

SGS ECONOMICS AND PLANNING

Submission to the Productivity Commission's Interim Report on Housing Supply Regulation

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PREPARED FOR:
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SGS Economics & Planning

Certified B Corporation

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Overview

SGS Economics and Planning is pleased to provide this submission to the Productivity Commission in response to the Commission's interim report on Regulation of Housing Supply.

This submission supports efficient, responsive housing regulation, but argues that the Commission's final report should place greater weight on long-term strategic metropolitan and regional planning, the full costs and benefits of reform, and the institutional capacity needed to deliver housing and infrastructure together. The Commission's own objective recognises that best-practice regulation must balance housing supply with economic, social, cultural and environmental outcomes; our recommendations seek to strengthen how that balance is translated into practical and impactful reform.

1. Response to principles of a best practice regulatory system for housing

The Commission should recognise long-term metropolitan and regional strategic planning as the foundation of a best-practice housing regulatory system. Its final report should provide guidance on evaluating alternative settlement patterns and cumulative impacts, including the infrastructure, transport, environmental and social benefits of compact growth, rather than treating individual regulatory controls in isolation. It should support a coordinated reform agenda across governance, regulation, infrastructure funding and resourcing: clearer responsibilities and stronger state–local coordination; councils and Traditional Owners as system partners; regulatory audits that align controls, assessment pathways and decision-makers with risk and complexity; performance-based rules for common proposals with appropriate scrutiny for complex matters; and better coordinated referrals, infrastructure sequencing and measurement of plan effectiveness.

The final report should also broaden its treatment of infrastructure funding. Developer contributions should be considered across user-pays, impact-mitigation, inclusionary and value-capture purposes, supported by transparent, predictable and fit-for-purpose arrangements. Recommendations should acknowledge local government fiscal and workforce constraints and avoid approval shortcuts that compromise safety, quality, democratic accountability or net community benefit.

2. Accounting for the marginal benefits of regulatory reform

Perhaps the principal finding from a scan of the wider literature not covered in detail in the PC interim report is that relative and discretionary income changes and differentials, affected by real income shifts, interest rates and taxation settings which affect demand side and price-setting behaviours, plus the 'real options' theory, may have a greater impact on supply and the relative affordability than regulatory reforms.

Further to this point, we are not convinced that development capacity in Australian cities is as constrained as the interim report implies. Development potential that requires a permit, even where it is not 'deemed to comply', is still development potential. We recognise that discretionary pathways add time, cost and risk, but treating them as zero capacity is likely to understate existing capacity and overstate the additional supply that deregulation might unlock. This is not to deny the need for housing regulations that are efficient and responsive. A competitive and productive housing construction sector is a key prerequisite for responsive housing supply. However, some of the reform directions, as currently described, rest on limited evidence of net benefit.

We recommend that the Commission provide a practical, nationally relevant framework for cost-benefit analysis of planning reforms, including guidance on valuing infrastructure, urban design, neighbourhood character, environmental and other less readily monetised effects. It should publish Australian evidence on the supply response to marginal changes in development capacity, identify where controls are genuinely binding, assess implementation and sequencing costs, and explain the circumstances in which reforms are likely to deliver additional dwellings. This would support targeted, evidence-based recommendations rather than uniform deregulation and would better reflect the Commission's stated objective of maximising net community benefit.

1. Response to principles of a best practice regulatory system for housing

SGS prepared a report for the Municipal Association of Victoria (MAV) which proposed a 'best practice' approach to metropolitan planning, and an associated regulatory system, for metropolitan Melbourne[1] (a companion report for Rural and Regional Victoria was also prepared[2]). That work was commissioned by the MAV; this submission is made independently and reflects SGS's own views. While the examples in this section draw mainly on Victoria, the principles they illustrate apply equally to planning systems in other states and territories. We recommend this report to the Productivity Commission as a response to the questions and items raised in the interim report.

1.1 Metropolitan or regional scale strategic planning

The overarching objective in 'A best practice regulatory system for housing' is stated as follows.

An overarching objective ...

A well-functioning housing and planning regulatory system that enables enough housing to meet people's needs, in the places where it delivers the greatest net benefit to the Australian community. It balances economic, social, cultural and environmental outcomes, and gives weight to the interests of both current and future residents.

There is limited focus in the interim report on how this objective is typically addressed through metropolitan or regional scale planning strategies that take a long term view (typically 20 or 30 years) in anticipation of cumulative and aggregate development impacts. These plans or strategies, variously prepared by state planning agencies at regular intervals over the last 100 years, have generally served Australian cities well. They include population, housing and employment projections and the broad land use directions to accommodate the growth. More recently such strategies have included housing capacity targets for councils which inform local strategic planning.

The best of these strategies are aligned with or to major transport and other infrastructure investment plans which aim to reinforce or shape preferred growth and settlement patterns. These metro or regional scale plans, in implied or explicit ways, address long term development trade-offs, and thereby aim to minimise negative externalities and maximise positive externalities (some of which are alluded to in the PC interim report).

[1] SGS Economics and Planning (2023) *Shaping metropolitan Melbourne: A discussion paper* for the Municipal Association of Victoria, 13 December, https://www.mav.asn.au/__data/assets/pdf_file/0006/35079/Submission-on-Shaping-Metropolitan-Melbourne-23dec23.pdf

[2] SGS Economics and Planning (2023) *Shaping metropolitan Melbourne: A discussion paper* for the Municipal Association of Victoria, 21 December https://www.mav.asn.au/__data/assets/pdf_file/0019/35056/Shaping-regional-and-rural-Victoria-A-discussion-paper-SGS-and-MAV-21dec23.pdf

In the MAV reports on metropolitan and regional planning, SGS identify five pillars of metropolitan planning whose descriptions allude to the type of externalities being addressed at this scale (see Figure 1).

