



URBAN DEVELOPMENT INSTITUTE OF AUSTRALIA (VICTORIA)

**SUBMISSION**

**TO THE**

**PRODUCTIVITY COMMISSION**

  

**PERFORMANCE BENCHMARKING**  
**OF AUSTRALIAN BUSINESS**  
**REGULATION**

# **1. Introduction**

The Urban Development Institute of Australia (Victoria) (UDIA Victoria) has reviewed Performance Benchmarking of Australian Business Regulation – Issues Paper and welcomes the opportunity to provide this Submission.

## **1.1 What is the UDIA?**

The Urban Development Institute of Australia (Victoria) is an independent association of private enterprise organisations directly involved in the production, financing and marketing of all facets of property development.

UDIA Victoria is:

- A forum for discussion of industry problems and objectives
- An active political lobbyist for industry causes and goals
- An active collator and disseminator of information and data relating to urban development
- A monitor of Government and Public Authority activities that affect urban development and the viability of the industry.

The Victorian Division is affiliated to the National Council of UDIA, which comprises all the State bodies. Through the national body, representations on national issues are made to Federal Government. At Federal and State level, the UDIA is represented on the Housing Advisory Council, the Indicative Planning Council and the Kindred Industries Association.

Our membership of over 270 organisations includes leading Victorian and national developers such as Delfin Lend Lease, Stockland, Australand, VicUrban, Peet Limited, Dennis Family Corporation and Mirvac, to name but a few.

### **Aims and Objectives**

The Institute endeavours:

- To achieve a viable and productive role for private enterprise land development
- To present a common point of view on matters of mutual and joint interest to government and public authorities
- To examine, comment, recommend and act on all phases of the development industry in the interest of the total community
- To provide a better statistical data base for the industry
- To secure a general acceptance of standards and principles conforming to requirements of good town planning, economic soundness, high ethics and public interest

- To arouse an understanding and appreciation of the role and contribution to the community of the urban land developer
- To maintain an ongoing dialogue with public authorities regarding the standards of development and the resulting cost of services
- To liaise with educational bodies such as tertiary institutions to ensure that students involved in urban studies gain an appreciation of the role of the land developer and the facts of the market place.

## **1.2 Submission Introduction**

This submission has been prepared by UDIA (Vic) in response to the Issues Paper prepared by the Productivity Commission to support its study on Performance Benchmarking of Australian Business Regulation.

We note the terms of reference as outlined on page three of the Issues Paper and the proposed timetable by which a discussion paper is intended to be released for public scrutiny.

Accordingly, this submission seeks to: -

- Identify the issues of foremost concern to UDIA members.
- Identify the ways in which we believe the current arrangements could be further improved to enhance their clarity and workability for all stakeholders;
- Present a clear set of recommendations.

## **1.3 Business Regulation**

Like most industry sectors in Australia, the urban development industry is increasingly concerned at the ever growing complexity and amount of regulation governing the operation of a business. This extends, but is not limited to, issues such as taxation and business reporting, corporate compliance obligations and other matters.

The UDIA Victoria records its concern with the burden of business regulation imposed by all tiers of government and encourages the adoption of best practice models to remove unnecessary red tape and regulation.

Whilst we record this issue as a matter of concern to our industry, and do not wish to understate the importance of reducing the general regulatory requirements in establishing and operation a business, this Submission will focus on regulatory matters specific to the land development industry.

## **2. The Land Development Industry**

### **Overview**

Our Submission provides a brief overview of the Land Development Industry in Victoria before examining in detail the factors that contribute to the final purchase price of land. We have structured the key factors impacting on land prices as follows:

- The Supply of Land – the manner in which government policy determines the available supply of land for residential development and the subsequent impacts this has on the eventual sale price to the consumer;
- The Cost of Land – the manner in which inefficiencies and cost imposts add to each stage of the land development process and the effect this has on the eventual selling price of land;
- The Demand for Land – the many factors that determine demand for housing including changing demographic trends, the state of the economy, interest rates, immigration and other social factors;

We define ‘Land Development’ as that activity related to the acquisition, planning, design, subdivision and construction of land to be made available to the consumer – for the construction of dwellings.

### **Victoria**

In general terms UDIA(Vic) believes the land development market is driven by market forces – as it should be. That said, the market while competitive, is also subject to tight regulative controls on the supply side, a number of volatile and often cyclical factors impacting on demand and ever increasing cost pressures, largely fuelled by cost shifting mechanisms employed by governments at all levels (typically in the form of levies and contributions) and by actual taxes and charges.

