

Submission: Housing Supply Regulation – Interim Report



City West Affordable Housing, Green Square

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Introduction

The Council of the City of Sydney (the City) welcomes the opportunity to provide a submission to the Productivity Commission's Housing Supply Regulation Interim Report (Interim Report). The City supports the wider objective of the Interim Report to make recommendations that support the delivery of more housing.

The City's view is that the Interim Report is overly focused on reducing the cost of housing delivery for developers, with many of the proposed reforms directly or indirectly shifting costs onto homebuyers, governments, and the wider community.

There are no recommendations for the Australian construction sector that employs 1.32 million people. Larger businesses over 20 employees account for only 1.5% of operating entities while 91% of construction firms are microbusinesses with fewer than 5 employees with the average business less than 3 employees. This stagnation in business formation has contributed to a 'productivity collapse' in the residential building sector. Targeted taxation settings for Small Business Entities (SBEs) such as instant asset write-offs, simplified depreciation pooling, lower tax rates and payroll tax exemptions and thresholds - incentivise micro and smaller businesses to stay under 3 or 4 employees and a turnover under \$1.2M per year.

Conversely, significant effort appears to have been invested in responding to developers' needs, perspectives and priorities, yet there is little evidence of a corresponding effort to understand the needs, perceptions and preferences of risk managers (regulators), homebuyers and occupants.

The Interim Report gives insufficient consideration to the purpose of planning regulations and the role of planning policymakers in balancing competing public and private interests. A recurring theme throughout the report is that planning controls are primarily a source of cost and delay and should therefore be reduced or removed. This perspective overlooks the broader objectives of planning frameworks and the economic, environmental and community benefits they are designed to deliver or their ability to produce a glut of housing approvals as was the case at the City in 2017.

The report also gives limited consideration to the realities of current housing market conditions, including the factors that most impact project feasibility, such as access to and cost of finance including private capital, interest rates for mortgages, construction costs, skill shortages and declining sub-contractor productivity. Similarly, it fails to adequately examine the reasons why many households remain reluctant to choose apartment living over lower density alternatives.

The Final Report should adopt a more balanced approach, recognising and weighing the interests of all stakeholders, including developers, governments, communities and home purchasers and renters. Such an approach would be more consistent with the Federal Government's Regulatory Policy, Practice and Performance Framework, which emphasises the importance of considering the impacts of regulation on all affected parties.

The success of housing reform depends on restoring confidence in apartment living

The City strongly cautions against several reform directions set out in the Interim Report that will remove consumer protections, exacerbate consumer concern about housing quality, increase apartment buyer reluctance and undermine confidence in off-the-plan apartment sales.

The success of government housing reforms depends on nature of demand, creating confidence in apartment living as well as increasing supply. While recent regulatory reforms (in NSW at least)

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have improved consumer protection relating to construction, buyer confidence in new apartments remains fragile.

Policy changes that weaken protections relating to building quality, apartment amenity or purchaser rights risk entrenching buyer reluctance, reducing off-the-plan sales and undermining the transition towards higher-density housing needed to achieve higher infrastructure utilization objectives.

Future housing supply must steadily shift from detached houses to apartments. However, current market demand remains focused on houses, with house prices, sales and construction remaining strong, while apartment construction, at least in Sydney, continues to lag despite an ever increasing pipeline of approvals.

A key reason is that a number of would be buyers perceive apartments, particularly off-the-plan apartments, as a higher-risk for their savings and loans with limited assurances and recourse when things fail. This reflects three underlying issues:

- Limited consumer protection for apartment buyers
- Significant information asymmetry in off-the-plan purchases
- The transfer of future costs and risks from developers to purchasers

Together, these factors favour new houses builds over new apartments that may cost more in the long term. The market risks and inefficiencies discourage buyers and suppress demand for new apartments.

Buyers are increasingly reluctant to purchase off-the-plan apartments

Buyers show reluctance to purchase off-the-plan apartments because:

- Decline in investor demand - Historically, investors accounted for more than 60% of Sydney's off-the-plan apartment purchases. Since 2020, after which established dwelling prices rose due to owner occupant demand (home lock-ins followed by working from home practices) investors felt uncertain about rental demand many sold rather than bought investment property.
- Building defects and their long tail of costs, rising strata management costs and project risks have increased. Many owner occupier buyers favour established dwellings over off-the-plan apartments. High-profile failures such as Opal Tower, Mascot Tower together with Greenland Australia's Halifax St Macquarie Park tower and Toplace's Skyview and Atmosphere towers at Castle Hill and Vicinity tower at Canterbury have significantly damaged confidence in new apartment construction and exposed poor purchaser rights and remedies.
- Research, insurers and compliance reviews continue to identify significant defects in recently completed apartment buildings. These include waterproofing failures, structural steel corrosion, concrete fractures and spalling and fire safety defects. As buyers cannot assess building quality before construction is complete, many lost have belief that government checks and balances will protect them, and as a result are reluctant to commit to off-the-plan purchases.
- Trust concentrated in major developers - Information asymmetry creates a significant trust gap between buyers and developers. As a result, purchasers increasingly favour established Tier 1 developers with strong reputations and financial capacity, while smaller or lesser known developers face greater difficulty securing pre-sales.
- Builder insolvency risk - Recent construction and sub-contractor collapses have increased concerns that projects may be delayed, abandoned, or require significant redesign during

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delivery. Buyers are often unwilling to commit deposits years in advance when the completed outcomes appear uncertain.

The NSW Government has introduced a range of reforms intended to improve consumer confidence and reduce information asymmetry, including:

- Establishment of the NSW Building Commissioner with expanded powers to inspect projects, prohibit occupation and require rectification works.
- Introduction of Project Remediate and the Independent Construction Industry Rating Tool (iCIRT)
- Greater disclosure requirements for developers
- Restrictions and focus on the misuse of sunset clauses and other contractual provisions.

While these reforms improve transparency and accountability at a state level, significant information asymmetries remain. When buying off-the-plan, purchasers commit to a product that does not yet exist and may be described in consciously vague terms. They have less protection than buying a new car. Developers and contractors possess far more information about the final building than buyers, creating substantial uncertainty regarding the following:

- Construction quality - Buyers must rely on building plans, renders and marketing material rather than physical inspection. Construction methods, material substitutions and hidden defects often cannot be identified by inspection before settlement.
- Changes to the final product - Developers often retain contractual rights to alter layouts, dimensions, materials and finishes during construction. While major changes may trigger some purchaser rights and remedies, minor reductions in quality and inclusions frequently do not.
- Living amenity - Many important aspects of apartment liveability cannot be experienced before purchase, including:
 - natural light and solar access
 - views and privacy
 - ventilation and thermal comfort
 - noise transmission and acoustic privacy
 - proximity to lifts, plant rooms and other building services
 - quality of common areas and shared facilities.

Many of the above considerations are used to market properties and buyers are required to make significant financial commitments without certainty as to the actual living experience.

Prospective apartment owners remain concerned that developers can, and do, transfer long-term costs and risks to apartment owners without full disclosure:

- Underestimated strata levies - Indicative strata expenses are often based on optimistic assumptions regarding maintenance, insurance and operational costs. Once owners take control of the building, levies frequently increase substantially to reflect actual expenses.
- Long-term utility and service contracts - Developers may enter into long-term agreements for utilities, building management and embedded network services before ownership transfers to residents. These arrangements can restrict competition and preserve increase costs for future owners.
- Defect and maintenance costs - Although new buildings initially appear low-maintenance, future defect rectification costs, legal expenses and capital works requirements are often borne

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by owners through special levies and increased strata contributions and difficult to anticipate at the time of purchase.

The Interim Report has not examined best practice examples of housing regulation that boosts housing production

The City of Sydney has and continues to use planning regulation to boost housing production. Most recently it released the Housing for All Discussion Paper.¹ A strategic initiative that explores where and how the local area can plan for more homes and meet diverse community needs.

It explores where new homes go, what infrastructure government must provide, and how to house diverse income levels and household types. Responses to the discussion paper will guide the strategic planning and urban design for more housing in our area.

Green Square and Pyrmont are acclaimed models for the use of planning regulation that have successfully induced housing supply and made places that are well loved by the community and continue to grow. These are described in Appendix C of this report.

The Interim Report infers the wrong lessons from the Auckland experience

Comparing Auckland to Sydney is highly problematic. Auckland's built form, including its older, inner suburbs, is historically at a much lower density compared to the inner suburbs of Sydney which are more likely to feature high density, established dwelling types such as pre-1920 terraces houses and 20th century apartment buildings.

The higher density suburbs in Auckland (pre boom 2013-2016) such as Mount Eden, Ponsonby and Parnell have densities of 3,000 to 3,500 pp/sqkm. Excluding Haymarket (22,900 pp/sqkm) an equivalent inner ring suburbs in Sydney typically range from 12,000 to 16,000 pp/sqkm (Surry Hills and Redfern around 13,000 pp/sqkm) and with Elizabeth Bay and Potts Point at 19,430 pp/sqkm.

Auckland is the size of Adelaide and of little relevance for cities like Melbourne, Sydney and Brisbane. Auckland and New Zealand has fewer homes per person than the Sydney average, contributing to an estimated shortfall of tens of thousands of homes over the past few decades².

As reported by the New Zealand Institute of Economic Research, before the Covid-19 pandemic, very strong migration-led population growth boosted demand for housing in New Zealand, especially in the largest city, Auckland. This growth fuelled increased housing supply, to meet this increased demand. Since early 2020, population growth has slowed, with a resultant decrease in housing shortages³.

As reported by Greg Ninness on 30 July 2026⁴, the number of new homes being completed in Auckland has been in steady decline since it peaked at more than 1,900 a month in late 2023. This is consistent with the steady drop in population growth since 2020, with a growth rate down to 0.6% in 2025⁵.

¹ <https://www.cityofsydney.nsw.gov.au/policy-planning-changes/have-your-say-on-future-homes-in-our-area>

² <https://theconversation.com/nz-has-a-2-5b-building-defect-problem-will-self-certification-make-it-better-or-worse-286044>

³ <https://www.nzier.org.nz/publications/assessing-housing-shortages-in-new-zealand>

⁴ <https://www.interest.co.nz/property/138745/lift-new-dwelling-completion-numbers-suggests-aucklands-building-industry-may-be>

⁵ <https://economics.infometrics.co.nz/economic-update/2026-02-population-growth-steady-at-06pa>

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In Wellington, which did not see the sort of changes to planning controls that Auckland did, more homes were built than in Auckland between 2018 and 2023 after taking population growth into account.⁶

What is not discussed in the Productivity Commission's Interim report is the significant housing non-compliance crisis being experienced in New Zealand, which is estimated to have a \$2.5 billion defect problem⁷. For example, Jeff Fahrensohn, Auckland Council's chief building inspector has reported that around one-third of new residential buildings in greater Auckland failed their final inspection in the year to 1 May 2025⁸.

The building inspections industry have also raised concerns⁹ that fast-track housing initiatives have created unprecedented pressure on the building inspection process, with industry experts reporting that this approach has compromised essential quality controls.

In Auckland, more than 4,000 homes have been approved on floodplains since storms struck in 2023. Suncorp New Zealand's EGM of business Sacha Cowrick, says poor planning is resulting in developments regularly being approved in areas known to be prone to floods, and trading one problem for another, stating "these decisions aren't fixing the housing crisis and just might be setting up the next" and that "local councils' consideration of natural hazard risk is too often overridden by pressure to deliver more housing", and recommends a stronger national framework¹⁰.

The following recommendations are based on what has been included in the Interim Report, not the matters that have been excluded.

There are no recommendations on how to improve the skills, performance and delivery of the 1.32 million strong construction sector and the influence of tax settings that disincentivise the productivity and size of operating entities. There are no recommendations on the completeness of applications, or that compliance with community agreed planning rules can speed up approvals.

Property developers and builder/developers need to make significant equivalent improvements in delivery to rebuild confidence in the speculative housing market – not by reducing consumer protections for reasonable sun access and natural ventilation.

Developers can accelerate planning approvals by simply complying with reasonable development standards and controls. As seen in 2015 to 2017, the City's high quality risk-assurance planning processes were able to pump out more housing approvals than the banks were willing to finance.

At that time, not too long ago, Green Square and Haymarket areas were considered by the AFR to be in 'over-supply' and characterised in the SMH as an 'explosion'.