The Productivity Commission could provide guidance on the scope of the cost benefit analysis that should be applied to inform these plans and when considering scenarios for future long term development and settlement. There are a number of examples to draw on, including work by CIE on alternative growth paths for metropolitan Sydney (for different shares of greenfield and infill growth and for different patterns of infill growth)[3] and by Infrastructure Victoria on different development scenarios for Victoria[4].

These provide guidance on what weight should be given to the monetised benefits of a long term land use vision – for example, retained landscape, biodiversity, lower infrastructure costs, reduced motorised travel, etc. under a more compact pattern of development enforced, say, via an urban growth boundary versus foregone housing development opportunities in greenfield locations in the near term.

Figure 1: Five pillars of metropolitan planning

5 pillars of metropolitan planning

Settlement in the landscape

Respect and minimise impacts on the landscape and ecological systems - ecological sustainability is paramount, particularly in the face of climate change and threats to biodiversity. Trees, natural areas and water should be integrated into urban areas as part of a network of 'green and blue infrastructure'. Sensitively planning *with* and *for* Country – respecting the Aboriginal approach to stewardship and care of soils, plants and water over thousands of years - is at the heart of this understanding of settlement in the landscape.

Strong economic and employment clusters

Employment and economic activity clusters and concentrations are major determinants of a city's 'structure'. As destinations for work, shopping and leisure, they provide a focus for transport planning. Employment is best clustered and located in centres to maximise accessibility to residents and workers, and benefit from 'agglomeration' (that is, from business competition and collaboration). Industrial and employment land areas need to be provided for the trades, urban services, storage, manufacturing, and freight functions which are crucial to the economy and the functioning of cities.

Transport in support of connected and compact cities

The transport network, and the travel behaviours and patterns it enables, aligned with planning for employment and housing growth, underpins the achievement of a desired urban structure – in Melbourne's case a multi-centred, compact and sustainable city. An integrated land use and transport strategy is required, focussed on minimising trips and trip lengths, maximising the use of public transport or non-car-based modes for routine and leisure trips, efficient business-to- business movement for commercial vehicles and minimised and low-impact local private car-based travel. Effective transport planning, and the

[3] https://www.thecie.com.au/publications-archive/costs-and-benefits-of-alternative-growth-paths-for-sydney
[4] https://www.infrastructurevictoria.com.au/resources/choosing-victorias-future

incentives and penalties 'in the system', will also drive sustainable changes in travel behaviour and support the transition to less polluting modes such as public transport and electric vehicles.

Housing choice, affordability, and sustainable neighbourhoods

Over the past 50 years, planning for new housing in Melbourne has centred on developing new suburbs on the fringe of the city, dominated by detached family housing dependent on car ownership and use. But housing markets and preferences are changing, reflecting changing patterns of employment, changing demographics, reduced home ownership and housing affordability and new patterns of working. At the same time, outward growth is recognised as less sustainable and more costly for society. The challenge of building more housing in the established areas – 'going up as well as out' – is now a major focus of metropolitan and settlement planning. Planning for housing growth needs to balance a range of objectives: delivering greater housing choice, improving affordability outcomes, and creating sustainable neighbourhoods. More sophisticated and design-conscious approaches are required to demonstrate how increased density can leverage higher amenity outcomes.

Infrastructure for resilient communities

Accommodating growth and creating new housing requires investment in local community infrastructure, delivered at the right time, to support resilient communities. Community infrastructure is both 'hard' infrastructure (community facilities) and 'soft' infrastructure (community services and programs). Local governments have largely been tasked with financing the delivery, servicing, and management of local community infrastructure. However, increasing financial pressures are impacting their ability to increase their asset capacity, as well as renew and maintain existing assets. These financial pressures are a result of a range of outcomes such as rate capping, increased delivery responsibilities, increasing infrastructure costs, increasing service demands, market failure, and increasing community expectations. Councils face a financial and planning challenge of providing new or upgraded infrastructure in both infill and greenfield growth contexts, but also in providing backlog or vital support services and infrastructure to communities experiencing social and economic disadvantage.

1.2 Regulatory system considerations

The application of the three principles in the PC interim report flows from, or is contingent on, the (quality of these) macro planning settings. Both the exceptions to the 'adopt a build mindset' principle from a location and form of development perspective, and the application of the 'only regulate where necessary' principle will draw from macro-planning directions and aims where reflected in state planning controls and reflected in local planning schemes (ultimately approved by state government).

The reports for the MAV cover other aspects addressed by the PC in the 'Plan delivery and system efficiency' section, and these are particularly relevant to the 'coordinate with infrastructure' and 'keep the process simple' principles. They expand and sometimes go beyond the framing in the PC interim report.

SGS's MAV reports note that[5]:

> A reform agenda to enhance plan delivery and establish a responsive system can be identified in four key areas, as follows:
>
> **1. Governance** – how can responsibilities for implementing planning aims and strategies be allocated and strengthened?
>
> **2. Regulation** – how can the system to regulate land use and development be improved in line with metropolitan, regional and place planning aims?
>
> **3. Infrastructure Funding** – are the means to raise funds for infrastructure to support planning aims 'fit for purpose'?
>
> **4. Resources** – what needs to change to ensure effective implementation and administration of the system?