Land development in Victoria, as in most states of Australia, is a highly competitive and fragmented industry. While most of the major national developers are active in the Melbourne market there remains a significant localised element with an acute knowledge of the Victorian housing market.

The market is absent of a small number of dominant players though several public and private companies exhibit a financial strength beyond that of their competitors through their sheer size or diversification.

The industry is characterised by a number of companies, public and private, that can be regarded as professional land developers. Several of these companies supplement their land development activity with housing construction arms also.

Perhaps the most significant reordering of the housing industry over the past decade has been the relative decline in speculative building and the subsequent move to a 'build to order' based environment.

Land development has also taken on a largely unrecognised sophistication in the past decade with an emphasis on sustainability, water sensitive urban design, community based urban design and energy efficiency. While part of the reason for this has been the imposition of mandatory standards, developers are increasingly looking for an 'edge' in the marketing of new estates and have been willing to embrace a number of environmental sustainability measures that only a decade ago would have seemed unlikely.

Additionally lot yield from broad hectare residential development over the past decade has increased in the number of housing lots per hectare. This is in addition to the highly publicised explosion in inner city living based on medium and high density apartment developments, though it should be noted that inner city apartment growth, while significant, has grown from a relatively low base.

### **3. Land Supply and its implications**

Land supply is regulated by local and state governments, and a number of government agencies. Failure to provide an adequate supply of appropriately zoned land for land development will result in upward cost pressures as demand exceeds supply.

As a basic premise UDIA(Vic) has argued consistently over a long term period that to minimise inefficiencies and speculation in the land development industry it is necessary for there to be approximately 15 years supply of land identified for development.

This is based upon a presumption that 15 years supply provides an adequate range of options to companies seeking to build up a stock of land for future development. A supply of land of this duration also acts to remove artificial inflationary (speculative) pressures by providing certainty to what is often an uncertain market.

Of that land identified for development, the industry has maintained that approximately ten years stock should be appropriately zoned for residential development.

At the next level it is assumed that the industry requires approximately five years supply of developable land – that is, land that is serviced or at least will be serviced by infrastructure providers as development occurs. It is estimated that a five year supply of developable land can adequately cope with sudden or unexpected changes in demand.

Finally an industry stock of eighteen months to two years of completed stock (housing lots) on hand at a given point in time is generally considered to be a level that avoids the possibility of 'hotspots' and thus removes the prospect of 'panic buying' by consumers concerned at a possible lack of supply in their chosen location.

These timeframes serve to illustrate the importance of taking a long term view to land supply matters and, more importantly, the potential negative impact of price pressure at various points in the supply chain, should the smooth flow of land supply threaten to be interrupted.

### **Land supply and the Development Industry's approach to affordability**

As a broad statement on the issue of affordability, the land development industry is prepared to provide appropriately designed product (land) that will meet the demands of the market at competitive rates. As noted the residential development industry in the Melbourne market reflects a highly competitive industry with a significant number of players in the market. This ensures the buyer has a spread of competitive price driven buying opportunities provided there is also competition in the land supply industry.

The Melbourne market has been fortunate in the past, due in no small extent to industry action, that the continuance of strategy planning studies has set aside an adequate supply regime. This has been achieved through rezoning for future requirements on the basis that growth is not totally constrained to a minimum provision, but is left with a "safety valve" which allows for future development if other planned outcomes are not achieved. Without this safety valve approach it has been demonstrated elsewhere (both interstate and overseas) that land prices dramatically increase and affordability declines.

Availability is not only a matter of the land area available, or the availability of hydraulic services, but depends greatly on the land ownership pattern. This cannot be regulated for and, as such, there must be a sufficient area zoned to embrace a multiplicity of owners and the possibility of development on several fronts.

If the available land is left in the hands of the few, the whole growth process can falter in a particular area as a result of an owner taking a "no development" stance to improve prices. If this happens or for some other reason land is withheld, affordability will suffer.

### **Melbourne 2030**

The greater Melbourne metropolitan area accounts for 72% of Victoria's population. Consequently strategic planning policies for metropolitan Melbourne are pivotal to the development industry in Victoria.

The Bracks Government's Metropolitan Strategy 'Melbourne 2030' was released in October 2002.