⁶ <https://www.fresheconomicthinking.com/p/london-out-built-auckland-no-one>

⁷ <https://theconversation.com/nz-has-a-2-5b-building-defect-problem-will-self-certification-make-it-better-or-worse-286044>

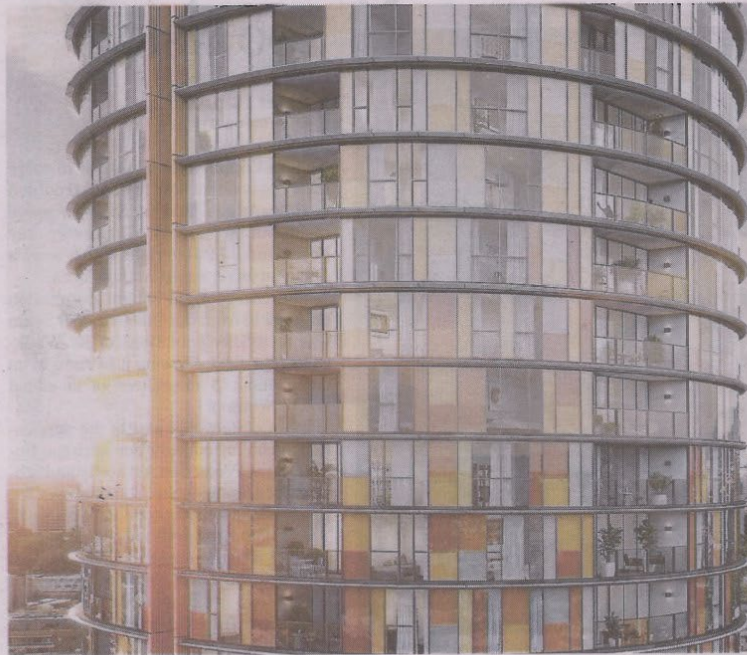
⁸ <https://www.nzherald.co.nz/nz/a-third-of-new-builds-in-auckland-are-failing-final-inspections/2GZDU7XAHWOYKOPQA2FRMIBXK4/>

⁹ <https://www.oneroof.co.nz/news/has-new-zealands-next-leaky-building-crisis-already-begun-47912>

¹⁰ <https://www.insurancenews.com.au/daily/flood-zone-housing-approvals-pave-way-for-next-crisis>

100 new homes a week Pressure on to improve infrastructure, transport

Inner explosion driving the boom



The inner-city boom

New dwelling completions by council area, July-Jan 2015

1	City of Sydney	2848
2	Blacktown	924
3	Rockdale	923
4	Camden	841
5	Liverpool	812
6	Auburn	787
7	Parramatta	736
8	The Hills	728
9	Penrith	664
10	Canterbury	571

SOURCE: DEPT OF PLANNING AND ENVIRONMENT

Mirvac's 224-apartment Ovo development in Sydney's Green Square.

Matt Wade

Densely populated neighbourhoods near the CBD are at the epicentre of Sydney's housing boom with one in five of all new homes in the metropolitan area being built within the City of Sydney.

New state government figures reveal that over three times more homes were completed within the City of Sydney's boundaries during the first seven months of this financial year than in any of the 41 other Sydney councils.

The City of Sydney, which covers just 26 square kilometres, is adding new homes at the rate of 100 a week. The figures underscore the growing dominance of multi-unit housing in the Sydney property market. In the first seven months of this financial year

more than two thirds of all dwelling approvals in greater Sydney were for multi-unit developments.

But the surge of inner-city home building is pressuring the state government to improve transport and other infrastructure to cater for thousands of extra residents and workers, especially in Green Square, the \$8 billion urban renewal area four kilometres south of the city centre.

Sydney City Council says it will invest \$800 million over the next decade on drainage, parks and other community facilities to service the area.

But lord mayor Clover Moore said the NSW government, which is responsible for transport, needs to do more to avert a capacity crisis at Green Square. "The two biggest priorities need to be transport and schools," she

said. "Public transport needs to be addressed urgently. The city has no authority over public transport. However, due to a lack of action from the government, we have been planning for and investing in an Eastern Transit Corridor – a light rail route to connect Green Square to the city centre."

Transport Minister, Andrew Constance, said additional buses and trains had recently been added to service the Green Square area and the proposed \$7 billion Sydney Rapid Transit system would eventually boost capacity on the airport line as it would no longer share city-circle tracks with the Bankstown line.

A new railway station was also being considered at either Waterloo or Sydney University as part of the Sydney Rapid Transit extension.



Domain
Why it pays to use an architect



Domain appears in copies in Greater Sydney only. Elsewhere, please visit domain.com.au.

Source: SMH 25, April 2015

Recommendations

- Recommendation 1** Issues cannot be addressed by a one size fits all approach to establish development potential at a price. To support an economically efficient allocation of government investment in infrastructure, encourage the upzoning of land that is well located for housing to achieve properly estimated housing targets, calibrated to location. High growth areas will top out and meet their maximum equilibrium of open space, community infrastructure, living amenity, transportation and housing density.
- Recommendation 2** Encourage a strategic approach to planning for long-term medium- and high- density housing capacity. A strategic approach to planning for housing supply delivers the most certainty for the long-term sustainability of the housing market and facilitates delivery of the necessary infrastructure and services by ensuring that it is:
- supported by appropriate infrastructure
 - located close to public transport, community, jobs, recreation and services
 - is well designed and has good amenity and
 - that it is diverse in its tenure and pricing to suit all cohorts of the population.
- Recommendation 3** Maintain key urban design and statutory planning regulations like built form controls and floor space ratios, that provide:
- clarity in estimating land value
 - increase certainty and speed of approval and
 - enable dwelling targets to be met.
- Recommendation 4** Avoid introducing regulatory reforms that pass costs and risks on to government, buyers and renters and the wider community. This recognises that reducing costs for developers can:
- induce the need for expensive future retrofits
 - require unanticipated infrastructure provision (for example blanket rezoning)
 - increase the long term operational costs of housing (increasing cost of living pressures)
 - increase congestion (eliminating car parking regulations without implementing maximums) and
 - impact on sustainability outcomes and increase the long-term cost of managing associated impacts, for example, managing urban heat.
- Recommendation 5** Take a more holistic and evidence-based approach to recommendations that seek to remove regulation. This recognises that many of the

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regulations articulated in the Interim Report as “barriers” to housing supply actually, where properly calibrated, support:

- greater densities in the right locations
- the economically efficient allocation of land
- consumer needs in housing (balconies and storage)
- first home buyers access to finance (minimum apartment size)
- protection of the consumer from the asymmetry of information (room sizes)
- protection of the health and well-being of occupants (windows, light, air and protection from noise)
- long term consumer confidence in the housing market, and
- other government objectives such as improved environmental outcomes.

Recommendation 6 Ensure land use planning policies continue to protect the long-term supply of enterprise and employment land to operate businesses in well-located areas. Residential development mostly outweighs employment uses from a highest and best return perspective for a landowner, and the ongoing loss of well-located employment land presents a significant long-term economic risk and may reduce the efficiency, productivity and functionality of urban areas.

Recommendation 7 Discourage the further expansion of state led assessment pathways that take longer, encourage consent authority shopping, and lead to the overriding of strategic urban design and planning of areas that have ensured housing targets can be met with appropriate infrastructure delivery.

Recommendation 8 Ensure that new housing is supported by the timely delivery of infrastructure by:

- clear housing targets that allow the coordination of infrastructure delivery with housing growth
- securing infrastructure funding and delivery mechanisms at the time of rezoning (rather than blanket rezonings) and
- requiring infrastructure contributions be paid when construction commences for the timely delivery of local infrastructure to support the new population.

Recommendation 9 Consult with the City of Sydney to develop a better understanding of how urban design and strategic planning regulation successfully encourages housing development and produces places that increase consumer confidence in apartment dwellings.

1. Best practice for housing regulatory systems

The Interim Report asserts the following:

- Housing regulatory systems do not adequately consider the effects of regulation on housing supply.
- A best practice housing regulatory system should enable enough housing to meet people's needs in the places where it delivers the greatest net benefit to the Australian community. It should balance economic, social, cultural and environmental outcomes, and give weight to the interests of both current and future residents.
- Australian governments should adopt best practice regulation for housing and planning systems.

Best Practice Planning Regulatory Systems

The NSW Government's *Sydney Plan* sets directions to provide more opportunity for housing where people want to live. Together, the NSW Government and the City of Sydney promote, through statutory frameworks, the realisation of efficient, dense, thriving communities where people want to live and work.

In March 2026, the City released the *Housing for All Discussion Paper* that proposed the rezoning of large areas that anticipate the directions of the Sydney Plan and is continuing the strategic planning that has delivered Australia's densest and livable communities. With strategic planning and urban design, the City changes zoning, built form controls and floor space ratios to enable new development to occur where infrastructure is available.

In most countries and cities, rules used well are necessary to encourage new housing development in places where people want to live and in areas well serviced by infrastructure. The Interim Report mistakes the need for regulation with the need to make and use regulation well. This is an error that pervades the Interim Report.

What is best practice?

Tokyo is often quoted as a regulation-lite, growth environment for housing. Yet Tokyo has strict, legally mandated standards for both solar access and ventilation at a national and city level. Instead of the Apartment Design Guide's solar access objectives, Tokyo has shadow regulations (*Hikage Kisei*) controlling the casting of a shadow over surrounding properties by a proposed building; setback restrictions (*Shasen Seigen*) to prevent buildings from cutting off daylight to streets and neighbours; and ventilation standards requiring air turnover and the avoidance of sick building syndrome from airtight, highly insulated apartment construction.

In Shanghai, new residential renewal developments are to receive 100% solar access compared to the NSW Apartment Design Guide objective of 70%. Both places have significant residential growth.

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The Australian Government's Whole-of-Government Regulatory Policy, Practice & Performance Framework¹¹ is a better and more widely recognised and used framework than the proposed PC principles.

It proposes adjusting regulations to deliver better economic, social, and environmental outcomes for Australians and businesses to ensure Australians have access to goods and services, promotes competitive markets, fosters investment and innovation, and protects Australia and its people from harm. It places requirements on people and businesses, creating certainty, facilitating growth, and building community confidence.

The 6 principles set the standard for designing, implementing, managing, and evaluating regulation to ensure it is fit-for-purpose. The principles are:

1. Targeted and risk-based
2. Integrated in existing systems
3. User-centred
4. Evidence-based and data-driven
5. Reflective of the digital era
6. Continuously improved and outcomes focused.

User-centred regulation requires policymakers and regulators to understand the needs, behaviours, motivations, and preferences of individuals and businesses affected by regulations.

This includes regulated entities, those who regulation is designed to protect, and other entities that support regulatory compliance, such as planning and design professionals.

Instead, the Productivity Commission has simply sought to understand from developer and their advocates how to minimise their costs to maintain or exceed profit margins. It has not examined or understood people's needs for certainty and confidence that new apartments and more communal living provide for their desired outcomes; are fair, improve their safety and wellbeing, and build trust in the purchase of new apartments off-the-plan.

The principles proposed are too narrowly focused and undermine the ability to ensure the market provides the housing people need. Regulation and guidelines must be used well to encourage housing development where, when and how it is required. Without regulation development will not necessarily occur where people want to live or where infrastructure is available.

¹¹ <https://www.finance.gov.au/about-us/news/2024/whole-government-regulatory-policy-practice-performance-framework>

2. Unlocking more homes through better land use regulation

The Interim Report asserts the following:

- Land-use regulation affects housing supply by determining where homes can be built, what kinds of homes are allowed, and whether permitted homes are commercially feasible to deliver.
- The most restrictive control often determines what can be built.
- Zoned capacity does not always translate to additional housing supply. Governments should prioritise reforms that increase commercially feasible capacity.
- Land release remains important, but it is only one part of the housing supply pipeline. Governments should place more emphasis on converting suitable land into development-ready land for housing, which means planning and coordinating enabling infrastructure and services.

Overview

It is acknowledged that the objective of the Interim Report is to remove planning barriers that unnecessarily constrain housing delivery, a more holistic and nuanced approach is required. While increasing housing supply is an important policy goal, it should not be pursued to the exclusion of other outcomes that are equally valued by our communities, economy and environment.

In addition to supporting positive social and environmental outcomes, the planning system also plays a critical role in promoting the efficient functioning of cities. By coordinating land use, infrastructure, employment opportunities, public spaces and environmental protection, planning helps maximise broader economic and community benefits for all stakeholders, rather than serving solely as a mechanism to facilitate housing development.

New housing lasts well beyond the initial purchaser's life, built and designed well, often a century or more in time. Future generations, future apartment owners beyond the initial purchaser, must be considered. Apartment buildings have little flexibility to be changed, being constrained by their governance, management bodies and interests. While two may combine on occasion, they are unable to expand or contract in size at will and features not included in the original construction, generally, cannot be added later.

Operating costs and any missing benefits due to construction savings are fixed. Traditional cost benefit analysis heavily discounts the future, and long-term benefits and costs look negligible in net present value calculations. To address this, cost benefit analysis should include Whole-Life Costing (WLC) including ongoing operational costs. Maintenance must be included and social discount rates of around 2.5 to 1% combined with declining hyperbolic discounting to 1% should be applied, rather than the standard discount rates.