1.3 Governance

Under **'Governance'** we note the challenges and issues (for metropolitan Melbourne at least) of:

- Fragmented responsibilities
- Poor communication between state and local government
- An insufficient metropolitan 'voice'
- Lack of system stewardship
- Integrity and governance concerns
- An opportunity to operationalise partnerships with Traditional Owners

In response, we suggest reforms are required to:

- Reinforce the critical role for local government in plan implementation and system stewardship.
- Establish a metropolitan planning, coordination and implementation vehicle.
- Re-boot Development Victoria [i.e. state land development agency] for orderly and innovative development in greenfield and infill areas, with a mandate to generate net community benefits (social, environmental and economic outcomes) over commercial returns.
- Establish Traditional Owners as equal partners in development and implementation.
- Commit to measurement of plan effectiveness.

PC recommendations for Australian Government engagement with the states on regulatory reform could include a focus on progress against directions of this type.

[5] SGS Economics and Planning (2023) *Shaping metropolitan Melbourne: A discussion paper* for the Municipal Association of Victoria, 21 December https://www.mav.asn.au/__data/assets/pdf_file/0019/35056/Shaping-regional-and-rural-Victoria-A-discussion-paper-SGS-and-MAV-21dec23.pdf

1.4 Regulation

Under '**Regulation**', our diagnosis of challenges and issues generally aligns with those in the PC interim report. And broadly speaking, our proposed reform responses are aligned. These are as follows.

Undertake a regulatory audit of the VPP [i.e. planning schemes] provisions for plan delivery and planning system efficiency,

This would have a focus on:

- Reviewing whether regulatory provisions reflect strategic intent
- Ensuring provisions accord with regulatory best practice
- Aligning the type of provisions with the complexity of matters
- Improve guidance for regular application types and high priority policy issues such as housing supply and climate change
- Aligning processing and assessment of applications with the most appropriate decision-maker.

Recognise councils as co-stewards of the planning system, including through structured stakeholder engagement and feedback in system reforms.

Provide more structure and rigour to the way variations to discretionary provisions are considered and assessed through VPP [*i.e. planning schemes*] reform and guidance documents

To accompany these directions, we prepared a 'best practice planning system design' framework as reproduced in Figure 2[6].

[6] This framework built on work in PIA (2023) Better Places, Better Housing Planning Reform Position Paper, https://www.planning.org.au/resource?resource=142 as well as Rowley, Stephen, *The Victorian Planning System: Practice, Problems, and Prospects* Second Edition, Federation Press, 2023

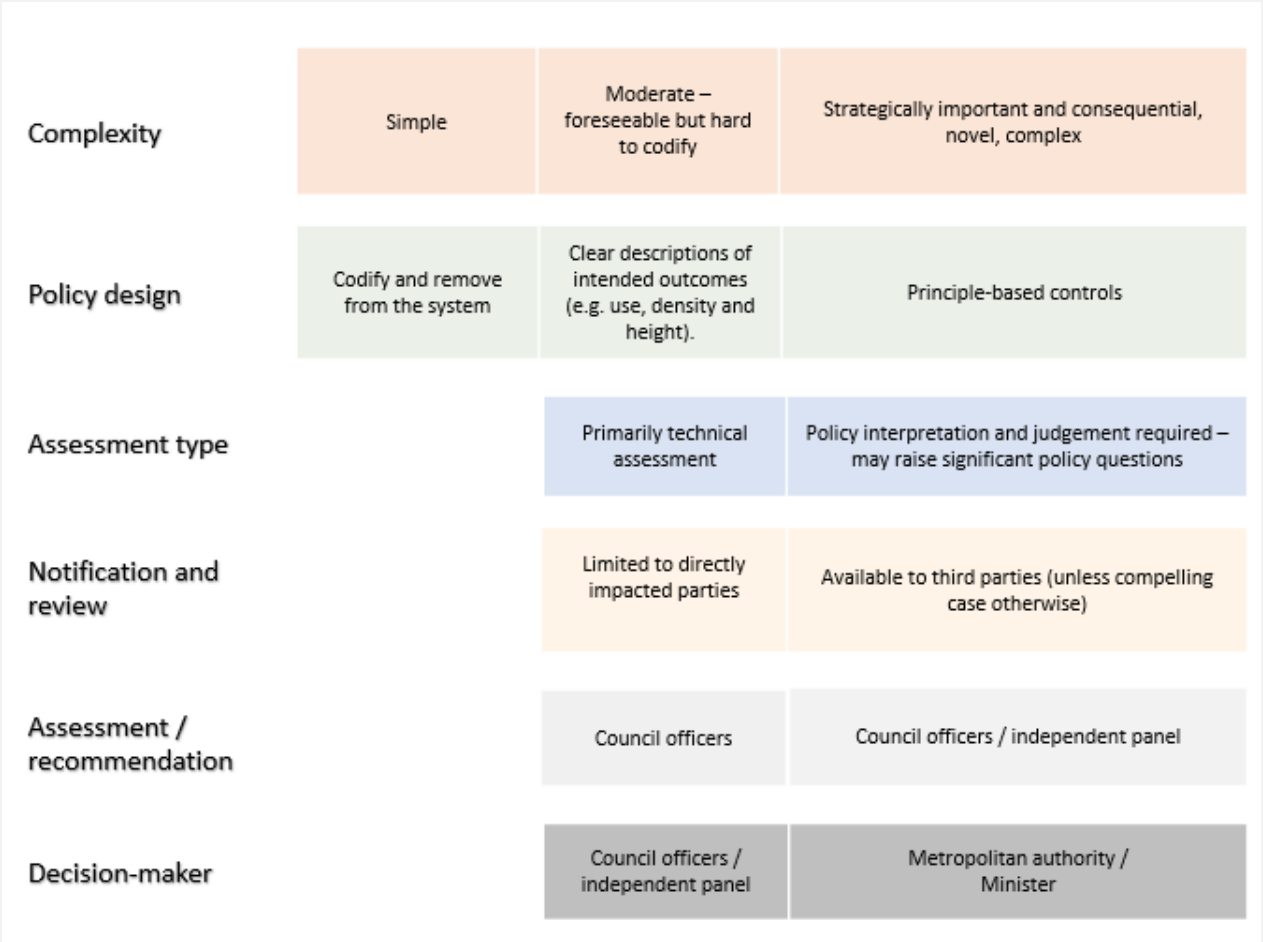
Figure 2: Best Practice Planning System Design

There is a need for a realignment of the planning system to provide more clarity in the management of the system and to ensure that responsibilities are vested with the most appropriate body at all levels of the system.

