highly unaffordable.
2. Planning red tape is currently the main cause of this unaffordable housing.
3. Therefore, planning red tape is the one and only factor, to the exclusion of everything else, that must be addressed in order to increase more affordable housing.

Is this a sound deductive reasoning that always give a true result? I would say no and I would suspect that the PC could not put its hand over its heart and say that reducing planning red tape will result in more affordable housing. If the PC truly believes their proposition to be true, then I would suggest that all the member of the team drafting this report and its board members place sizable personal bets on a prediction betting company to this effect – get some real skin in the game.

I am personally disappointed to read many references within this report to “the PC has heard” blah blah blah. I would think that it is the role of the PC to produce hard factual data and get into the weeds to prove or disprove many of the assertions being made by other parties. We all have war stories of this or that, but I see no real proof that hard factual data have been established, or alternatives considered as to what has happened to arrive at this point.

7.2 FRONT LOADING STRATEGIC PLANNING

While I don't disagree with the sentiment, I do see some issues here.

When I undertook strategic planning for new greenfield developments, I only took strategic planning to the point where I could satisfactory resolve all the major issues and conflicts. For example and amongst many other things: I got the guarantees that bulk water supplies were available and could be practically delivered to this locality; or that truck sewerage facilities had adequate capacity to receive any expected wastewater discharges; or that local drainage could be adequately and safety discharged to a suitable point of discharge. After resolving any such major issues, it was then left to individual developers and the relevant infrastructure providers / managers to operationalise any such development.

My reading of the Report is that the PC wants Councils, or some coordinating body, to take this much further and actually provide; or at a minimum guarantee a greater level of certainty

Productivity Commission – Housing Supply Regulations - Submission

that certain hard and soft infrastructure items will be in place before development proceeds. Some issues I see here include:

1. This will push the planning timeframes out much more further than they currently are to do this to the level intended in this report. And I suspect that the blame will then fall unfairly and loudly at the feet of LG dragging the chain, much like in this report. To be blunt LG, are at the bottom of the food chain and we can't legally direct or force a SGA or privatised infrastructure provider to give us clear timeframe, let alone do the works ahead of when they are prepared to do any such works. It needs a higher overarching and dedicated Authority with the legislative powers and resources to bring about better and faster coordination and integration of all the necessary pieces in the puzzle.
2. Front loading to the degree wanted comes at a significant costs, much more than some people realise and not quantified in this report. Just to give one example and I don't have the exact figures, but the decision by the State Government to declare Yarrabilba as a Priority Development Area brought forward to need to build a brand new Sewerage Treatment Plant (estimated at around \$100m or more¹⁹). Council had to cover that cost, not through a considered decision by them, but through a decision forced upon them by the State Government. Cost recovery is only now trickling back through (low) IC and not at a rate that would be expected in a housing emergency. This raises the question – who pays? What is fair and equitable?
3. On a smaller scale, it is totally unreasonable for LG to completely take into account all the various constraint risks (e.g. flooding, bushfires etc) at a strategic scale, because:
 - a. This will take even longer than the current planning timeframe.
 - b. It comes at huge cost to the LG (with no corresponding mention of any cost recovery by the LG). If there is not cost recovery – then this cost is just passed onto the general ratepayer.
 - c. A lot of this analysis depends very much on what is proposed on each site, which then has a bearing on identifying possible externalities and is unknown at the time of doing this analysis.
4. There is a huge transference of risks to these infrastructure providers with no downside for developers if their assumptions (or pie in the sky predictions) are wrong. Developers are supreme optimists or marketeers who always believe their product is the best and will sell. But experience will say otherwise and you could have a situation where multiple areas turn into white elephants for these infrastructure providers. Again

¹⁹ It has been a long time, but I seem to recall a figure of \$500m being spoken about at one time for this particular STP.

– who pays for any such occurrences and what risk mitigation measure is the PC proposing?

5. I would suggest that there are no AI supercomputers in the world to take into account all the risks and possible permutations that are hinted at within this report to move forward with far greater certainty.

7.3 A DOMINATE IDEOLOGY

In my experience, over time land use planning has shifted more from attempts to provide a greater diversity of housing types, to a more *laissez faire* approach of the market knows best. Council planners provide the frameworks and developer deliver the product that they know they can sell. Just to use one example, in the 1990s we introduced small lot subdivisions (450m²) with the expectation that we would get more smaller detached homes. Instead we got 2 storey, 250m², 3 or 4 bedroom homes that each is just as expensive as the single detached dwelling they replaced. Today a smaller dwelling for downsizers is almost impossible to find and the only alternative are: townhouses (stairs); or apartments (high body corporate fees).