Regulatory reform should be approached with careful consideration of both its benefits and its potential consequences. Any assessment of planning reforms must recognise not only what may be gained through the removal of a rule or regulatory control, but also what may be lost as a result. A balanced framework is needed to ensure that the pursuit of housing delivery does not inadvertently undermine other important economic, social and environmental objectives.

Reform Direction 2.1

See our Recommendations 1 and 2

Reform Direction 2.1 proposes permitting development of up to three storeys across most residentially zoned land, with exceptions only for areas affected by environmental protection controls, hazard-related constraints, or heritage listings where the benefits of an exemption outweigh the associated costs.

A similar approach has been adopted in New South Wales through the NSW Government's Low and Mid-Rise Housing Reforms (LMR Reforms). These reforms apply to suitably located residential land with access to transport, employment, services and community infrastructure, including significant areas within the City's residential zones.

While the City generally supports the intent of the LMR Reforms to increase housing supply and diversity, it does not support extending this approach unilaterally to residential areas that are not adequately serviced by infrastructure, public transport and local facilities.

Limiting increased density to well-located and well-serviced areas is a more economically efficient and sustainable planning approach because it:

- enables local and state governments to focus infrastructure investment in areas where growth is planned (precincts) and can be effectively supported
- avoids increasing infrastructure demand in locations where the provision of additional infrastructure would be prohibitively costly or impractical.
- reduces pressure on utility networks and essential services that may not have capacity to accommodate significant additional growth.
- maintains the fundamental role of strategic planning, which is to coordinate population growth with the timely delivery of infrastructure, services and amenities.

In addition to the considerations outlined above, expanding the LMR Reforms to all residential land could place upward pressure on underlying land values in low-density areas depending on their pre-existing land value, increasing replacement housing costs and potentially undermining housing affordability objectives.

This outcome is particularly problematic given that three-storey development typologies are among the most expensive forms of residential development on a cost-per-square-metre basis (see Figure 1). In the City of Sydney LGA, this reform would more likely result in larger upmarket homes, rather than additional housing.

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Figure 1: Average Building Cost (\$/sqm GFA) and Densities, Class 1 and Class 2 Buildings



Source: <https://www.atlaseconomics.com.au/insights/atlas-housing-download-series-regulatory-change-in-building-requirements-and-cost-implications-part-3>

Concentrating additional housing density in areas with good access to public transport, employment, services and community facilities also delivers broader community and environmental benefits, that also support wider economic efficiencies. Networked public transport is essential to realise housing densification – the streets are generally fixed and have little capacity growth.

By directing growth to well-served locations, governments can better achieve housing supply objectives while maintaining liveability and ensuring infrastructure is delivered efficiently and sustainably.

These include supporting walkable neighbourhoods, reducing reliance on private vehicles, encouraging greater use of public and active transport, and lowering transport-related emissions.

Reform Direction 2.2

See our Recommendations 1 and 2

Reform Direction 2.2 proposes permitting mid-rise (4-9 storeys) and high-rise (10+ storeys) apartment development in high-demand areas that are supported by existing transport infrastructure or where transport infrastructure can be readily expanded.

The City considers that a mid-rise approach of up to seven with a setback eighth storey can be appropriate in areas with the necessary infrastructure capacity and urban context, such as street width and orientation. However, the application of such reforms should not be based solely on broad spatial criteria. Consultation with local planning authorities is essential to ensure local conditions, infrastructure constraints, urban character considerations and strategic planning objectives are appropriately reflected in the identification of suitable locations.

While the City supports increased housing density in appropriate locations, it does not support the extension of these reforms to encompass high-rise development of more than 10 storeys through a blanket or state-wide approach. High-rise development has significantly different built-form, infrastructure and servicing requirements than mid-rise development and requires a more detailed,

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site-specific assessment process. High rise buildings are more expensive to construct and operate; they sell with a view premium and cost far more to maintain and run than mid-rise buildings.

They concentrate capital investment and attract a view premium to deliver less housing overall (greater separation required) and increase the ongoing cost of housing.

Taller buildings generally require wider streets and increased capacity for vehicle access, servicing, waste collection, utilities and emergency management. They can also generate substantial impacts on surrounding public and private spaces, including overshadowing, wind effects and reduced amenity. As a result, not all sites or centres are capable of accommodating high-rise development, even where transport infrastructure is available.

A broad-based approach that enables high-rise development without detailed consideration of local constraints and infrastructure capacity risks creating unrealistic development expectations and speculative increases in land values. This can distort local housing markets and undermine orderly and efficient planning outcomes, particularly where sites are ultimately unable to support the scale and cost of development anticipated by the planning framework. For this reason, decisions regarding high-rise development should continue to be informed by detailed strategic planning, infrastructure assessment and local context rather than a universal planning provision.

Reform Direction 2.3

Reform direction 2.3 proposes the reduction or removal of minimum lot size requirements.

The City supports this Direction in most inner-city contexts.

Reform Direction 2.4

See our Recommendations 6 and 2

Reform direction 2.4 proposes residential development be allowed in commercial zones, unless there is a clear rationale for excluding it.

The City agrees in principle that residential development can be accommodated in some commercial zones, and we already support a mixed-use city. For example, residential uses are currently permitted within the SP5 Metropolitan Centre zone that applies to Sydney's Central Business District (Central Sydney) up to 8:1 as part of a mixed-use tower. However, any expansion of residential uses within commercial areas must be carefully balanced against the need to protect a small amount of land capacity for long-term economic and employment growth, particularly in Central Sydney as Australia's premier commercial centre and a key economic hub within a global city.

Residential development has increasingly emerged as the highest-value use within mixed-use zones, particularly for developers seeking shorter-term financial returns. In contrast, commercial property investment is typically based on longer-term returns and income streams, creating business income, profits and taxation, often through institutional investors and Real Estate Investment Trusts (REITs). Consequently, an increasing number of traditionally prime commercial sites have been redeveloped for residential purposes, and without appropriate planning controls this trend is likely to accelerate.

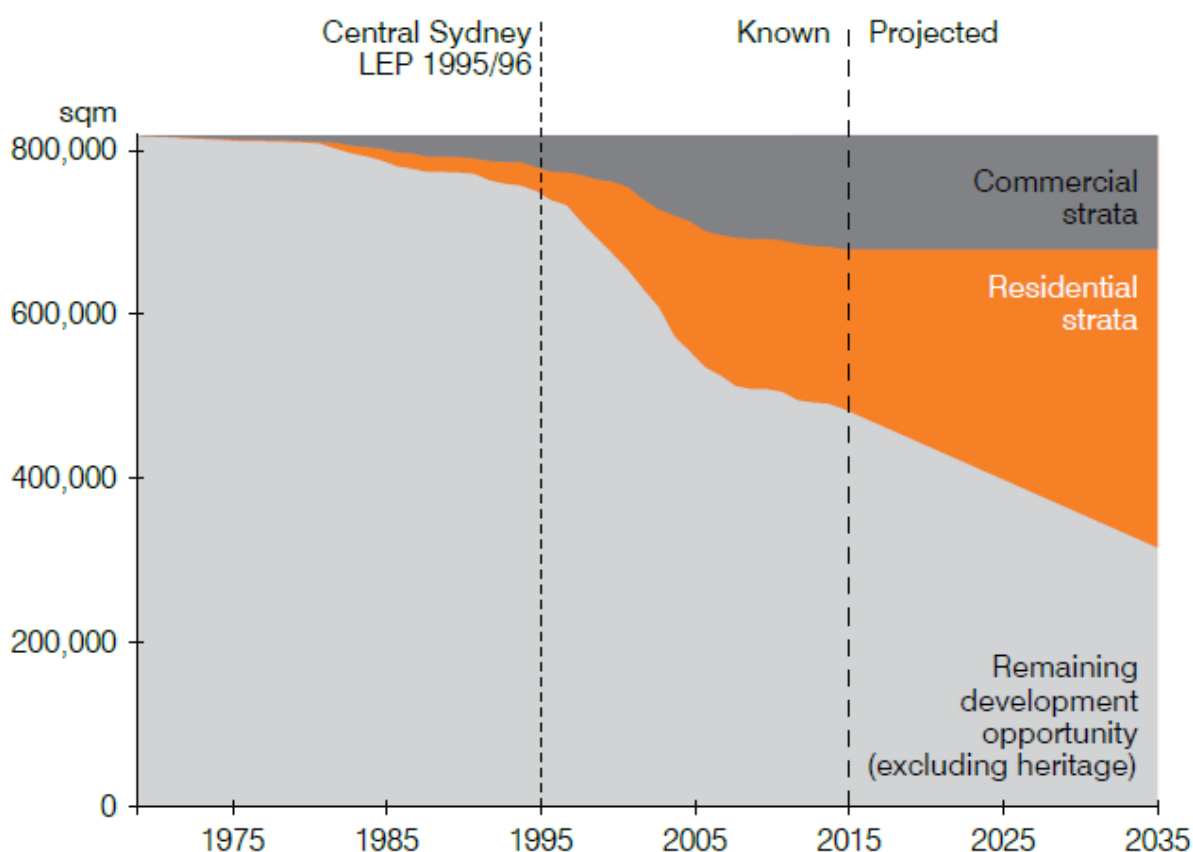
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Together with around 25,000 residents, Central Sydney has some of the highest employment densities in Australia with 340,000 workers, and is home to major finance, legal, insurance and professional services industries.

In 2024-25, the City of Sydney local government area generated more than \$173 billion in economic activity annually from a cross section of key industries. These industries benefit from agglomeration economies, where businesses cluster together to enhance innovation, productivity and competitiveness. They are also drawn to highly accessible and prestigious locations such as Martin Place and near Sydney Harbour, where investment in commercial space supports business growth and helps attract and retain highly skilled workers. For example, finance and legal firms benefit from their proximity to major institutions including the Australian Stock Exchange, Reserve Bank of Australia and NSW courts.

Significant investment in transport infrastructure, particularly the Sydney Metro reinforces Central Sydney's role as an employment destination and supports access to jobs for residents living in higher-density residential areas across metropolitan Sydney. Protecting commercial capacity in Central Sydney is therefore important not only for the local economy, but also for maximising the economic benefits of major public infrastructure investment. The Central Sydney Planning Strategy illustrated the impact of strata on land availability for economic development as shown in Figure 2.

Figure 2: Strata Growth and Total Available Land in Central Sydney over time (Source: City of Sydney, Central Sydney Planning Strategy, p36)



Failure to adequately protect high value work space sites from strata subdivision over the long term could lead to reduced employment capacity and economic output, erosion of agglomeration benefits and a decline in Sydney's competitiveness as a destination for investment. It may also result in poorer urban outcomes, including inactive ground-floor frontages, land use conflicts

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between residential and commercial activities, and reduced investor confidence. The conversion of commercial sites to strata-titled residential apartments is permitted and has occurred but underutilized or unleased commercial towers are a rare commodity in Central Sydney.

The City also notes that apartment prices and rents in Central Sydney have been among the highest in Australia particularly at the CBD edge with Botanic Gardens, Sydney Opera House or harbour views. As such, additional housing supply in these locations although permitted, does not improve affordability in housing for low-and moderate-income households, which is a central objective of addressing the current housing crisis.

Accordingly, if this reform direction is progressed, the City recommends that it not apply to areas where commercial planning controls have been recently established through detailed strategic planning and have broad industry support, such as in Central Sydney. The reform should also not apply where the protection of long-term work space capacity is necessary to accommodate future employment growth associated with housing a growing population.

Reform Direction 2.5

See our Recommendations 4 and 5

Reform direction 2.5 proposes to review, reduce and remove land use controls that reduce commercial feasibility and do not adhere to best practice principles

Removal or reduction of parking requirements (especially minimum requirements)

The City does not use minimum parking requirements and has no objection to the removal of minimum parking requirements in locations that are well served by public transport and where residents can readily access their daily needs, including shops, services, public open space and community facilities within walking distance or by frequent reliable public transport.

Furthermore, the City supports replacing minimum parking requirements with maximum parking controls in these areas. This approach:

- reduces pressure on already constrained road networks and supports more efficient use of transport infrastructure
-
- encourages a shift towards public transport, walking and cycling, reducing reliance on private vehicles
- lowers the cost of housing delivery by reducing the need for expensive basement parking and associated construction works
- reflects changing travel behaviours and the growing availability of alternatives to private vehicle ownership, including car-share, bikeshare and other shared mobility services.

By aligning parking provision with accessibility and transport outcomes, planning controls can support more sustainable urban development while improving housing affordability and reducing transport-related impacts. However, removing minimum controls without implementing maximums risks increasing traffic congestion, adding to housing costs and discourages the efficiency and the health benefits of public transport and active transport use.