Alongside this, the provisions themselves need comprehensive review to ensure that planning schemes are providing clear guidance and proportionate assessment pathways.

The following diagram illustrates how some of these regulatory design principles can be aligned with appropriate governance arrangements in the development assessment system.

ALIGNMENT OF RESPONSIBILITIES AND SYSTEM RESPONSES IN THE PLANNING SYSTEM



This framework conceives of applications within a spectrum of increasing impact and risk, and associated assessment complexity. This can approximately be divided into three categories: low impact applications that raise few or no genuine planning issues; the common applications requiring assessment, but which raise known or foreseeable issues; and more strategically complex or novel applications. This seeks to embed the following principles of system design.

The system should be targeted to where it adds value

At the level of policy and scheme design, the system should aim to remove the simple applications from the system wherever possible, by better targeting the system to define acceptable outcomes and remove permit requirements.

The system should give clear answers to common dilemmas

Common applications are less likely to be removed from the system, but schemes should aim to give as much clarity about intended outcomes as possible, for example through detailed descriptive policy or form-based codes (a density measure such as Floor Area Ratio, a core element in all planning controls in NSW, could be considered).

The system should provide a principles-based framework for novel matters

For complex applications, there is less likely to be clear policy guidance, and the principles-based guidance of the Planning Policy Framework becomes more important to guide first-principles strategically driven decisions. (The Victorian system is currently well-attuned to this kind of application).

Assessment pathways should align with risk, importance, and complexity

Assessment pathways should follow from the above scheme settings. Simple applications ideally will not require assessment. Planning judgement will be required for the common applications, although this should primarily involve assessment against codes and guidance formalised in the scheme. The complex and novel applications require more first-principles policy judgement and strategic decision-making.

Notice and review rights are an important part of the system

Notice and review rights have long been embedded in the Victorian system and play an important role in maintaining the system's democratic accountability and integrity. These rights should not be removed or traded as part of fast-tracking exercises. Instead, the extent of third-party involvement should flow from the importance of the matter.

The decision-maker should align with the importance and impact of decisions

The choice of decision-maker should follow in a logical manner from this framework. Councils should remain central to the processing of applications, with the bulk of common applications processed at officer level. More significant applications can then be elevated to councillor decision-making. It is appropriate for the Minister to make decisions on matters of genuine state significance, with a genuine role for input and support from councils.

Elected decision-makers should always respond to independent and publicly available reasons

The IBAC Operation Sandon report advocated for independent planning panels to make decisions in response to concerns about councillor conduct. The Victorian Auditor-General has previously expressed concern about governance of Ministerial decision-making, particularly with regard to the reasons provided for decisions (as the Minister does not typically provide or respond to a publicly available assessment). This model responds to these findings by adding a role for a metropolitan authority – which would include council representation – to prepare reports with publicly available recommendations to underpin council and Ministerial decision-making. There may also be scope for some decisions to be made by the authority itself.

In general terms, this approach to best practice system decision-making suggests:

- 'codifying' (and removing from the system) low impact and 'simple' proposals
- a 'middle tier' of proposals which require some technical but not political level decision making, likely involving selected engagement with directly affected parties (a genuine merit based performance assessment system would reside here)
- a tier for complex proposals requiring the application of policy discretion with expert officer level advice, third party notifications (and appeals) and transparent political decision-making.

The PC interim report emphasises the use of 'fast-track' pathways to assess simple developments, and this is consistent with the above decision-making schema. In its final report, the PC could give greater attention to the middle and complex tiers of proposals, including clear guidance on how a performance-based regulatory system would apply in practice and advise on how jurisdictions might be incentivised to move towards these models.

Effective regulation would feature both measurable performance outcomes plus a set of default deemed-to-comply standards where proponents choose not to offer their own solutions to meet the required outcomes, or where their proposals do not meet these outcomes.

The PC interim report discusses referral processes. Drawing on SGS's consulting experience in this area, we make three observations:

- Clearly, referral processes should be subject to enhanced coordination and continuous improvement.
- We note that the investment priorities of water authorities are critical; their infrastructure scheduling can determine the default approval or sequencing for new development.
- Over-centralisation adds to delays. As far as possible, and subject to the resources being available, the place planning and referrals should be devolved to the locality and region where the expertise resides, and the issues are best understood.

We would caution against any 'short cuts' regarding referrals that compromise safety and quality. It is difficult to significantly reduce the average time taken to generate the evidence that supports decision making on multiple and complex issues for major new developments.

Having said that, our earlier emphasis on metropolitan or regional scale strategic planning is relevant here. We strongly support the PC's expressed support for minimising site-by-site assessments through upfront strategic planning. Rather than suggesting highly prescriptive residential zoning and density outcomes, as the PC interim report does, for example, with the reform idea of default three-storey development across most residential land, it would do better to emphasise the need for improved strategic planning and suggesting incentives for state action in this area, including as mentioned earlier techniques for weighing up trade-offs and costs and benefits. This would develop the evidence base for and support the application of all four of the PC's interim report best practice principles (including informing the optimal distribution of development capacity).