We had some Micky Mouse provisions about providing a diversity of housing, but these were constantly ignored and you would never refuse a Development Application for non-compliance, because it would never survive a court appeal.

My long winded point here is that, like your suggested “build mindset” change, we also need an ideological mindset change, to accept that the “market” is not always perfect and gets it right all the time. Sometimes a little firmer hand needs to be applied to bring about some greater balance between demand and delivery. In my experience developers either work to a particular product; or they are like lemmings doing what works, until it doesn’t and then they all switch over to something different, but the same. To speak the word that should not be mentioned – Singapore does a far better job of delivering a wider diversity of housing better suited to a diverse range of expressed needs. You will be branded a Communist by Senator Andrew Bragg, but sometimes more market intervention is not a bad thing.

7.4 HOUSING SUPPLY AND DELIBERATELY WITHHOLD SUPPLY

I am firmly in the camp of the economist Cameron Murray in this regard, that large development corporations deliberate withhold supply to keep their product prices artificially high. I tried to point this out in my proposal for a comparison test case (section 4.1) that notwithstanding all the favourable treatment they have been given and the current housing

conditions – there still remains vast amounts of urban development land that could be developed and sold if they chose to do so.

For me it is disappointing that the PC through this report has not analysed and tested the reasonings why this has occurred.

7.5 GREENFIELD V INFILL

Again, this is my personal reading of this report, but it does seem to place an undue emphasis on greenfield development over infill redevelopment. The report does recognise that infill redevelopment is hard and complex and I don't disagree. But greenfield development is also expensive and places a very high cost on those living in such areas. We would have much greater productive, efficient and resilient cities, if we can crack the magic formula of making infill redevelopment more practicable and feasible.

7.6 OVER-REGULATION

I agree the planning system is not perfect and needs fine tuning and refinement from time to time. But one of my core issues is that many of these regulations were put in place for a multitude of reasons, including:

- They simply provide for better, safer or liveable spaces. Take away some of these provisions in the name of more affordable housing and you are only creating problems elsewhere, that no doubt won't be of concern or ownership by the PC.
- Many of these "over-regulations" came about because the local community demanded it and the local representatives respond to that community demand. What is the legitimate role of representative democracy if such matters are taken out of their hands through measures outlined in your report?
- A good deal of the bulk and complexity of LG Planning Schemes came about as a result of trying to close the door after the horse (developer) has bolted. Again in my experience, developers are always looking for loopholes and trying to push boundaries and it then becomes a game of cat and mouse as Council Officer then try to close off these loopholes. It becomes a case of Chicken or Egg – what came first!

I personally hated doing DA involving heritage buildings, mainly because it was so subjective. On one hand it is nice to preserve the best of what we have, but not to the point where they just become run-down eyesore or it forces people to live in sub-standard housing. I could easily live with doing away with Local Heritage provisions, except in

exceptional circumstances. But ultimately, I see this mainly as a strawman argument as the number of developments prevented by heritage provisions would, IMO, be minuscule.

7.7 STATE LED ASSESSMENT

In theory I have no problem with State led assessment. There are some developments where the complexity scale and integration requirements are so great that it does require some higher level led assessment process.

However, as an outsider looking it, there doesn't appear to be any clear guidelines or regulations as to what constitutes a State Significant Development. If they do exist, they are so broadly written that it is easy for a Minister / Cabinet to call something in, or to refuse to consider it. Again, looking from afar, it appears that some people have the "inside running" and tend to get favourable treatment and possible favourable assessment.

Corruption is an insidious disease that takes any different forms and we have a long and proud tradition of it occurring within the urban development field. Whatever is proposed needs to be well thought through and codified with adequate safeguards. I would suggest that the PC consult with anti-corruption bodies such as "The Centre for Public Integrity" for what should be contained within any proposed Guidelines / Regulations and these apply consistency across all States and Territories.

7.8 INFORMATION REQUEST 3.1

In my experience:

1. Only a **very tiny percentage of Development Applications are lodged with all the clearly identified information requirements**. The PC should be gathering information on such matters as part of its reporting to give a fair and accurate representation of this issue. A competent planner for the applicant should be able to identify all the information requirements before lodging the application because it is all contained within the Planning Scheme, but for some weird reason they fail to do so. My best guess is that this is a deliberate ploy by the consultant who are either: playing the game of blaming Council; or using the inevitable Information Request as justification for then undertaking these studies / information requests²⁰. Again in my DA experience, Council Officers don't make these Information Requests for the sheer joy of delaying applications. At any one time I had 50 DAs on my desk, so it was in my

²⁰ In other words, they are not seen by their clients as spending money on doing un-necessary studies.