Replacement of broad heritage protections (heritage conservation areas) with more targeted heritage listings

Heritage Conservation Areas (HCAs) and housing delivery should not be viewed as competing objectives; both can and should be achieved through a thoughtful and balanced planning framework. The City's heritage conservation areas already provide residential densities of between 12,000 and 20,000 pp/sqkm with diverse housing types that apartments can't deliver. This is very different to conservation areas of large single detached houses on large blocks.

In the City LGA, HCAs protect the collective historical, architectural and cultural character of neighbourhoods, rather than focusing solely on individual heritage items. Their value lies not only in preserving older buildings, but in maintaining the streetscapes, precincts and sense of place that make Sydney's neighbourhoods distinctive, attractive and desirable places to live, work and visit. The loss of these areas would diminish the character and identity that contribute to the city's appeal for residents, businesses and tourists.

HCAs also support economic outcomes by attracting investment, tourism and local business activity. Well-preserved heritage precincts create unique and vibrant places that differentiate Sydney from other cities and are often highly sought-after locations.

HCAs contribute to housing diversity. Much of Sydney's future housing supply, particularly within inner-city areas, will be delivered through medium and high-density development. A well-functioning city requires a mix of dwelling types that can accommodate different household needs, including larger families, multi-generational households and shared living arrangements.

Many HCAs contain a range of smaller compact housing types that have evolved over time and continue to provide an important component of the city's housing stock. Removing or significantly weakening heritage protections could lead to the displacement of smaller homes and other lower-density housing forms, reducing diversity within the housing market and contributing to a narrower demographic. Renewal in these areas often leads to reduction in dwellings as larger single household apartments are more profitable.

Heritage listings should be justified by cost benefit analysis and be subject to more robust mechanisms to review and delist buildings where needed

The proposal that heritage listings should be justified through cost-benefit analysis appears attractive in principle, reflecting a desire for evidence-based decision-making and efficient resource allocation. However, heritage conservation presents a significant challenge for traditional cost-benefit methodologies because many of the values at stake are not readily measurable in economic terms.

Unlike infrastructure projects or service delivery programs, heritage assets generate a range of cultural, historical, social and community benefits, as well as softer economic benefits that do not have a clear market price. The value of a heritage building is not limited to its development potential or the income it can generate.

Its value also includes its contribution to local identity, civic pride, cultural continuity, tourism appeal and sense of place. Assigning a monetary value to these benefits is inherently subjective and highly dependent on the assumptions adopted by the analyst. As a result, heritage cost-benefit assessments risk creating an appearance of objectivity while masking fundamentally subjective judgments about what is and is not worth preserving.

Requiring heritage listings to be justified by cost-benefit analysis could create a systematic bias against balanced conservation outcomes. Development benefits such as additional floor space,

housing yield and land value uplift can be readily quantified and expressed in dollar terms. By contrast, the loss of a historic streetscape, the erosion of local character or the destruction of cultural significance cannot be measured with the same precision. The result is an uneven comparison in which easily quantifiable benefits are weighed against benefits that are inherently difficult to monetise. This is less a comparison of costs and benefits than a comparison of what can and cannot be counted.

A better approach is to recognise that heritage significance, like environmental protection, biodiversity conservation and public open space, represents a community value that cannot be reduced to a purely financial calculation. Decisions about heritage should be informed by rigorous assessment, transparent criteria and periodic review, but they should not be dependent on cost-benefit analysis alone. Otherwise, there is a real risk that irreplaceable heritage assets will be assessed primarily on their redevelopment value rather than their broader contribution to the history, identity, attractiveness and long-term economic success of a place.

Review and reduction of neighbourhood character restrictions

Planning controls that provide guidance on how to develop while respecting neighbourhood character do not restrict development. In areas where new development is encouraged these descriptions explain and provide certainty to developers and purchasers of new housing what the new or changing neighbourhood will provide in terms of community services and provision of non-housing uses like retail premises, commercial buildings and entertainment. They explain and support the zoning and other regulations that encourage the growth of housing.

Reform Direction 2.6

See our Recommendations 3, 4 and 5

Reform direction 2.6 proposes the relaxation or removal of built form controls that limit flexibility and choice for households.

Floor space ratio (FSR) is a simple guide to land value. Without a clear FSR, land valuation becomes a point of contention. A purchaser with optimism bias will price land based on aggressive assumptions of what can fit in the height envelope, potentially overpaying for the land and seeking approval beyond what is reasonable. This creates longer approval times, greater uncertainty, and increases the cost of and delays the delivery of housing.

Good practice urban design and strategic planning align FSR and built form controls, removing risk of speculation driving higher land values and maintains and supports a well-functioning housing market.

Removing restrictions on minimum dwelling sizes, minimum balcony sizes and storage requirements for apartments may drive down the suitability and quality of apartments and increase buyer resistance, hindering NSW Government reforms to reallocate housing production from houses to apartments.

Room sizes, balconies and areas allocated for storage are essential components of housing, not preferences. They are not features that can be separately purchased at the point of sale of a new apartment building, nor can they be added later. In NSW, the ADG sets out minimum bedroom sizes such that it allows for a standard bed with minimal space to walk around it free from the wardrobe space and for a door to swing into the room without hitting the bed, and little more.

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These are minimal dimensions. The size guidance for balconies and storage are minimal and based on properly researched minimal functional expectations of apartment occupants. These are required because at the point of sale for off the plan apartments the drawings and marketing material provided can mislead by showing smaller sized beds and furniture on drawings and dimensions that are approximate.

The information asymmetry is dominate in this market and guidance is required to balance it.

See Appendix B for comment on apartment sizes.

3. Reducing the burden of approvals

The Interim Report says the following:

- State, territory and local governments need to assess new developments to make sure housing is built to an appropriate standard. But when approvals processes are overly complex or unpredictable, the cost of developing new housing goes up, and fewer homes get built.
- The process for receiving regulatory approvals for new housing is a significant barrier for many developments.
- Australian governments have recognised the need for simple, streamlined approvals processes for new housing in the National Housing Accord and other recent reforms. Many states and territories are establishing or expanding the use of streamlined approval pathways. But there is still room to make approvals processes less complex and more efficient.
- Strategic planning should account for infrastructure needs and the environmental and social trade-offs of higher-density and greenfield housing. These decisions should be reflected in planning schemes to give developers clearer and faster approval pathways.

Overview

The inherent assumption in the Interim Report that assessment and approval processes is a significant barrier and faster approval times will increase the amount of housing delivered in our experience is a major generalisation and highly questionable.

In the City of Sydney, under the current planning system, the 5 years leading up to 2019 saw a record number of new apartments being built, with some concerns about oversupply as mentioned in the Introduction. In response to this mainly in Green Square and the Haymarket areas (2015-2017), banks tightened access to finance for new development and the lodgement of development applications declined as development became less likely to achieve sales hurdles.

In 2020-2022, a series of market shocks occurred. Covid-19 and foreign wars disrupted supply chains, decreasing the availability of and increasing the cost of money, and overseas housing investment in Sydney evaporated. With lock downs and working from home, owner occupied homes were in high demand and attracted high prices. Investors, uncertain when migration levels would return, transacted properties significantly reducing rental stock from which we are still recovering.

With return to country of origin edicts, the pandemic contributed to labour and skills shortages. Global supply chains added to inflation and the cost of materials. There was a stretch of significant rain events and natural disasters that exacerbated an unsettled situation. As a result, the feasibility and the means to produce new development declined sharply. Today in Sydney, there are more apartment dwellings approved but not being built (completions) than ever before. The barrier was not approval times, but wariness and lukewarm interest in off-the-plan sales including for investors, and reduced construction industry capacity.

In areas like the City of Sydney, where typically new dwellings are mostly apartments funded by foreign investment capital, the impact of challenging market conditions was harder felt. The cost of building apartments has risen more dramatically than the cost of building homes. At the same time, prices paid for apartments only increased marginally. For apartments, the difference between the

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cost of development and the price paid is closing. Where they can, developers continue to hold off delivering supply, anticipating more favourable market conditions in the future. This occurs whether the approval was fast-tracked or not.

Despite some recent large mixed-use projects commencing construction (\$3.5 billion, 607 unit & 209 room hotel, twin tower development in Castlereagh and Pitt Streets in the CBD), significant numbers of approvals remain unconstructed across both the City of Sydney, including over 10,000 homes (as shown in the City of Sydney's Residential Monitor) and NSW, suggesting that factors beyond the planning approval process are influencing housing supply outcomes.

The City supports reforms that improve the quality of development applications, provide greater certainty for applicants and deliver genuine efficiencies in the assessment process. Planning reform should be directed toward evidence-based measures that reduce unnecessary complexity, improve application quality and compliance to streamline decision-making, while preserving the ability of councils to respond appropriately to local circumstances and site-specific issues.

The City does not support broadening planning controls to the extent that they reduce certainty or limit the capacity of consent authorities to properly consider impacts in a dense environment.

Improvements to assessment timeframes are best achieved through targeted and evidence-based refinements to the existing planning framework, which the City has undertaken.

Reform Direction 3.1

See our Recommendations 2 and 8

Reform direction 3.1 proposes infrastructure requirements and trade-offs associated with development are considered early through strategic planning.

The Interim Report says state governments should identify areas of high expected demand for new housing and make it an explicit performance goal for councils, relevant agencies and regulated infrastructure service providers to facilitate new housing in these areas.

The City generally supports the establishment of clear housing targets, recognising that they provide an important mechanism for coordinating growth and signalling to developers, infrastructure providers and local government where future housing is expected to be accommodated. Well-defined targets can improve certainty, support investment decisions and assist with long-term infrastructure planning.

Priority should be given to locations where supporting infrastructure and services already exist or where governments have committed funding to deliver the infrastructure necessary to support additional population growth. A demand-led approach risks concentrating growth in areas that may not be capable of accommodating it over the long term.

Accordingly, housing targets should be realistic and informed by a balanced assessment of both demand and capacity, including analysis of environmental limits arising from flood risk, bushfire risk and biodiversity mapping. This approach will better support sustainable housing delivery, ensure efficient use of existing and planned infrastructure, and promote a more equitable distribution of growth across the metropolitan area.

The Interim Report recommends incorporating flood risk, bushfire risk, biodiversity mapping and other environmental constraints into planning schemes as clear and codified development requirements. However, development outcomes are often highly place-specific and cannot always

be addressed through a uniform standard. Local government plays a critical role in developing planning controls that respond to local conditions within broader state policy frameworks. While there should be consistency, a statewide development code is unlikely to provide the level of detail required to effectively manage the full range of local considerations.

While there may be some opportunities to improve consistency across parts of the planning framework, this should not come at the expense of the flexibility needed to achieve appropriate local outcomes. Effective planning requires a combination of clear strategic direction, consistent principles and the ability to respond to the unique characteristics of individual places.

Reform Direction 3.2

See our Recommendations 7

Reform direction 3.2 proposes the expansion of the use of fast-track pathways to assess simple developments.

The City notes that NSW already provides streamlined approval pathways through Exempt Development and Complying Development Certificates (CDCs). Notwithstanding these pathways, many applicants elect to lodge a development application (DA) because it allows for the consideration of more complex designs and site-specific circumstances that cannot easily be accommodated through compliance with controls.

Other matters such as lot configuration, topography, existing trees, view sharing, neighbouring development and local character often require a more nuanced assessment to achieve appropriate planning outcomes.

The City does not support the introduction of an additional approval pathway for development that narrowly fails to satisfy exempt or complying development standards. If compliance with prescribed criteria is intended to provide certainty and enable an expedited approval process, creating a mechanism that permits departures from those criteria risks undermining that certainty. Such an approach effectively blurs the distinction between code-based assessment and merit-based assessment, without delivering the benefits of either system.

The City notes the NSW Department of Planning, Housing and Infrastructure's (NSW DPHI) recent proposal for "Targeted Assessment" and Complying Development Certificates with variations. The introduction of a further layer of planning provisions would also add complexity to the planning framework, when the intention is to streamline.

Applicants, neighbours, councils and other stakeholders would be required to navigate a complex web of additional controls, requirements, objectives and exclusions. Rather than simplifying the system, this is likely to create uncertainty, increase administrative burden and generate differing interpretations across jurisdictions. Over time, this may require ongoing policy refinement and the development of new case law to clarify the operation and intent of the provisions.

In the City's experience, such approaches are unlikely to materially reduce overall assessment timeframes or increase housing construction beyond what would otherwise occur. Instead, they risk increasing assessment complexity, reducing certainty for applicants and limiting the ability of consent authorities to properly consider site-specific impacts and achieve appropriate planning outcomes.

