

Follow up Submission to the Productivity Commission

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1. Introduction – You should have hired a planner

My initial submission recommended obtaining specialist planning advice. The interim report and webinar transcript leave me concerned that the inquiry has not sufficiently drawn on practitioners with detailed knowledge of how planning controls operate. Many planners, including consultants lodging development applications for developers, share the Commission's concerns about unnecessary regulation and could help identify practical reforms and unintended consequences.

Looking at the list of roundtables in your interim report you seemed to be almost avoiding anyone who has a detailed knowledge of planning. Even your developer survey which I see can be filled in by planning consultants is headed on the home page of your Inquiry "Housing Developer Survey" which does not encourage completion by a planning consultant (unless they are also a Housing Developer). Perhaps you might like to change that title to *Housing Development survey*.

With the greatest respect, I think that some of your ideas suffer the law of unintended consequences that some advice from an experienced planner might have been able to improve. This submission identifies several such consequences, presents early findings from my research on the NSW Low and Mid-Rise Housing Policy, and outlines potential pitfalls in using feasibility analysis to estimate supply responses resulting from regulatory changes.

2. Feedback on recommendations

Land-use controls prevent housing being built, or limit the form it can take. Relaxing these controls would have the greatest effect on housing supply of all our reform directions.

- Governments should commit to broad-based upzoning in cities, including by allowing 3-storey development on most residential land, reducing minimum lot sizes, using more mixed commercial and residential zones, and allowing more mid- and/or high-rise development in high-demand areas.
- This upzoning should be supported by reducing restrictive land-use and built-form controls that lower development feasibility, limit choice or impose costs that outweigh their benefits, such as maximum floor-space ratios or minimum car parking requirements.

As I discussed in my previous submission, if you make the upzoning too broad you put increasing price pressure on detached housing prices. Your interim report tries to discount that issue by referring to a US unpublished report (Phillips, 2022) on broad upzoning, but the best evidence is still from Auckland where we can see the impact on land values which I discussed in my previous submission.

Whilst broad upzoning has benefits in terms of reducing price pressure on smaller dwelling like apartments and townhouses, it does increase price pressures for detached houses if you rezone large tracts of existing residential areas. You need to get the balance right. Upzoning land when you won't get a supply response (e.g. very small and narrow lots) is just being lazy and seems contrary to your Interim Report's support for the notion of strategic planning.

This goes back to the issues of services and infrastructure – there are good and bad places in cities to supply additional housing in terms of the impact on the taxpayer. You may want to think about where in cities can you locate the next 1000 people for the lowest public costs. For this reason, you would prioritise the upzoning of some locations over others. You quote the HIA submission, I think as a critique of planning:

While delays can occur at any stage throughout the development process, industry evidence increasingly indicates that for greenfield housing estates, the greatest risk, cost and time burden occurs at the earliest planning stage, securing designation within an urban footprint or rezoning land as residential. (HIA, sub. 25, p. 10)

I supervised a PhD which found the potential burden of greenfield development was about \$125,000 per dwelling lot (in 2013 dollars) on road capital costs alone (see Nichols, 2013). Given these costs and the other large public costs associated with greenfield development these rezonings should include intensive investigations that examine the likely cost to the taxpayer and the potential of some cost recovery from greenfield developers. Cautious rezoning of rural land to urban residential should be seen as a virtue and not a problem.

Three storeys everywhere.

Planners have a long-term view. You aren't just trying to create housing supply for the next 10 years – you are looking much further into the future. “Three storeys everywhere” is a very dumb policy. The last thing you want in well located areas is for a three storey apartment building to block future mid- and high-rise development (see Figure 1). You could say the same thing about town house development - you don't want a row of strata titled townhouses across the road from a railway station. The detached house is an excellent land bank for future development, especially if it is on a large lot. You do not want to replace it with a dwelling that will make a future upzoning less effective.

Figure 1: Site in Railway Parade Burwood NSW where a 2 storey apartment building persists despite a much larger upzoning. (source: Peter Phibbs)



In the parts of the city where you do go three stories, limiting apartment buildings is worth considering for several reasons. Firstly, when homeowners see apartments, it increases their price expectations for their lot. Secondly 3 storey apartments are not feasible in most of our major cities except in expensive areas so including them in many parts of the city will inflate land prices without the benefit of a supply response. A lesson from the Auckland upzoning is that the two land uses zones that generated the most development are essentially low-density zones where the predominant form of

development was townhouses and not apartments. This helped reduce the increase in land prices from their broad upzoning.

Planning controls:

There are some stupid planning controls e.g. large minimum lot sizes. But some site controls are important. Setbacks are important to provide some separation from buildings to reduce negative impacts such as overshadowing and a loss of privacy. The shading of existing solar panels can also be a consideration.

Having a proportion of the site that doesn't have a building on it reduces pressure on the stormwater system. If the system is overwhelmed it can increase local flooding. This is a particular issue as rainfall intensity increases with climate change. Some deep soil zones also provide opportunities for the development of a tree canopy that can reduce the heat island effect of a warming climate. If you are building mid-rise apartments in existing residential areas minimum lot sizes protect the amenity of neighbouring properties.

Apartment Design controls:

I understand the idea in your interim report about providing choice and not to overspecify what is a good apartment, but I think your suggestion that the consumer can tell what size bedroom they want to buy does not reflect the way apartments are sold off the plan. Many consumers can hardly read a floor plan, and the floor plans provided in off the plan sales are often hard to follow. For example, the north point can be hard to find, there is a dash to show a window, but you don't know how large the window is and there are no measurements on each room. You don't know how high the ceilings are, how much light will be in the apartment etc. Where apartment design rules can increase amenity with little impact on construction costs, they will generate significant consumer benefits.