Productivity Commission – Housing Supply Regulations - Submission

best interest to have all the information provided at the beginning, rather than have to keep track of older applications needing follow up information.

2. Discretion is often a necessary, but subjective, tool to have. Both sides always talk about Certainty v Flexibility. Developers will want flexibility when it suits them, but want certainty in other instances. Again, you can not plan for every scenario or development proposal, so some discretion should always be available. It is just a matter of how it is applied.
3. In regards to 3rd party appeal rights, I think this is more a case of what happens in other States. I was aghast when speaking to my sister, who lived in Sydney that people had 3rd party appeal rights for building a garage – should never happen and doesn't happen up here in Queensland. However in saying that, I do think the more permissive system employed in Queensland now requires ordinary people to have a unique and specific understanding of forward planning instruments (i.e. Table of Assessment and Zone Codes), because the first they will know about a possible impactful development will be construction and then it is too late with no appeal rights. I think we have got the right approach in Queensland, but it is also unrealistic for the average people to understand what may happen within the immediate neighbourhood the way it is currently utilised. This only brings resentment and more Channel 7 News or A Current Affair outrage content.

7.9 MINIMUM BUILDING DESIGN FEATURES

I can see the appeal of only have minimum building design features built into the Building Code. However, I do think this is setting up a future problem, that will come back to bite the home owners latter on.

Many project builders don't build for a specific buyer²¹. Many homes are built on "spec" and then sold to buyers, being either investors or home owners. By this stage, any personalisation is too late and it is likely that a price war will ensure that only the bare minimum standard will be built. This will have enviable cost implications for future house / unit owners that will require sub-optimal solutions.

Then you will have a wealthier class who can build to a higher spec and insure themselves against higher on-going running costs. For example, I specified a higher R number internal insulation in my new build and paid for good landscaping that has reduced my overall air conditioning usage in a hot and humid climate to less than 10 days a years.

²¹ I don't have any hard data on this, but it would be useful for the PA to ascertain any such figures.

I can see this creating far worse problems than any benefits that may come about through “cheaper” housing. Planning as a problem-solving exercise should seek to see future problems and resolve them before they occur. I don’t see this proposal as falling into this category and we are only further entrenching a two-class system – not good for social cohesion.

I understand this is possibly a case of currently gold-plating new builds, but some worthwhile costs are minuscule compared to higher on-going costs to the eventual owner / occupier.

The PC should be open and transparent in doing these cost comparisons before recommending jettisoning any such requirements.

7.10 RESTRICTIVE COVENANTS

I don’t believe I have ever seen a LG place a restrictive covenant on any development (apart from development within designated heritage areas) to the extent mentioned on page 46.

The vast majority of restrictive covenants are put in place by private developers as a means to ensure maximum “amenity” and hence maximum price points being achieved. The antithesis of achieving more affordable housing!

If the PC is to be consistent with all the policy directions outlined in this IR – then all private developer restrictive covenants should be banned. Then when a new estate is open up, someone can come in and build a fibro small dwelling on a small lot with the bare minimum number of windows – all in the name of more affordable housing. I wonder how that will go down with the developers? I am willing to bet that initiative wouldn’t be taken up!

7.11 REMOVE OR REDUCE ON-SITE PARKING REQUIREMENTS

Again, this is one of those initiatives that sound good on paper and could work in theory, but in practice they are being applied on the most flimsy of analysis and I doubt that any hard-core financial analysis has proven that any cost savings have actually been passed onto the end purchaser. There is a lot of theoretical assumptions and assertions in this IR, but has the PC actually proved this?

Already in most suburban streets (without densification) there is already an overflow of on-street parking to the point where existing driveways or cross-intersections are becoming an exercise in risk-taking because of low visibility of what traffic is coming towards you.

I am all for less car parking spaces on site in selected areas with good PT or active transport options with close by access to essential services and facilities are available. But I would suggest these places are few and far between. Australian cities are, historically, nothing like Japanese or European cities where the easiest option is to take a bike, walk or PT. But I would suggest in Australia a car is still the first choice for the vast majority of people and any move to reduce on-site parking requirements will result in significant cultural changes that won't be welcomed by the majority of people (e.g. more paid parking stations).