Council led fast track processes

A well-functioning local Government is the most appropriate authority to establish fast track processes that are appropriate to their local areas. A City of Sydney example is the heritage works without consent process, to make it easier for owners of buildings that are heritage items, or within Heritage Conservation Areas to maintain and repair their properties. The Sydney LEP 2012 identifies development that may be carried out without the need for a development application, typically for works that would be classified as exempt development if not for the site being heritage affected. This is done through our on-line exemption request process.

To further reduce red tape and reduce assessment timeframes, the Heritage Council of NSW has also delegated a range of functions to the City of Sydney, which applies to applications under the Heritage Act 1977 within our area.

There are other examples include our whole of area Special Entertainment Precincts reforms that make it easier and reduce costs for licensed and unlicensed businesses, such as bookshops and cafes, to trade late without a development application.

Reform Direction 3.3

See our Recommendations 7

Reform direction 3.3 proposes the expanded use of state significant pathways to approve developments with a clear need for state led assessment.

Expanding state significant development approval pathways

It is an erroneous and unsupported claim of the Interim Report that state government approval processes for residential development will deliver superior outcomes to those achieved by local government. In the City of Sydney area, state led approvals pathways are slower and can ignore significant local conditions.

The City's current determination time is 62 days on average for all Development Applications (DAs), demonstrating our efficient assessment processes easily exceeding the NSW Planning Minister's expectations.

The NSW Government, in their LMR Reforms discussion paper, recognise that one of the main reasons for complexities in the planning system is the many inconsistent and complex State Environmental Planning Policies and Codes, rather than council planning instruments.

The City's tailored preparation and reliance on its controls is to ensure that best practice outcomes are being achieved for the locality.

Bypassing local planning controls

The Interim Report says state government, in establishing state government assessment processes, should establish clear decision-making powers, which are not bound by council planning schemes

In 2024, the NSW Government established the Housing Delivery Authority (HDA) to lead a new streamlined state significant development (SSD) pathway and concurrent rezoning process for major housing developments of over 100 dwellings. Where declared SSD, local planning controls

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and processes are largely bypassed, including on sites that have already been carefully master planned with the community.

The establishment of the HDA and new NSW Government rezoning and assessment pathways is the most significant expansion of NSW Government planning powers over residential development including the widely unpopular and now repealed Part 3A of the Environmental Planning and Assessment Act 1979 (NSW).

The City is deeply concerned with the NSW Government's approach to planning through the HDA.

The HDA planning pathway is an ad hoc, developer-led, site-by-site approach aimed at quickly increasing opportunities for housing approvals in the hope that they crystallise into more housing development. While it may generate a short-term approvals, it is not a strategic approach to planning for the long-term growth of Sydney. It does not purposefully locate new housing in locations people want to live – areas with good public transport, parks, community facilities and services – rather it responds only to a developer's desire for a significant upzoning. The approach comes with significant risks:

- Straining infrastructure and service delivery - it will result in significant unanticipated growth that has not been accounted for in state or local infrastructure and service planning, including, but not limited to, transport, education, health, utilities and emergency service needs. This will create further pressure on the planning system but also stretch the NSW Government's budget demands.
- Encouraging speculation - the existence of the HDA process signals to the market that everything is up for negotiation. The NSW Government is effectively saying to developers – you tell us what the planning controls should be. One side effect is the increase of underlying land values to match the imagined yield potential, thereby impacting further on already challenged development feasibility and creating an overall downward spiral in housing supply.
- There may be ineffective mechanisms to capture the benefit of the upzoning as the upzoned land can be sold to the next developer at full market value.
- Undermining council planning controls that manage externalities - this includes deep soil provisions, waste management requirements, planning controls that manage coordination of multiple sites to deliver infrastructure such as new streets and parks.
- Eroding public trust in planning processes - the HDA SSD process lacks transparency and caused community angst. It comes with little genuine explanation as to why projects have been approved for the pathway and overrides planning rules on sites that are expected by the public to have agreed outcomes.
- Delaying the delivery of housing – several sites that have received approval and were in construction have been paused by proponents seeking more favourable outcomes, these applications have effectively slowed the delivery of housing by more than a year.

Meaningful consultation

The Interim Report says state government, in establishing state government assessment processes, should use early and targeted consultation to meaningfully engage third parties where their inputs are required.

The City agrees. Consultation with key stakeholders, including councils and state government authorities (other than Planning) is critical to ensure that development assessment considers the full implications of the proposal and is informed by the best technical advice or supporting

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authorities. Consultation with the affected community, and due consideration of their advice and/or concern for their homes and their local areas is paramount.

However, it is the City's experience that the NSW Government approaches consultation as an impediment to getting things approved quickly, rather than an opportunity to drive a better outcome.

It is noted in the above-mentioned NSW Government's HDA SSD process that consultation timeframes have been reduced to just 10 working days for councils and community alike to respond to hugely complex development proposals for large housing developments. This does not permit meaningful consultation.

Reform Direction 3.4

Reform direction 3.4 proposes improving housing approval assessments with better coordination of referrals, use of technology including AI, and transparent reporting

The City generally supports this direction.

4. Delivering housing-enabling infrastructure

The Interim Report assert the following:

- Housing-enabling infrastructure is essential to support new housing supply. When utility connections, transport links and social infrastructure are provided in a timely and coordinated way, it can enable faster delivery of new homes and maintain liveability for existing residents.
- To support timely delivery of new homes, infrastructure planning must be housing-oriented, aligned across levels of government and coordinated with relevant parties. It should be sufficiently detailed to provide certainty for developers.
- In theory, developer contributions should not significantly impact development feasibility, but in practice, how charges are administered can increase risk, uncertainty and reduce feasibility of developments.

Reform Direction 4.1

See our Recommendations 2 and 8

Reform direction 4.1 proposes that strategic planning for infrastructure be coordinated with housing objectives.

The City generally supports this direction.

Reform Direction 4.2

See our Recommendations 2 and 8

Reform direction 4.2 proposes improved infrastructure sequencing with housing development.

The City strongly supports this direction, noting in NSW that infrastructure delivery often lags behind housing delivery.

Developers invest when there is certainty that infrastructure will arrive as promised, and communities accept change when plans are funded and delivered to a predictable timetable. Places supported by infrastructure are also more desirable for living and encourage housing supply.

As abovementioned, long term housing targets are essential to give state governments and local councils the certainty needed to plan, fund and deliver infrastructure in step with growth. Clear forward targets allow transport, social and utility networks to be coordinated properly, ensuring new communities have

Reform Direction 4.3

See our Recommendations 8

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Reform direction 4.3 proposes developer contributions reflect the accurate cost of providing infrastructure.

The City supports the principle of developer contributions reflecting the accurate cost of providing infrastructure and approaches this from the perspective of a dense urban infill council which has seen the cost of infrastructure provision rise steeply in recent years.

The Paper favours cost-reflective contributions without fully appreciating that restrictive State Government policy settings mean that in reality many councils are not achieving contributions income that reflects the real cost of providing infrastructure.

Infrastructure costs are rising in dense urban areas

While the Interim Report recognises the high costs of constructing infrastructure in greenfield areas, the costs of infrastructure in established urban areas should not be understated. In the City's experience, the cost of infrastructure provision on infill sites can be seriously impacted by factors such as traffic management and night works, remediation, demolition and utility relocation.

Previous efforts by NSW's IPART¹² (2021) to set benchmark costs for the provision of infrastructure were grossly inadequate for application in a council such as the City of Sydney and were ultimately abandoned. In the City's experience, infrastructure costs more to provide than the amounts being generated in contributions and increases across the life of a project, with funding also required from other sources to meet the full costs of delivering infrastructure.

Section 7.11 contribution plans achieve nexus but due to caps on contributions amounts do not reflect the cost of providing infrastructure

While s7.11 contributions plans seek to establish nexus between development and infrastructure, they are also complex plans that are time consuming and complicated to prepare, difficult for the public to understand and implement, and result in a higher administrative burden on local councils. The City has one s7.11 plan, this being the City of Sydney Development Contributions Plan 2015¹³.

Section 7.11 plans have been blunted in their ability to collect contributions that reflect the accurate costs of providing infrastructure through the ongoing existence of the maximum cap on the charge amounts for dwellings.

Since 2010, there has been a maximum cap of \$20,000 per dwelling in infill areas, with no indexation for inflation. At the same time, construction costs for infrastructure have risen sharply. This means that while contributions have been stunted at a maximum of \$20,000 per dwelling over the past 16 years, they have been falling in real terms and councils have had to plug the funding gap to deliver much needed infrastructure for their communities.

The City estimates that for every 3-bedroom dwelling constructed in the City of Sydney LGA where the NSW Government's contributions cap applies, the City experiences a contributions shortfall of between \$13,800 and \$23,300 per dwelling¹⁴. For every 2-bedroom dwelling, the City experiences a contributions shortfall of between \$3,800 and \$10,500 per dwelling¹⁵.

¹² Cardno Pty Ltd for the Independent Pricing and Regulatory Tribunal (IPART). *Draft Benchmarking Items and Costing Methodology: Benchmark Costs for Local Infrastructure*. 27 October 2021; Cardno Pty Ltd for the Independent Pricing and Regulatory Tribunal (IPART). *Supplementary Report – Benchmark Datasheets: Benchmark Costs for Local Infrastructure*. 10 November 2021.

¹³ <https://www.cityofsydney.nsw.gov.au/development-contributions/city-of-sydney-development-contributions-plan-2015>

¹⁴ Contribution rates indexed using the June 2026 Consumer Price Index (All Groups CPI - Sydney)

¹⁵ Contribution rates indexed using the June 2026 Consumer Price Index (All Groups CPI - Sydney)

The alternative to the \$20,000 contributions cap is for councils is to have their s7.11 contributions plan reviewed by the Independent Pricing and Regulatory Tribunal (IPART). However, this is not a viable option for many urban infill councils, as IPART reviewed plans are subject to the NSW Government's Essential Works List (EWL) which means that they are restricted to delivering only the most basic types of infrastructure that are more suited to greenfield areas. There is little incentive for urban infill councils to opt to pursue an IPART reviewed plan when they are so restricted as to the types of infrastructure they are able to fund.

Section 7.12 plans are an appropriate option in urban infill areas

Section 7.12 contribution plans which involve charges based on a percentage of the development cost are an appropriate option for contributions in urban infill areas, where new development is more dispersed and occurs within an existing infrastructure network. While they do not require a direct nexus between development and infrastructure like s7.11 plans, s7.12 plans are required to demonstrate the relationship between expected types of development and the demand for additional infrastructure.

The City operates two s7.12 contributions plans, being the Central Sydney Development Contributions Plan 2020¹⁶ and the more recent Ultimo Pyrmont Local Infrastructure Contributions Plan 2023¹⁷. With a percentage-based development contribution, these plans are simple to prepare, efficient to implement and administer, and give developers the upfront certainty they seek in relation to contributions obligations. Their in-built indexation, where contributions increase alongside increases to development costs, allows for contributions to reflect the rising costs of infrastructure provision.

Reform Direction 4.4

See our Recommendations 8

Reform direction 4.4 proposes design of developer contribution frameworks are enhanced towards best practice.

The City supports efforts to ensure contributions frameworks that are simple, efficient, transparent and provide certainty to councils, developers and the community.

However, the City is strongly opposed to the reform direction which proposes that contributions should be staged or due later in the development process. The Interim Report recognises the benefits to developers in delaying the timing of payment of contributions but does not adequately examine the impacts upon local councils and communities of delayed receipt of contributions.

The entire purpose of development contributions is to ensure that new development is supported by the local infrastructure that its residents, workers and visitors will benefit from when undertaking day to day activities. It is important that these contributions are provided to councils at construction certificate stage so that they can ensure the timely delivery of infrastructure needed by development.

¹⁶ <https://www.cityofsydney.nsw.gov.au/development-contributions/central-sydney-development-contributions-plan-2020>

¹⁷ <https://www.cityofsydney.nsw.gov.au/development-contributions/ultimo-pyrmont-local-infrastructure-contributions-plan-2023>

Allowing the staging or deferral of payment of developer contributions to later in the development process would be in direct conflict with the purpose of these contributions, other recommendations in the Interim Report and the Government’s aim of supporting housing supply.

It is well established that Australian councils are cash strapped and cannot meet local infrastructure demands from their rate capped meagre resources. If developer contributions are staged or only payable to councils at occupation certificate stage, then councils will have received the funding far too late to ensure that supportive infrastructure is delivered and operational when the occupants of a new development move in. Infrastructure lagging behind new development is already a long-held concern by the property industry and a key challenge under the current infrastructure system. Infrastructure lag will inevitably be exacerbated if councils receive contributions later in the development process and only after populations have increased.

Delaying the payment of contributions to occupation certificate stage means that councils will have to wait – potentially years – to receive contributions, and in that time construction costs of infrastructure will continue to rise, and the contribution will have lost real value. For contributions such NSW’s s7.11 contributions which are subject to a maximum cap per dwelling which cannot be indexed, this means that contributions received by council at occupation stage (rather than years earlier at construction certificate stage) will shrink.