1.5 Infrastructure and infrastructure funding

We note the PC interim report emphasises 'housing-enabling' infrastructure rather than what has been called strategic or city-shaping infrastructure[7] (principally major transport infrastructure that shifts accessibility patterns and contours). In the report for MAV, SGS addresses these types of infrastructure across the five planning pillars.

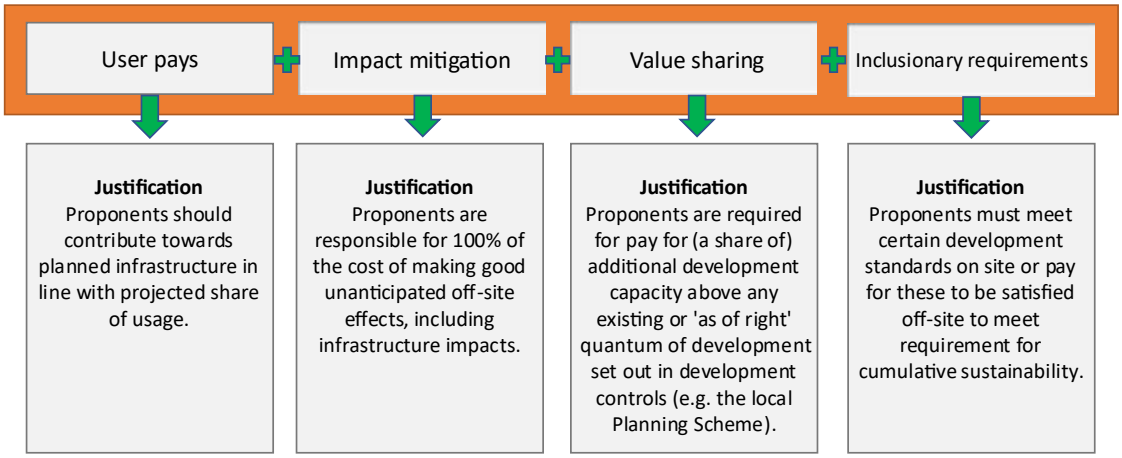
A significant concern with widespread up-zoning is the risk of establishing too many potential development fronts for infrastructure planning and funding. These risks are likely to be borne by the community where infrastructure provision is at odds with efficient sequencing, in the absence of compensatory mechanisms. This raises multiple questions, including whether available development capacity should be kept within the bounds of current infrastructure supply capacity, how limitations in fiscal capacity of local governments and other infrastructure providers should be treated, and whether more capacity should be made available under planning schemes provided proponents are prepared to fully compensate infrastructure providers for additional capital and running costs (assuming these can be quantified and are readily attributable)?

We address local **Infrastructure Funding** in the Plan Delivery and System Efficiency section of the MAV reports.

Here we note that:

> A fit-for-purpose infrastructure funding system is vital, particularly for local councils who are at the front line of supporting growth.
>
> SGS has long advocated that development contributions in general fall into one of four mutually exclusive and additive categories, as shown in Figure 3.

Figure 3: Four frames of Development Contributions



[7] Australian Transport Assessment and Planning **6. Strategic or city shaping infrastructure** https://www.atap.gov.au/framework/integrated-transport-land-use-planning/6-Strategic-or-city-shaping-infrastructure

We note that the Productivity Commission's commentary on development contributions in its Interim Report is limited to infrastructure costs apportioned on projected share of usage, that is, contributions premised on a notional user pays model (the first of the four frames above). Three other mutually exclusive and additive circumstances under which a proponent might be reasonably required to make cash or in kind contributions include:

- **Impact mitigation**, where a proponent is required to meet the costs of infrastructure impacts or demand which could not have been anticipated and built into user pays development contribution regimes
- **Inclusionary requirements**, where a proponent pays for off-site provision of certain features and facilities which might otherwise be required to be provided on site as part of the development, such as public open space, parking and stormwater retention infrastructure
- A **value capture** charge or development licence fee which would take a share of the residual uplift in land value as discussed above.

The PC makes some references to inclusionary requirements for affordable housing, including suggesting approaching this 'with caution'. Caution may be set aside if these are effected via a low, universal and readily discoverable inclusionary requirement (similar to public open space contributions operated in many jurisdictions), apply to all development, not just residential, and replace the ad hoc and opportunistic affordable housing requirements which have proliferated through planning schemes with regrettable adverse effects on the efficiency of the approvals process and therefore housing supply.

A good example of the preferred approach is provided by the City West Affordable Housing Scheme now administered by the City of Sydney[8]. This has been in operation for more than three decades and has generated a substantial local permanent stock of social and affordable housing without evident distortionary effects on market housing supply.

'**Impact mitigation'** contributions are not mentioned in the PC interim report and, surprisingly, nor is **'value capture'** (or what SGS has often described as a development licence fee). This latter oversight misses a prerequisite for the design of efficient regulation, which is a clear understanding of how property rights are distributed across market agents.

In contrast to several OECD comparators, including the USA, development rights in Australia are largely reserved by the State. They are not a presumptive right of the incumbent land owner.

This means that development rights are State or community property in much the same way as mineral resources, water resources, fisheries, State forests and the like. In the ACT, the fact that the government owns the development rights is starkly evident by virtue of the Territory's leasehold land system. Holders of planning permits must separately pay what amounts to a licence fee to have the terms of their leases changed to accommodate the approved development. The licence fee is set at 75% of the uplift in land value associated with the change in lease terms.