In my experience, developers sell to a price point (what the market will bear) and any costs savings such as reducing on-site parking space requirements won't be passed on to end consumers and just result in fatter profits and more anger for residents who have to pay for parking or have to leave their brand new car deteriorating out in the open.

7.12 INCLUSIONARY ZONING

I believe that the evidence is slowly mounting that inclusionary zoning is not working as intended and possibly being manipulated.

If we want good low cost housing that is going to remain in public ownership and for a public purpose, then I see no alternative to the respective Public Housing Authorities getting back into the game and funding, if not building any such housing.

I can see the allure for rent assistance being the main tool for providing more affordable rental, but I don't see this model as being suitable for those high needs housing tenants. The respective State Governments just have to get back into this field in a big way to claw back towards the position it once had.

7.13 THE PROCESS FOR APPROVAL CAN BE CHALLENGING AND COSTLY FOR DEVELOPERS

Again, I refer to my direct experience. The last Master Planned residential greenfield development I worked on was in equal partnership with [Redacted] ([Redacted]). All throughout this process they constantly made the point that each days' delay was costing them \$10k a day in holding costs. When it was finally approved in November 2015, they sat on the approval for a number of years before on-selling it to another developer ([Redacted]). So much for holding costs being a huge financial burden. When it was well within their power to act – they failed to act and most likely wrote off any costs on their company tax returns, so that cost was borne by the Australian taxpayer. Another case where assertions don't match reality.

7.14 COSTS OF DEVELOPMENT APPLICATIONS

My local Council ([Redacted]) regularly undertook an analysis of the average time and human resources required to assess each particular type of development application and then set its fees accordingly. In other words it was a cost recovery and not a profit driven exercise. In some cases the application went through faster and other cases longer. But on average, the fee paid could be fairly accurately matched to the actual cost to process any such applications.

I would suggest that application fees could be considerably reduced if applicants provided all the necessary information up-front and in good faith, without the need for this constant tango that we go through to get all the necessary information to make a decision first time.

If push came to shove, I am pretty sure the relevant State Auditors could make spot checks on high growth Councils to ensure a rigorous and defensible fee based structure is being applied.

7.15 SLOW AND COSTLY APPEAL PROCESSES

I would argue that the opposite applies in most instances. Councils think long and hard before refusing an application and in most instances prefer to impose conditions, rather than outright refuse an application. This has not been helped by the somewhat more generous weightage the Appeal Court take, where the preference is also to condition rather than refuse²².

Developers also have the benefit of writing off any appeal cost against their tax return. Whereas this option is not available for LGs.

7.16 POST-APPROVAL CONDITIONS

This reads like as a bit of a beat up. Conditions of development approvals are often just the means to ensure that any necessary works or approvals can be legally required and enforceable if a dispute arises.

²² My favourite example was an apartment building in a flood zone, where the Courts imposed a condition that residents have “a well stocked party” and a row boat is set aside to take residents out.

Productivity Commission – Housing Supply Regulations - Submission

Planning approval (i.e. Material Change of Use) are really like a concept or preliminary approval that then allows the developer to move forward with greater certainty as to what is acceptable. It would be equally more onerous to require the developer to prove all the detailed drawing plans and proposal up front (especially given these often change or on-sold to another who seeks some variations).

Of these 70 odd post approval conditions (page 60), many will be administrative, information and very few will directly relate to the actual development that are unique to that particular development. Each LG will have a list of “standard” conditions that will apply to each type of development approval, which any competent developer will recognise as such. I doubt very much that 70 unique development conditions were applied to that particular development, but I gather the PC just took this on hearsay face value without checking its actual veracity?

7.17 BUILDING AND CONSTRUCTION APPROVALS TIMELINES

I believe the PC is drawing the wrong conclusion when it makes the claim that Private Certifiers are the reason for quicker building and construction approvals timelines.

Sometime the simplest reason is the real reason – these types of approval are simpler and far more guided by adherence to identified technical standards. In other words you comply or not and the designer knows this and seeks to ensure the proposal complies. Whereas in planning, it is much more open ended with more flexibility. You can't have both certainty and flexibility. You have to choose which one you want.

On innovation, I have no problem with innovation, but they should be proven. I am sure the Grenfell Towers in London was an example of innovation that somehow didn't work!

I am a big believer in new construction techniques to speed up construction timelines and reduce costs. However, I very much doubt that it will go down well with trade unions and governments when all these existing trades no longer exists. A very brave decision indeed!