Therefore, less infrastructure can be delivered with these contributions, and councils will be required to borrow or obtain additional funding from other sources (together with the cost of interest rates) to make up for reduced contributions, or in the case of a council who has forward funded infrastructure works (such as the City of Sydney) there will be even great delays in recoupment.

Allowing the staging or deferral of contributions payments will have a significant adverse impact on councils’ contribution cash flow

The City has direct experience in the delayed payment of contributions as a result of the NSW Government’s Covid-19 related direction which impacted the City’s s7.11 contributions plan.

Figure 3: 7.11 Cash Contribution by Plan

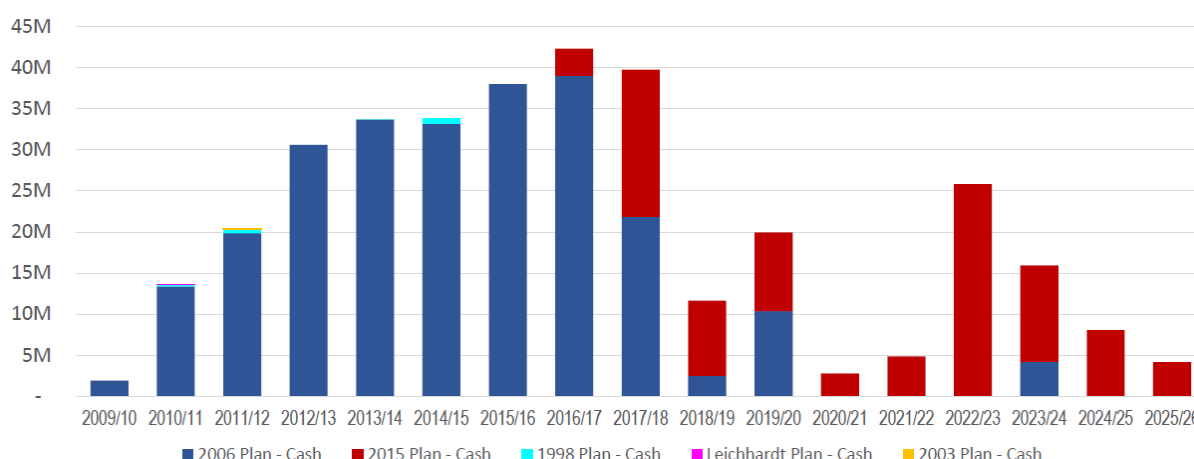


Figure 3 explanation: Cash contributions from the City’s s7.11 contributions plan, showing a significant drop in contributions in the 2020/21 and 2021/22 financial years, partially owing to the NSW Government’s Covid-19 Direction which allowed the deferral of payment of contributions from construction certificate to occupation certificate stage.

This temporary direction allowed for the deferral of payment of development contributions for large scale developments (typically with a development cost of over \$10 million) from construction

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certificate to occupation certificate stage. Owing in part to this direction, the City experienced a significant drop in s7.11 contributions income during the 2020/21 and 2021/22 financial years, as shown in Figure 3.

Council's records indicate that as a result of this Covid-19 Direction, over \$17 million in development contributions were deferred from payment from the construction certificate stage to the occupation certificate stage. For many of these developments, the City had to wait approximately 2.5 to 3 years for payment of these contributions.

For one development, the City is still awaiting payment of over \$500,000 despite a construction certificate having been issued over 6 years ago. For another, a contribution of almost \$1 million is owed on a development where the construction certificate was issued almost 4 years ago.

Importantly, once a developer commences construction there is no time frame within which they are required to reach occupation certificate stage. This means that councils may end up waiting several years for contributions to be paid, which in turn means that infrastructure will not be delivered until years later.

These examples demonstrate that allowing the delayed payment of contributions will undermine the stability of the local contributions system for councils, putting at risk their ability to deliver the infrastructure needed to support new housing.

Staging or delaying the payment of developer contributions would transfer the cost burden of growth from developers to councils and their existing ratepayers. It would force many councils to either borrow or will lead to them being unable to build and maintain infrastructure, presenting a further challenge to the ongoing financial stability of councils. This may ultimately lead to the risk of councils being in breach of their obligations under the guiding principles established in the Local Government Act.

The deferral of contributions to occupation certificate stage increases the risk of delinquency

The deferral of payment from construction certificate to occupation certificate stage brings with it a real risk of delinquency by developers and private certifiers, as there is no strong incentive for them to ensure payment at occupation certificate stage. Even if measures were put in place to address this risk, it remains that private certifiers may be put under pressure to issue occupation certificates, and that there are rogue development companies that may fold upon building occupation.

It is critical to note that development companies are often Special Purpose Vehicles (\$2 subsidiary companies), designed to isolate parent company assets, operations or risks. These Special Purpose Vehicles can be easily wound up should liabilities outweigh assets, which may make the recovery of unpaid contributions extremely difficult.

The issue of private certifiers failing to properly attend to their obligations in relation to certifying developments were identified by the City many years ago and have now been well documented in relation to building defects.

It is not appropriate to extend the risks in those areas to developer contributions payments, with the effect of creating both an additional cost to councils to follow up on compliance and a significant risk (ultimately borne by the community) that contributions will not be paid and that consequently essential infrastructure will not be delivered. The burden of enforcement in this area will fall on councils and the risk of revenue loss is significant. The benefits of contributions would be eroded by council expenditure on compliance.

Delaying contributions will be a point-in-time and narrow benefit

The Interim Report correctly makes the case on page 99 that development contributions should not affect development feasibility. Any financing costs associated with the timing of contributions should be assumed and factored into the price the developer has paid for the land. Changing the timing of contributions to reduce costs will mean the developer will be able to pay more for the land, with the benefit transferring to the landowner.

The only developers to benefit are those who have purchased land but not yet paid the contribution. For all developers who have not purchased, the lower cost from delayed payment will be factored into a higher land price. The increased risk of infrastructure delivery benefits the original landowner and not the developer, nor the public who bear the higher risk of failed infrastructure delivery.

Federal or state governments should bridge funding gaps and indemnify councils for unpaid contributions

Should the deferral of payment of developer contributions be implemented, the Australian Government or state governments must be willing to provide finance to councils to bridge any funding gaps that arise as a result of councils delivering infrastructure projects and there being a delay in the payment of contributions related to those projects.

Furthermore, the Australian or state governments must also be willing to indemnify all local contributions which are not paid by developers, to ensure that councils are not left out of pocket and unable to deliver infrastructure when these situations arise. If Governments are of the view that there is little or no risk of developer default as a result of this policy, then there should be no concern in providing full indemnification to councils.

With regard to the other reform proposals in reform direction 4.4:

- The City recognises that certainty around contributions obligations is important to developers and has made efforts to provide this. For its s7.11 contributions plan, the City has a web based Contributions Calculator that can be used by developers to estimate the development contributions payable for a development. This tool can be used very early in the process to assist in decisions relating to development feasibility. Under its s7.12 contributions plans, the City charges contributions as a percentage of the development cost. This means developers can determine the contributions payable upfront and can factor this into feasibility calculations.
- The City questions the extent to which a consistent approach is expected across all local governments within a state as to how contributions charges are administered and calculated. The current system in NSW where councils have the option of pursuing s7.11 or s7.12 plans depending on their circumstances is sensible. It is important that councils are permitted some flexibility in determining the type of contribution plan that is appropriate in their context. A contribution plan relating to the development of greenfield land in urban release areas will be inherently different to a contributions plan relating to a dense infill area where development will be occurring at different times and is geographically dispersed.
- The proposal to reduce the number of different contributions levied on developers by bundling different contributions into single levies does not recognise that such contributions are typically being collected for different purposes and are subject to different legislative and policy settings. Some contributions are imposed by State Governments (such as NSW's Housing and Productivity Contribution) while others are local contributions. Combining different types of contributions into a single levy may make the point of payment simpler for a developer but

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result in more complication for councils in the administration of contributions and dealing with issues such as exemption requests and refunds.

- In NSW, councils are already required to include information regarding development contributions within their annual reports. This includes information on contributions received as well as expenditure on infrastructure projects listed in each contribution plan's schedule of works.

Appendix A – Information request

Information request 1.1

How do housing regulatory systems, specifically, land use controls, housing enabling infrastructure and approval processes, affect Aboriginal and Torres Strait Islander people and communities' access to appropriate housing? Case studies and examples are encouraged.

The Gadigal of the Eora Nation are the traditional custodians of the City of Sydney local area, that has great significance to Aboriginal and Torres Strait Islander culture and communities, in particular Redfern and Waterloo, which are historically known as the epicentre of Indigenous activism and self-determination. Locally, the ongoing loss and redevelopment of social housing estates has had a particularly strong impact on Aboriginal and Torres Strait Islander communities, causing cultural dislocation.

Social and affordable housing

It is essential that social and affordable housing for Aboriginal and Torres Strait Islander people is owned and managed by Aboriginal community-controlled organisations to support and strengthen cultural connection, self-determination and wellbeing for these communities.

When government land is being rezoned and/or redeveloped by governments there is potential to leverage social and affordable housing for Aboriginal and Torres Strait Islander households, through land use planning regulation.

An example of this is the recent rezoning of the Waterloo Housing Estate to facilitate the redevelopment of an 800 social housing dwellings for over 3,200 market, affordable and social dwellings. The Design Guide¹⁸, that was published alongside the rezoning, established minimum targets for the delivery of social and affordable housing specifically for Aboriginal and Torres Strait Islander households.

In accordance with the Design Guide, Homes NSW and the Waterloo Partnership have committed that:

- 20% of the new social homes will be prioritised for Aboriginal and Torres Strait Islander people.
- 15% of the new affordable homes will be prioritised for Aboriginal and Torres Strait Islander people

This will result in around 290 homes prioritised for Aboriginal and Torres Strait Islander households in the Waterloo South redevelopment.

Development of Aboriginal owned land

The rezoning of Aboriginal-owned land to support housing outcomes, like any rezoning proposal, is influenced by a range of planning, technical and financial considerations.

A significant barrier can be the limited access to the expertise, resources and funding required to progress complex rezoning and development projects. Government support can help address these challenges and unlock opportunities for housing delivery.

¹⁸ <https://www.planningportal.nsw.gov.au/ppr/finalisation/waterloo-estate-south>

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The City is actively partnering with Aboriginal landowners and housing providers to facilitate new housing opportunities on Aboriginal-owned land, while helping to build the capability and capacity needed to deliver complex housing developments over the long term. For example, in 2025 Council approved Wyanga Aboriginal Aged Care Program Inc (in partnership with Uniting) to redevelop a council car park into residential aged care and the approval of funding for the Metropolitan Local Aboriginal Land Council to redevelop a site they own in Redfern to provide housing for their members.

Information request 1.2

What features should governments have in mind when evaluating reforms to move housing regulatory systems towards best practice? Are the best practice principles and overarching objective (figure 1.2) we have identified appropriate? If not, what changes should be made?

The principles are narrow, they ignore the need to address asymmetry of information in the market for new apartment buildings and have not appreciated the needs of apartment buyers, or an understanding of the roles of those who administer the regulations. A better more complete set of principles is available in Whole-of-government Regulatory Policy, Practice & Performance Framework.

An outcomes-focused housing and planning regulatory framework that is data-driven, system-integrated, and user-centred. It protects against risk while balancing productivity, social inclusion, and intergenerational equity across the Australian community.

What are some examples of specific housing supply regulations (in Australia or internationally) that:

- a) exemplify the features of a best practice system for housing regulation*
- b) clearly do not reflect these features?*

In NSW the Apartment Design Guide¹⁹ (ADG) provides councils and developers with a objectives, design criteria and guidance for the design of apartments. It aims to ensure buyers of new apartments have access to appropriate amounts of light, fresh air to promote health and well-being, rooms and balconies that can fit furniture, are protected from the harmful effects of noise, and ensure privacy. In a comparative study²⁰ the ADG was found to have successfully improved the quality of apartments to the benefit and wellbeing of apartment dwellers when compared to other regulations that do not. The ADG should be replicated nationally to improve the health and wellbeing of people who live in apartments. The ADG is considered best in class by the City and it is applied flexibly.

Information request 2.1

Do design focused regulations (e.g. tree canopy requirements, apartment layout and storage) directly impact commercially feasible capacity?

Design focused regulations like tree canopy requirements, apartment layout and storage are known at project inception and should be reflected in land value, minimising any effect on project feasibility.