If you did remove all apartment design rules you would need to introduce more stringent regulations on what information was provided to consumers in the off the plan process, so they knew what they were purchasing. It is not as if you can go to a display village and walk around your apartment. Every apartment is unique.

My suggestions about controls to target:

Reducing minimum lot sizes makes a lot of sense as do changes to granny flat regulations to increase the size of granny flats from 60 sq metres in many states to 90 sq metres (in the ACT and proposed in Tasmania).

Lessons from the NSW Low and Mid Rise Scheme

The Low and Mid-Rise Housing Policy of the NSW Government modifies planning controls to encourage low-rise housing—including dual occupancies, terraces and townhouses—and mid-rise apartment buildings. The first stage of the policy, introduced in July 2024, permitted dual occupancies in residential zones across New South Wales. The second stage, introduced on 28 February 2025, changed the controls applying within 800 metres of nominated centres and rail stations in Greater Sydney and selected regional locations. The analysis presented below is confined to Greater Sydney and examines the first 14 months following the second-stage reforms.

Analysis of the Greater Sydney lot database supplied by Propcode indicates that the reforms affected a substantial number of properties. Propcode estimated that the policy resulted in:

- 41,970 additional lots becoming eligible for dual occupancies;
- 51,642 additional lots becoming eligible for terraces and townhouses; and
- 114,883 lots becoming eligible for residential flat buildings.

These estimates describe the additional theoretical development capacity created by the reforms. They do not indicate that the affected sites are physically or financially suitable for redevelopment.

To examine the initial development response, I used the NSW Planning Portal to construct a database of residential DAs lodged between 1 March 2025 and 30 April 2026. Lots affected by the LMR reforms were identified using the Propcode dataset and matched to the DA records using both addresses and spatial coordinates. Spatial matching used a tolerance of 10 metres to identify applications where the address recorded in the Planning Portal differed from the address in the property database. Potential matches were subsequently reviewed to identify low- and mid-rise development proposals.

Note that my dataset captures development in a local government pathway and does not include State Significant developments. The DAs that were lodged by development type over that 14 months period are shown in the Table below.

Table 1: Development applications on LMR lots 2025-2026.

Development type	% of total DAs
Detached housing including renovation ¹	81%
Dual occupancy	4%
Townhouse and terrace	5%
Residential Flat Buildings	10%

1. Can include a granny flat as well as a knockdown and rebuild.

The large percentage of DAs for renovation of a detached house suggests it may be hard for developers to compete with homeowners or builders who want to renovate a detached house on a lot.

I will focus here on townhouses and terraces. Providing greater dwelling choice by increasing dwelling variety was seen as an important aim of the scheme. However, the DA response of terraces and townhouses was muted, and I could only count about 300 dwellings with lodged DAs that were multiple dwelling DAs¹.

Activity was concentrated in LGAs with relatively large residential lots, particularly Kuring-gai and Northern Beaches, where individual sites can accommodate more dwellings without requiring extensive lot amalgamation.

The relationship between lot size and development activity is substantial. The median site area for identified multi-dwelling proposals in LMR areas was approximately 1,107 m², compared with a median of 516 m² across all LMR-affected lots in Greater Sydney. The typical development site was therefore more than twice the size of the typical eligible lot. This suggests that eligibility under the planning controls is not sufficient: site dimensions materially constrain the development opportunities available under the scheme.

¹ These excluded dual occs, secondary dwellings and residential flat buildings

Appendix 1.

Feasibility Analysis suggestions:

In your estimates of potential supply changes, you will probably undertake or commission some feasibility studies. If you do not count all the costs in your feasibility studies you will overestimate the potential of changes in planning rules to add to housing supply.

Some issues that I have seen in recent feasibility studies that tend to underestimate costs and hence overestimate the supply impacts of regulation are listed below:

Cost of finance – major banks gone cold on 100% funding. Second funding stream is needed which is now often provide finance which is more expensive with some tough conditions about delays etc.

Land acquisition: Economists seem to think that people will sell the land their house is on at market prices² but in reality developers pay acquisition premiums. Developers report those at between 1.5 and 2.5 times the market price - equivalent to premiums of 50–150% (see my first submission) when sites need to be amalgamated. It is a particular issue when sites need to be amalgamated because you must persuade people to leave when they might like where they live. A recent paper of upzoning and collective sales in Sydney report similar premiums (Liu et al, 2025). Atlas Economics (2026, p47), in an Affordable Housing Strategy for the Edgecliff- Woollahra rezoning, lists the costs of developers acquiring recent sites in the area. This list also highlights the premium developers are prepared to pay over the market price. This is despite there being increased choice for developers from the Low and Mid Rise planning reforms in NSW.

Services: Construction costs in cost guides include the costs of constructing the building but don't include the costs of connecting services from the street. Whilst this isn't a big issue for a large apartment building because service connection cost are shared between a large number of dwellings, for a townhouse or detached house the service connection costs can be a significant cost especially if the dwelling is located a long distance from the street, when a separate trench needs to be provided for each dwelling (rules vary between jurisdictions) or when difficult terrain is encountered.

² Your Phillips 2022 paper; Your Coates et al (2025)

Site works: Many economists also miss site works which includes internal roads and pathways, landscaping, area for bins, lighting, letterboxes etc. Again for smaller dwellings these can be a significant component of construction costs.

References

Atlas Economics (2026) *Edgecliff-Woollahra State-led Rezoning Affordable Housing Strategy*. Report for NSW Department of Planning, Housing and Infrastructure.

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