[8] City of Sydney affordable housing program, 24 November 2023, https://www.cityofsydney.nsw.gov.au/affordable-housing-contributions/city-of-sydney-affordable-housing-program

The same allocation of property rights applies in other jurisdictions notwithstanding the prevalence of freehold land tenure systems. State may at their complete discretion alter the terms of land use and development without compensating land owners, subject to existing use rights and limited statutory exceptions such as land reserved for public purposes. Compensable development rights generally exist only where these have been granted to a land owner through the planning permit process.

Outside of the ACT, the allocation of development rights does not attract a systematic and consistent licence fee. This is detrimental to housing supply and to efficient urban development generally.

In the absence of a transparent charge, planning authorities may seek to secure a de facto licence fee (or a 'community benefit' as it is often framed) for planning approvals through development assessment provisions that are overly complex or open to negotiation. This adds delays and risk to the approval process, especially for larger developments.

In addition, land owners may seek to extract some of the rent associated with prospective allocation of development permits, leading to land withholding in the housing development process.

Introduction of a consistent development licence fee in place of negotiated agreements and unnecessarily burdensome or inconsistent development contribution obligations would improve housing market efficiency.

Resourcing

The final delivery and system efficiency area that our MAV reports address is the question of system **resourcing**. Here we focus on the financial sustainability gap in local government in Victoria and the planning staff shortage, both of which impact effective system operations – and enforcing and monitoring quality and liveability outcomes related to planning which is critical to the social licence for development - and for the competitiveness of our cities.

In the MAV report we recommend the following 'new directions':

- Remove rate capping for enhanced fiscal independence of local government.
- Provide targeted funding for planning scheme amendment work undertaken by local government.
- Work with local government to prepare a workforce plan for strategic and statutory planners.

These resourcing questions may be outside the scope of the PC's work, though the rate capping issue is material and intersects with the effectiveness of infrastructure funding mechanisms, particularly in relation to upgrades and the share of infrastructure not typically covered by development contributions only aligned to proportionate shares of usage.

1.6 Conclusion

In summary, a best-practice regulatory system for housing must be grounded in long-term metropolitan and/or regional planning that integrates housing and employment growth with transport, infrastructure, environmental stewardship and community resilience. These strategic settings should guide where and how development occurs, provide the evidence base for proportionate regulation, and enable transparent assessment of cumulative impacts and trade-offs. The Productivity Commission should therefore consider giving greater prominence to strategic planning in its final report and providing practical guidance on cost-benefit analysis for alternative settlement patterns, including the long-term benefits of compact development and the infrastructure, environmental and social costs of dispersed growth.

Within that framework, drawing on SGS's work for MAV, we suggest that a coordinated reform agenda needs to cover governance, regulation, infrastructure funding and system resourcing. Priorities include:

- clearer responsibilities and stronger state–local coordination
- recognition of councils and Traditional Owners as system partners
- regulatory audits that align controls, assessment pathways and decision-makers with risk, impact and complexity
- clearer performance-based rules for common applications while retaining appropriate notice, review and transparent accountability for complex proposals
- better coordinated referrals and infrastructure sequencing.

The Commission should also recognise the full range of legitimate development contributions—including user-pays, impact-mitigation, inclusionary and value-capture mechanisms. We also note the need for fit-for-purpose funding and workforce arrangements so that planning authorities can implement reforms effectively without compromising safety, quality or net community benefit.

2. Accounting for the marginal benefits of regulatory reform

The extent to which planning regulation influences housing supply and prices has been the subject of a considerable debate, although the differing perspectives are largely overlooked in the PC interim report.

2.1 Planning deregulation perspective on housing supply

This emergent 'orthodox' perspective in the debate argues that planning regulation and the resulting capacity for housing have a significant influence on the rate at which housing is supplied and therefore house prices (e.g. Kendall and Tulip, 2018; Greenaway-McGrevy and Phillips, 2022; Coates et al., 2025). To make housing more affordable the solution, therefore (according to this literature), is the removal of planning barriers, which will result in higher rates of housing supply, more housing per capita, lower rents and lower house prices. The PC's interim report is strongly aligned with this perspective.

The basis in economic theory for this perspective is that a larger supply of viable development sites would put downward pressure on the price of land for development. Lowering the price of land will expand the supply of feasible sites and increase housing development.

The common targets for planning deregulation include zoning restrictions on multi-dwelling housing, height limits, density controls, heritage protections, setback requirements, car parking standards and neighbourhood character provisions.

2.2 Alternative perspectives

It must, however, be acknowledged that the planning deregulation perspective has attracted numerous critics and a range of alternative perspectives that question the degree to which removing planning regulation will affect housing supply and price and suggest deregulation also has costs (e.g. Helm, 2023; Louie et al., 2025, Magliozzi and Werfel, 2026; Murray and Phibbs, 2023; Phibbs and Gurran, 2021).

A common thread through many of these alternative contributions is the claim that high house prices are the result of broader economic drivers: rising incomes, low interest rates, easy access to credit, and increases in demand in major cities where supply is less elastic. They argue this combination of macroeconomic trends provides a better explanation for the significant growth in real house prices across the OECD despite different planning systems and restrictions.

Some of this work also argues that high house prices largely reflect the risks and returns from housing relative to other assets, rather than a pure failure of supply. On this view, although high prices present significant barriers to lower-income households or new entrants to the housing market, this problem reflects a divergence between incomes and asset prices for some

households – and growing inequality – but not an inherent flaw in the planning system or the housing market.