¹⁹ <https://www.planning.nsw.gov.au/the-planning-system/housing/apartment-design-guide>

²⁰ Measuring the high life: A method for assessing apartment design policy implementation, 2022
Paula Hooper, Julian Bolleter, Nicole Edwards, Alexandra Kleeman, Anthony Duckworth, Sarah Foster

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Providing trees adds a small cost to development. Allocating space for storage and apartment layout guidance reallocate the planned space for apartments (see also Appendix B - Removing minimum dwelling sizes in apartments in NSW) and have little if any additional costs. These minor costs are balanced by the community health and well-being benefit that trees provide in modifying increased urban heat and the provision of storage and rooms sized to accommodate furniture that people expect to be provided but that the asymmetries in the market may not otherwise provide.

See also response to reform direction 2.6

What impact would reducing the coverage of heritage overlays have on housing supply?

See response to reform direction 2.5

Is there a need for further reforms to enable a greater supply of small secondary dwellings such as granny flats?

In NSW secondary dwellings are generally permissible. However, as they are tied to an existing lot with a larger dwelling they do little to enhance the supply and trade in the housing market. They provide a larger house capable of accommodating two households reducing the demand for housing.

A better approach would be to use regulation to encourage subdivision to increase the supply of housing. This can be achieved with small lot subdivision for small homes, particularly in areas where their rear lanes can support additional dwellings, like the City's proposed reform 9 in its Housing Discussion Paper.

Information request 2.3

What reforms to land use controls are likely to boost housing supply in each jurisdiction? What are the expected impacts of reforms on zoned capacity, commercially feasible capacity and/or other measures of supply? What are the expected impacts on positive and negative externalities? We are particularly interested in quantitative evidence on reforms to minimum lot size and reducing coverage of broad heritage controls.

Providing growth enabling infrastructure (in particular public transport), planning for spaces to enable provision of day-to-day services, such as supermarkets (to be delivered when demand is available), improving market certainty and buyer confidence, and reducing speculative pressures will boost housing supply.

How should potential reforms be implemented? What does the evidence show about the effectiveness of past zoning and land use reforms in Australia?

The City strongly recommends the Productivity Commission explore a series of real-life examples of large scale urban renewal projects to assist with their understanding of how a clear and consistent regulatory framework will support the delivery of more housing. The case studies of Green Square Urban Renewal Area and Ultimo/Pymont have been provided at Appendix C.

What evidence do you have on the effects of mandatory and voluntary inclusionary zoning requirements for affordable housing on housing supply and affordability?

Affordable housing contribution requirements, where applied in conjunction with rezoning, act to capture some of the value created by rezoning and direct it to a public purpose.

Increasing the total supply of housing is a key focus of federal, state and local governments. However, more supply will not necessarily decrease the cost of market housing in the City of

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Sydney, nor will new private market housing be delivered at a cost that is affordable for lower and moderate income households.

Affordable housing development contribution schemes are an important planning lever available to local government to ensure that as the supply of market housing is increased, that affordable housing for lower income households is also increased. This ensures diversity in the housing supply but also ensures a diverse community can have their housing needs met.

Affordable housing contributions and infrastructure contributions applied at development approval are carefully calibrated to ensure they do not cause the delivery of market housing to become unviable and not proceed. To not do so would be counter-productive, noting it is market housing production that is levied for affordable housing contributions. Where market housing becomes unviable affordable housing contributions cannot be collected, and affordable housing supply will also stall.

Since 1996, affordable housing contribution schemes in the City of Sydney have resulted in about \$500m being passed to a not-for-profit community housing provider (CHP) to deliver affordable housing in the local area. This has resulted in around 1,805 affordable dwellings that have been built or are in the planning stages (as at June 2025). A high-level analysis projects the City's affordable housing contribution schemes will deliver an additional 1,950 affordable dwellings (above what is already in the pipeline).

In 2024 the City commissioned Atlas Urban Economics to undertake an independent review of the affordable housing contribution rates²¹ (Rates Review) to review the contribution rates with feasibility testing throughout the local area to inform their potential for increase.

The Rates Review recommended increased contribution rates and a phasing in strategy that ensured that the contribution would not negatively impact on the viability of development.

Information request 3.1

What evidence do you have for the main causes of delays in receiving approvals for new housing?

See response to Section 3.

Information request 3.4

Do the features of tiered assessments we have identified match best practice? What sort of developments should be included in each tier?

See response to reform directions 3.2 and 3.3.

Information request 4.2

What feedback do you have on our reform directions for infrastructure planning? To what extent will these resolve the planning coordination issues and address constraints to housing supply? How should reforms to infrastructure planning be implemented and what are the main challenges?

See response to Section 4

²¹ <https://meetings.cityofsydney.nsw.gov.au/documents/s89561/Attachment%20C%20-%20Review%20of%20Affordable%20Housing%20Contribution%20Rates%20-%20Atlas%20Urban%20Economics%20-%20October%202022.pdf>

Information request 4.3

How can governments balance the need to support feasibility for developers by collecting developer contributions later in the development process, with a need for upfront funding to kickstart infrastructure to support new housing?

The City questions what evidence exists, beyond anecdotal, to show how much development is likely to be incentivised as a result of the staged or deferred of payment of contributions versus the impacts on infrastructure delivery for councils and the lost economic benefits of those infrastructure projects.

It is the City's experience that a commitment to infrastructure delivery is a key driver in moving development forward. This is evident in the redevelopment of Green Square, where commitments from developers to invest in the area followed the City's commitment to take on numerous infrastructure works, including stormwater drainage works and the commitment of council owned land to facilitate the delivery of necessary educational facilities. Councils will not be able to provide such commitments if infrastructure funding is delayed or put at risk.

The fact that the NSW State Government encourages councils to forward fund infrastructure is recognition that infrastructure stimulates and facilitates housing supply. It is contradictory to ask councils to forward fund and pool contributions to enable the quicker delivery of infrastructure, but then to impose delayed receipt of contributions income on councils.

While delaying the payment of contributions to later in the development process may provide a temporary benefit to developers, the longer-term consequences are that infrastructure funding and delivery will be delayed which in turn will result in perverse effects on growth. The true cost to council is exacerbated by the annual increase in the cost of providing infrastructure and the diminishing value of any delayed payment.

Information request 4.4

Are our directions for improving developer contribution frameworks addressing key infrastructure challenges that will support housing supply? What evidence or case studies support this?

How should reforms be designed to overcome the implementation challenges including determining nexus, fair apportionment, accurate upfront cost estimates for infrastructure, timing and funding sequencing, and first mover disadvantages?

The City does not consider that the reform direction which proposes the staging or deferral of payment of contributions will serve to address infrastructure challenges. Rather, it will only exacerbate them. Any delay to the payment of local contributions to local councils will adversely impact on contributions cash flow, as evidenced by the City already in relation to the NSW Government's Covid-19 direction which allowed for the temporary deferral of contributions payments (see Figure 3). The City is still awaiting payment of some of these unpaid contributions.

Blacktown Council has joined the list of creditors from the Bathla Group collapse over contributions.

In areas where Councils cannot afford to forward-fund and deliver infrastructure, it will not be delivered.

Any reform directions in relation to developer contributions must have as their central consideration the potential impacts on local councils' ability to facilitate the delivery of local infrastructure for the benefit of communities. The reform directions should:

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- require the removal of maximum caps on contribution charge amount;
- mandate the indexation of contributions; and
- allow councils to continue requiring contributions to be paid at construction certificate stage.

These changes would go some way towards a fairer contributions system where contributions are more reflective of the accurate cost of providing infrastructure, while also reducing the pressure on councils who are facing unprecedented challenges to deliver infrastructure while supporting housing growth.

Appendix B – Removing minimum dwelling sizes in apartments in New South Wales

In New South Wales, there is a direct intersection between design regulations and commercial bank lending rules. The Apartment Design Guide (ADG), guides, it does not prohibit, what developers build; the Australian banks independently set the rules for what they are *willing to finance* based on risk.

Because banks view smaller properties as a higher resale and valuation risk, their strict lending thresholds have determined the minimum size in the ADG, creating an integrated financial-regulatory floor in the property market.

The most significant point of intersection between bank lending and housing regulation occurs at 50 square metres of internal living space (excluding balconies, storage, and car parks). The vast majority of mainstream Australian lenders (including the Big Four banks) treat 50 m² as the standard benchmark for unrestricted residential lending. If you buy a standard 50 m² 1-bedroom apartment, banks will grant you access to standard Loan-to-Value Ratios (LVRs) of up to 90% to 95%. This means you only need a 5% to 10% deposit.

Because the minimum 1-bedroom size matches the bank's safety threshold, these apartments are highly liquid and the easiest to finance. They are the readily available purchase for first home buyers. While you can still secure a loan for a smaller apartment in this bracket from many mainstream lenders, it comes with strict conditions. The bank will reduce its LVR cap to 80%, automatically forcing you to provide a minimum 20% cash deposit and deny access to Lenders Mortgage Insurance (LMI), locking out buyers with smaller deposits. This removes most first home buyers.

Better regulation is needed

The intersection of bank rules and size limits poses a unique threat to buyers purchasing off the plan, the majority of available sales for new apartments, in Sydney due to the allowable 5% contract variation clause.

If you buy a 1-bedroom apartment configured right on the edge of the regulatory limit—for example, 51 m²—the bank treats it as a standard asset and pre-approves an aggressive 95% LVR loan. However, if the developer uses their legal 5% NSW contract tolerance during construction and shrinks the internal living space down by a mere 2 m² to 49 m², the apartment crosses the bank's internal threshold.

When the bank's valuer inspects the physical unit prior to settlement, the property is instantly re-categorized as a restricted asset. The bank can arbitrarily slash their loan offer to 80% LVR, leaving the buyer legally obligated to settle the contract but short of tens of thousands of dollars in cash. If the buyer cannot bridge the gap, they forfeit their entire 10% deposit to the developer.

This alignment demonstrates why the NSW size rules are so crucial. By guiding that a 1-bedroom apartment should not drop below 50 m², the regulation indirectly ensures that the property remains a universally bankable asset, protecting everyday consumers from accidentally buying into apartments that the mainstream Australian financial system refuses to fund.

Comparing the allowable **5% variation** threshold for an off-the-plan apartment to other consumer product regulations is an extraordinary legal double standard.

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In Australia, the strictness of size and weight regulations is inversely proportional to the value of the asset. The law enforces near-zero tolerance for cheap, daily consumer goods while permitting physical tolerances within some cases severe consequences for the most expensive and enduring purchase a consumer will ever make.

In France, off-the-plan property sales (*Vente en l'État Futur d'Achèvement* or VEFA) are codified under consumer protection laws. Like Sydney, 5% is a threshold, but how it is treated is completely different. Under French law, if the final built apartment is smaller than the contract plan by any margin up to 5%, the developer can force the buyer to settle, but they must reduce the purchase price proportionately.

Germany treats an off-the-plan property purchase under strict construction and consumer contract laws (*Bürgerliches Gesetzbuch*). There is no statutory "allowable variance" percentage. The property delivered must strictly match the precise dimensions and specifications detailed in the contract. If a German apartment is found to be even **1% smaller** upon completion, it is classified as a "material defect." The buyer is automatically entitled to a *Minderung* (a reduction in the purchase price).

Australia is an outlier in the OECD and tighter regulation is needed to protect the buyers of off the plan apartments.

New Zealand example

The minimum apartment size regulations were not changed in Auckland's 2016 upzoning reform. The Independent Hearings Panel initially recommended deleting the 30-square-metre central city and 40-square-metre suburban minimum apartment size rules to enable more housing. However, Auckland Council rejected that recommendation and successfully maintained the strict minimum size limits in the final Auckland Unitary Plan to prevent the return of poor-quality "shoebox" apartments.

While Auckland successfully kept its apartment size rules in 2016, New Zealand's central government eventually passed separate nationwide reforms in mid-2024 that explicitly stripped councils of the power to set minimum floor areas and balcony sizes.

The removal of these regulations has shaped several key trends:

1. The Proliferation of "Micro-Apartments" on Paper

With the removal of local council size baselines (which previously restricted apartments from going below roughly 30–40 square metres depending on the region), developers rapidly began putting micro-apartments and "shoebox" units into applications. Proponents, including Housing Minister Chris Bishop, argued that a tiny apartment is a critical low-cost entry point for students and young professionals. Critics and urban design advocates warned that this risks a return to the early-2000s sub-standard developments and creates "squalid" living spaces if poorly executed.

2. The Commercial Backlash: Retail Banks Moving in Reverse

A real-world bottleneck to the deregulation came from private financial institutions. While the government deregulated the rules to encourage micro-apartments, retail banks simultaneously tightened their lending criteria. For units that fall into this newly deregulated "shoebox" category, banks often require massive equity deposits (sometimes 20% to 50%) or outright reject the mortgage application. This financing trap has created an environment where developers can legally build ultra-small units, but everyday buyers struggle to secure the loans to purchase them. Many approved smaller apartment developments remain unsold. The impasse is an impediment to new housing supply.

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There is an economic policy disconnect: removing a planning regulation does not automatically create an affordable free market if other structural gatekeepers (like finance and corporate pricing models) pivot to protect their own interests.

3. The move to Build-to-Rent

As individual buyers cannot get mortgages, institutional developers are building micro-units as Build-to-Rent (BTR) complexes, bypassing individual pre-sales. Institutional BTR developers do not build standard, bare-minimum shelter. They generate profit by bundling tiny living spaces with extensive communal "lifestyle" extensions—such as rooftop pools, private theatres, and gyms—and offering premium tenancy security. Because of these added luxuries and operational overheads, BTR rents are structurally priced **10% to 15% higher** than private market averages for the same area.

The lesson so far:

Ultimately, deleting the minimum size regulations successfully lowered the *theoretical barrier* to building cheaper housing. However, in practice, it shifted the regulatory gatekeeping power from local councils to banks and institutional lenders, neither of which are incentivised to provide low-margin, genuinely affordable housing to the public. The price of new apartments has not reduced but their amenity and long term value has, and the consumer is forced away from ownership into rental.

Other real word results

Regulating apartment size is a direct response to the identified current market failure to deliver apartments. A lack of size regulations can trigger **negative externalities** (such as mental health strain or claustrophobia from living in cramped spaces) and exploit **information asymmetry** or **unequal bargaining power** in a tight housing market.

Several major cities within **OECD countries** have either unregulated or relaxed apartment size rules. The real world results show both the benefits of flexibility and the harsh realities of the market response:

London, United Kingdom

While the UK has "Nationally Described Space Standards" (recommending a minimum of 37 square meters for a small apartment). These rules are not mandatory and through loopholes like "Permitted Development Rights" (which allowed developers to convert old commercial office buildings into residential apartments without standard planning permission), the market produced thousands of micro-homes. Some converted office-apartments in outer London measured just **14 to 15 square meters**.

This created a stark example of **market failure**. Because London has a housing shortage, desperate renters pay premium prices for tiny, poorly laid-out spaces.

Seattle, United States

While the US has an International Residential Code (IRC), specific cities have heavily modified their local codes to allow "Micro-Housing" or Single Room Occupancies (SROs) to combat homelessness and high costs. In cities like Seattle, micro-apartments (congregate housing) can feature private rooms under **14 to 18 square meters** with shared communal kitchens.

Micro-units quickly took over a huge percentage of new apartment completions in high-demand, transit-adjacent neighbourhoods.

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It successfully provided a "sacred, lockable space" for single people, students, and lower-income workers who would otherwise be priced out of the city entirely. However, the market failure manifests as a lack of neighbourhood diversity; if developers *only* build micro-studios because they yield the highest rent per square foot, families are completely pushed out of the area.

Coffin Homes in Hong Kong

The ultimate risk involved in removing apartment size is evident in Hong Kong where a single 40-square-metre flats are divided into 15 to 30 individual wooden or metal boxes stacked on top of each other. The "home" consists entirely of a single bunk bed enclosed by wooden planks or wire mesh, secured with a sliding door or padlock. Residents share a single rudimentary toilet and a kitchen area, which are frequently combined into the same tiny room.

Landlords extract far more profit per square metre by subdividing properties than by renting them to single families. For low-income individuals, single elderly citizens, and the working poor, the lower price is the only option that keeps them off the streets and near urban service jobs.

While Hong Kong has passed housing reforms to phase out substandard subdivided flats in 2024 requiring subdivided units to measure at least eight square metres in floorspace, and include windows, authorities have exempted existing coffin homes. Beijing and local authorities have set a target deadline to eliminate cage and coffin homes by 2049, though advocates argue progress is slow without a massive expansion of public housing to reaccommodate the displaced renters.

Summary

It seems self-evident that a smaller apartment costs less to build, however, the marginal cost of each square metre reduction lessens due to the fixed costs of equipment and the geometric relationship between wall length and floor area. Most studies have ignored this relationship and the evidence cited for the economic savings remain unpublished.

The example shown in the PC report of a small apartment with many specially designed features is significantly more costly to construct and will attract a higher, not lower, price than an equivalent standard sized apartment without the compensatory features. The increased marginal cost is an example of *diseconomy of scale* or miniaturisation premium. It is not evidence that smaller apartments will be less expensive.

Real world case studies show that unregulated apartment sizes can boost supply in theory. However, the market failure shifts from a *supply crisis* to a *livability crisis*, where citizens sacrifice physical space, privacy, and long-term mental well-being just to secure a roof over their heads without a significant reduction in price, limiting housing purchase in favour of renting, and not necessarily increasing new housing production.

Conclusion

Any move to remove minimum apartment sizes must proceed with caution and examine the real world consequences of such a move. Ignoring the interaction of financial and institutional players and the significant asymmetries and unequal bargaining power in the market, including the ability to manipulate supply and price independent of cost, risks unintended consequences that are difficult and time consuming to eliminate.

New South Wales already demonstrates better regulation in this area by providing alternative small dwelling pathways without removing minimum apartment sizes in the Apartment Design Guide that are not mandatory in any case. These include student accommodation, co-living and build-to-rent housing subject to tailored regulation with a range of reasonable minimum sizes.

Appendix C – Delivering high density urban renewal – Case Studies

Green Square Urban Renewal Area

The Green Square Urban Renewal Area (GSURA) is one of Australia's largest and most ambitious renewal projects. A former heavy industry and warehousing area, it has undergone a profound transformation into a vibrant, high-density mixed-use community centred around the Green Square Town Centre. Today, Green Square is one of the country's most successful examples of urban renewal, demonstrates how timely and integrated planning, good design, and well-structured value-sharing mechanisms can deliver both community benefit and strong development outcomes.

Today, more than 40,000 residents call Green Square home, with 20,000 additional residents expected as development continues. Green Square is one of Australia's densest urban areas of this size at over 22,000 pp/sqkm. Its character is shaped by attractive public spaces, new treelined streets, evolving café and retail culture, and comprehensive community facilities. The award-winning Green Square Library, Gunyama Park Aquatic and Recreation Centre, Joynton Avenue Community and Cultural Precinct, generous parks, and a new street network that encourage walking and cycling, and sunny plazas all underpin its appeal as a place where people genuinely want to live, connect and work.

The momentum for renewal began with the reimagining of Sydney's "central industrial area" as a location for rail-based mass urban renewal that led to the announcement of a future train station at Green Square on the new airport line that was then under construction. In 1995, the former council commissioned the *Green Square Structural Masterplan*, establishing the strategic planning foundation for redevelopment. This masterplan introduced a coordinated framework for land use patterns, building heights, densities, streets, parks and squares, sustainable development strategies and social infrastructure planning.

The masterplan articulated simple guiding principles focused on achieving a compact urban area with a balance of living and working uses, providing diverse housing options - including affordable housing (cover photo) - and creating an open space network for active and passive recreation. Vibrant centres, high-quality public spaces and a strong prioritisation of public transport, walking and cycling were central to the vision, ensuring the precinct would evolve without reliance on cars.

The masterplan formed the basis of new planning controls which have been continuously refined; however, its vision and guiding principles have remained consistent. The planning rules include floor space ratio, detailed built form controls and the LGA-wide maximum parking requirements. Apartment design was guided by the Apartment Design Guide. A second station in the renewal area, in south Zetland, would bring forward further planned growth, while providing network-wide rail system benefits.

One of the greatest challenges for any brownfield redevelopment of this scale is the substantial investment needed for essential local infrastructure. Delivering new streets, drainage systems, utilities, cycleways, open spaces and community facilities for 60,000 residents requires long-term financial planning and certainty. Early in the renewal, it became clear there was insufficient commitment from the then NSW Government that funding and infrastructure delivery would be forthcoming.

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Knowing the cost of infrastructure could not be met by council alone, the council developed new planning mechanisms to ensure that part of the increased land value resulting from rezoning was captured to assist in meeting the cost of local infrastructure to serve the future community. This recognition led to three pioneering value-sharing schemes that have been integral to Green Square's success and remain in place today.

The first is the rezoning deferral mechanism - used originally in the Green Square Town Centre. While new planning controls propose to rezone land from industrial to mixed-use, and significantly increased permitted heights and floor space ratios, these controls remain "deferred" until landowners are ready to redevelop and enter into agreement with council to contribute to the required infrastructure.

A detailed infrastructure plan apportions the cost of works across sites based on the uplift each landholding received. This mechanism - unique in the NSW planning system - has been instrumental in funding major Town Centre infrastructure to support new development that may otherwise have been unaffordable for council.

The second value sharing mechanism, applied across the broader renewal area (excluding the Town Centre), is the community infrastructure scheme. This mechanism allows a base floor space for all sites and offers additional floor space where developers contribute to community infrastructure.

It is based on detailed planning controls and a scheme that attributes a monetary value to the type of additional floorspace, enforced through planning agreements. This approach has successfully secured land dedications and construction of essential works including new roads, footpaths and parks when they are needed – at the time when development occurs.

The third mechanism, applying across the entire urban renewal area, is the affordable housing scheme, which ensures contributions toward housing for very low to moderate income households as development proceeds. To date, this program has delivered a significant number of affordable dwellings in perpetuity (cover photo), ensuring diversity and long-term social sustainability within the precinct.

A critical factor underpinning the effectiveness of these mechanisms has been their early inclusion in the planning framework. This ensured from the beginning that land was bought and sold with full transparency about the cost of development contributions. Developers could factor these into acquisition prices, thereby internalising the value sharing requirement rather than seeking additional concessions to maintain feasibility.

Over successive property transactions, this clarity has maintained certainty for both industry and the community that promised infrastructure will be delivered, stabilised land values, and mitigated speculative escalation.

The design quality of the urban renewal area has been achieved through numerous mechanisms: substantial investment in skilled internal design teams, use of independent design review panels, application of competitive design processes to both public and private development, and council led public space design including substantial oversight of coordination and implementation. Finally, these processes are supported by good planning controls and guides including the NSW Apartment Design Guide.

Collectively, these strategies have enabled a coordinated approach to funding and delivering infrastructure over Green Square's anticipated 40-year development horizon. They demonstrate a powerful model for how governments can manage growth in high-value urban areas, support

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infrastructure delivery and ensure that the benefits of rezoning are shared fairly. Green Square's experience offers a compelling set of lessons for future urban renewal precincts in Australia - highlighting the importance of early planning, financial discipline, and innovative value sharing tools that align public and private interests.

Ultimo and Pyrmont

In Ultimo/Pyrmont, the NSW Government set the vision and targets, to fulfil the additional public transport capacity with a new metro station. The City of Sydney translated the targets into site-specific controls through robust design testing and early engagement.

The first-stage outcome exceeded the target – alongside the NSW Government, the City planned for 4,800 dwellings and 27,000 jobs embedded within an existing dense urban fabric, supported by \$148 million in local infrastructure contributions, 6,200 m² of new open space, more than 250 new trees and a long term affordable housing program.

The planning was based on floor space ratios and detailed built form controls designed to enable the apartment amenity sought by the Apartment Design Guide. A variety of housing types are planned, including substantial numbers of new small lot housing within heritage conservation areas designed to conserve the heritage values while increasing housing density. Ultimo Pyrmont is the densest SA2 area in New South Wales, and the upzoning increases its housing density by around 40%.

The upzoning is not broad brushed but reasonably finely tuned to each site's circumstances and featured intensive consultation with property owners, developers and residents. The first developments in response to the planning are proceeding quickly.

This model aligns with the Plan's intent to prioritise growth in serviced, accessible places, while achieving the legitimacy and certainty that top-down instruments often lack.

- Delegate implementation to councils under Ministerial directions. The Plan already emphasises rebalancing growth to infill and centres with existing capacity. Councils can turn targets into feasible capacity - tested envelopes and typology mixes that reflect local constraints (wind, overshadowing, street-wall continuity) and deliver the Plan's walkable, compact form.
- Resource multidisciplinary precinct teams. The Plan's monitoring and coordination objectives should be paired with funding or support for council teams (urban design, heritage, transport, contributions) to do the micro-adjustments that make density liveable - wider footpaths, deep soil, family-sized apartments, blue-green grid links - so new stock meets the Plan's diversity, resilience and open-space priorities.
- Embed accountable, place-based affordable housing. Rather than uniform rates applied from above, require each council to adopt a contribution scheme by deadline (as the Plan proposes) and calibrate inclusionary targets to feasibility and local need - so affordable homes are delivered where transport access and jobs are greatest.

Lessons have been learned through this process and improvements can be made – a more streamlined State gateway process, closer collaboration with State agencies on items like school capacity and regional traffic augmentation. But, overall, this approach complements, not contradicts, State leadership: the State sets ambition, invests in Metro, and sequences infrastructure; councils deliver the fine grain with communities, converting headline numbers into consented, fundable projects.