Another unifying thread through this work is that the suggested outcomes of planning deregulation are oversold: the effects are smaller, slower, more uneven and harder to achieve than advocates claim. For this reason, this literature has been described as either 'supply sceptical' or 'supply realist' (Damiano, 2025).

Advocates of this counter-perspective claim that the rate at which new housing is produced is a function of broader market dynamics: demand (incomes, demographics, etc.), interest rates, access to credit and option value of delayed development.

2.3 Real options

The last point applies a real options framing to landowners' decisions about the optimal time to develop land. From a real options perspective, every parcel of undeveloped (or underdeveloped) land provides an option to develop now (an irreversible decision) or to wait until some point in the future when the profits of redevelopment might be higher. The decision to develop land in the near term is not only contingent on development being feasible, but rather on whether it will also be more profitable to do so than in the future. Viewed in this way, withholding land that could be feasibly developed is a rational response to preserve the option to develop in the future when the profits might be higher, permitted densities might increase, or there is less competition from other housing projects. As all landowners are faced with the same incentives, the result is a quasi-monopolistic market behaviour that ensures the rate of housing production is limited to an equilibrium housing market 'absorption rate': the rate at which developers and landowners choose to supply new housing into the market over time to maximise current and future profits (Murray, 2022).

2.4 Will increasing zoned capacity increase housing supply?

Many commentators argue that whether rezoned land is actually built on depends on a range of factors including market demand, lot sizes, amenity, timing, finance, construction capacity (see below) and so on. International studies of the effect of rezoning on housing supply report mixed local results that depend on context (Freemark, 2023; Su et al., 2026). Freemark's meta-analysis of studies of the impact of zoning changes on housing supply and prices found mixed evidence, concluding that:

> *"upzonings offer mixed success in terms of housing production, reduced costs, and social integration in impacted neighborhoods; outcomes depend on market demand, local context, housing types, and timing."*

Gallagher's (2026) study of rezoning in Brisbane found low-demand upzoned sites may never be developed. Anstey (2025) argues that Auckland's apparent success relied on conditions Australian cities lack: decades of suppressed townhouse building, tight greenfield constraints, and temporary tax incentives for new builds.

There is also significant emerging commentary from the development industry in Australia about the need for a focus on other settings and investment to support actual housing delivery to increase the rate of housing supply[9].

2.5 Impact of demand and inequality

A study by Louie et al. (2025) found that across US cities, income growth was a better predictor of price, quantity and population growth, regardless of the estimated supply elasticity. A subsequent paper (Louie et al., 2026) adds that income growth drives prices while population growth drives supply. Papers by Buchholz et al. (2026) and Rodríguez-Pose and Storper (2020) attribute declining affordability to uneven demand caused by inequality and the geography of jobs and wages.

2.6 Construction industry capacity is a binding constraint in Australia

Work by Melles (2026) claims that the ceiling in the construction industry is roughly 180,000–195,000 dwelling completions a year nationally, set by limits on materials, workforce and finance. His work concludes that housing production would fall short of the Housing Accord Target by 23–27% regardless of planning reform.

Recent research by RMIT also suggests that there are significant challenges within the construction industry to increasing productivity. Sharam et al. (2026) describe construction as a 'system-of-systems' and posit that changes to isolated parts of the system will not produce more housing: "Reform needs to focus on the system level. Blaming individual factors, like the planning system, is the biggest myth we need to quash" (Sharam quoted in AHURI, 2026).

2.7 Is there consensus on the planning deregulation perspective?

Given the lack of consensus concerning the impact of planning changes on housing supply, it is notable that the planning deregulation perspective has been so influential with governments in the Anglosphere. A recent review of the literature on housing supply categorised the different perspectives on this topic as a spectrum (see Figure 4) (Sunderji, 2026). At one end of the spectrum is literature that finds regulation is the main determinant of supply and the reason for high house prices. At the other end of the spectrum is literature that emphasises the role of inequality and demand-side factors, including the dynamic investment perspective. The review demonstrates how evidence for the effects of planning regulation on housing supply and price is equivocal.

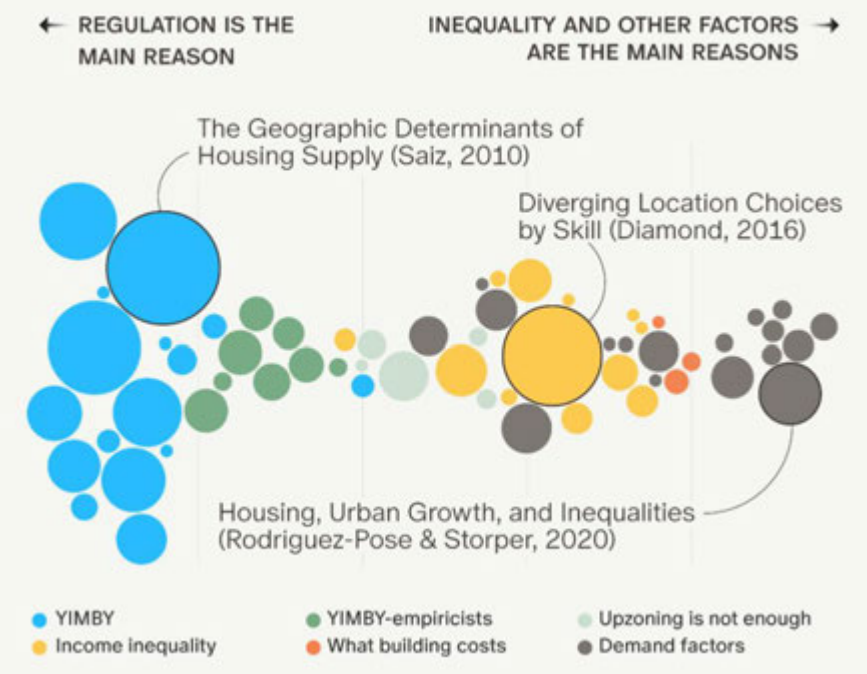
The deregulation perspective is also the most widely cited. The size of the circles in the figure reflects the number of citations for each contribution, and the literature on categories such as

[9] In the introduction to its recent paper on *Revitalising Victoria's Priority Precincts* the Property Council of Australia notes that 'the challenge now facing Victoria is not simply planning for growth. The challenge is delivering it and this includes understanding why substantial public investment and enabling planning frameworks have not resulted in significant development delivery.' See https://www.propertycouncil.com.au/submissions/revitalising-victorias-priority-precincts-making-planned-growth-deliverable-2

'YIMBY literature' – on the far left of the spectrum – is much more frequently cited than the literature throughout the rest of the spectrum.

Although there is empirical evidence from particular cities and contexts that planning changes have increased housing supply, there is also evidence to suggest it would be unwise to conclude that planning is universally a constraint on housing supply. Nonetheless, many governments have tended to adopt policy positions that overlook the fact that the evidence is both contingent and contested.

Figure 4: Major housing papers, coloured by ideology, sized by citations



Source: Sunderji, A. (2026) 'Is Solving the Housing Crisis Really Simple?'

2.8 Conclusion

Perhaps the principal finding from a scan of the wider alternative literature not covered in detail in the PC interim report is that relative and discretionary income changes and differentials, affected by real income shifts, interest rates and taxation settings which affect demand side and price-setting behaviours, plus the 'real options' theory, may have a greater impact on supply and relative affordability than regulatory reforms. The current housing value and price falls in Australia[10] are an indication of this.

This is not to deny the need for housing regulations that are efficient and responsive. A competitive and productive housing construction sector is a key prerequisite for responsive housing supply. And the PC has been commissioned to review housing regulations and their

[10] For example, https://www.theguardian.com/australia-news/2026/oct/22/house-prices-fall-sydney-melbourne-perth-brisbane-adelaide-hobart-darwin

impact on supply, not taxation or other demand side factors that affect housing supply responsiveness.

But it does suggest that the PC's recommendations, if effected in regulatory reforms, need to be supported by evidence that their marginal benefits are greater than marginal costs. Some of the reform directions, as currently described, rest on limited evidence of net benefit, for example the recommendation for widespread three storey rezoning and the challenges to heritage overlays referencing selective evidence[11].

We are not convinced that development capacity in Australian cities is as constrained as the interim report implies. Development potential that requires a permit, even where it is not 'deemed to comply', is still development potential. We recognise that discretionary pathways add time, cost and risk, but treating development assessed in this way as zero capacity is likely to understate existing capacity and overstate the additional supply that deregulation might unlock. SGS has years of experience in advising councils on the extent of capacity in their planning controls, including feasible capacity. Through that work, we rarely if ever encounter a short term capacity constraint, though we typically advise that a 15–20 year capacity 'buffer' be provided through amendments to planning controls if this doesn't exist. We would be pleased to share examples with the Commission. Capacity is continually added through both cyclical council-led rezonings, prompted by government requirements for planning scheme reviews, and opportunistic developer-led rezonings between cycles.

Widespread villa and townhouse infill development is already possible and expanding in many residential zones across Melbourne, Sydney and Brisbane, for example. These mature Australian cities have had different development trajectories and have different and likely more responsive planning systems to the often cited Auckland, until recent changes to its Unitary Plan. Melbourne, Sydney and Brisbane have a longer experience of accommodating infill development in the form of attached and apartment housing typologies, notwithstanding the recent increase in Auckland. The marginal increases in infill supply contingent on the reforms that have been implemented or might be implemented following the PC interim report recommendations are likely constrained given the extent planning systems in the largest Australian cities have already evolved.

In our view, the PC interim report doesn't sufficiently demonstrate an understanding of the costs of widespread deregulation of planning systems. There is an assumption that such costs will be modest, or overwhelmed by the benefits, but this needs more evidence and justification.

This raises the general issue of cost benefit analysis within Australia's planning systems. While the principle of applying a net welfare test to proposed restrictions on supply capacity is clear enough, planning practice in Australia typically lacks rigorous and consistent cost benefit analysis to appraise net community benefit. In this sense planning regulation diverges from standard regulatory impact assessment that is typically required in other spheres of public policy.

The Productivity Commission could usefully provide clear guidance on both the content and process by which new planning rules might be tested for their net impact on welfare.

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[11] See Spiller, M. and Lesh, J. (2026) The economics of heritage laws and housing supply, Sourceable, 25th May, https://sourceable.net/the-economics-of-heritage-laws-and-housing-supply/

In this context, it would be particularly helpful if the Commission could provide empirical, Australian based, evidence regarding the extent to which marginal reductions, or increases, in supply capacity that lead to a net diminution or net increase in housing supply. As we have noted, a wider scan of research literature reveals a range of views and that cited by the Productivity Commission is mostly based on international jurisdictions where planning controls may, or may not, be a more binding constraint on housing supply than in comparable Australian situations.

In addition to the earlier suggestion on elevating the importance of strategic planning in the regulatory system for housing, and establishing techniques for evaluating its net benefits, the Productivity Commission could provide guidance on the scope of the cost benefit analysis that should be applied when creating a planning scheme for example, what limits, if any, should be placed in a CBA on consideration of intangible welfare impacts such as those attaching to urban design quality and neighbourhood character, given the willingness to pay for such attributes amongst at least some in the community.

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