Melbourne 2030 is an ambitious and complex document. At its core it sets out to contain Melbourne's outward growth by introducing an Urban Growth Boundary (UGB), substantially replacing future urban fringe development with urban consolidation initiatives in established areas. It does this by proposing to greatly increase development in specific 'established areas' – principally those based around public transport nodes, significant retail or commercial hubs and specialised centres of activity such as educational or scientific research precincts (Activity Centres).

### **The Urban Growth Boundary (UGB) and the perception of limited supply**

The construction of the Melbourne UGB blends the two traditional uses of an UGB. The first is to act as a permanent barrier to further urban growth and the second is to use the UGB as a management tool to control future broad hectare development in fringe areas.

The Melbourne UGB achieves this mix of objectives by erecting what appears likely to become a permanent boundary around most of the urban area while providing a 'dotted' or 'amendable' boundary adjacent to five designated growth areas. As Melbourne 2030 states, "outside the designated growth areas, the boundary will be set permanently following consultation on the implementation of Melbourne 2030" (page 61).

Melbourne 2030 contains a review mechanism aimed at retaining an adequate supply of land in the growth centres through extensions to the UGB. The review structure in the initial phase was, in the view of many industry players, unclear and consequently contributed to an industry perception of future land supply shortages.

It is this point that forms the crux of the development industry's key concern and appears to be the point least understood by proponents of the UGB.

*It is not necessary for an actual constraint on the supply of land to occur to create a rapid escalation in the wholesale price of land – all that is required is a perception that it may be the case.*

*The UGB has created that perception.*

In November 2005 the State Government announced amendments to the UGB providing substantial new areas of supply. It is imperative that land supply release be undertaken in the most transparent and open manner possible. It is to be hoped that the recently established Growth areas Authority will play an important role in achieving this outcome.

### **The Impact of Land Supply on the Home Buyer**

It is important to establish that the real burden of inefficiencies in the planning system, including that of unnecessarily tight land supply, is borne by the home buyer as land acquisition costs are factored into the final lot price of developed land in new estates.

## 4. The Cost of Land Development

Factors impacting on the variable and fixed costs of developing land include the following:

- Taxes – both commonwealth and state
- Levies – state and local
- Fees and charges – state and local
- Planning regulations and processing – the impact of the time taken to process planning applications on finance costs (eg. holding costs, bridging finance)
- Compliance costs associated with industry and governmental standards
- Cost of labour involved in land development (includes additional taxes, levies, regulatory costs as well as the impact of supply and demand factors)
- Cost of material used in land development (includes additional taxes, levies, regulatory costs as well as the impact of supply and demand factors associated with the manufacture of material)
- Cost of infrastructure provision (includes taxes, charges, regulatory costs as well as supply and demand factors associated with the compulsory provision of infrastructure)

Regulatory issues relating to the planning system are now explored in further detail.

### 4.1 The Planning System

#### Concept development and master planning

On acquiring a developable parcel of land a developer will complete a master plan. Depending on the scale of the proposed development a master plan may be largely consistent with the relevant council's strategic development framework for the area.

Prior to formal planning application, concept planning includes investigation of the following matters, most of which require the engagement of specialised consultants and extensive liaison with a wide variety of referral authorities:

- Floodline
- Water courses
- Archaeological studies including indigenous community impact
- Heritage survey
- Flora and fauna studies
- Servicing strategies
- Contamination assessment



In respect to these matters the basic 'rule of thumb' is to expect the unexpected. Any obstacles that arise must be addressed and each will impact from a cost and time perspective.

As planning moves from a strategic (zoning, development plans) to a statutory level (planning permits and plan of subdivision certification) and design is approved the greater the level of certainty provided to the developer.

It is a general view however, that the overall strategic planning process of contains too many levels and stages adding to the cost of development.

### **Statutory planning**

UDIA (Vic) contends that the Victorian planning system contributes to delays and consequently the cost of land development.

The planning process is at times cumbersome and characterised by inefficiencies recognised by nearly all stakeholders involved in planning, yet genuine improvements to the process are rare\*.

\*We wish to record however genuine efforts made by way of the Red Tape Taskforce, an initiative of the Bracks Government to simplify the planning process. It is the development industry's view that the positive steps recommended by this taskforce and adopted by the state government should be seen the beginning of a more thorough review.

The planning process normally commences with pre application discussions (2-4 weeks – dependent on nature of the application).

Pre-application discussion are generally undertaken by the developer (the developer being anyone from a professional developer through to a home-renovator) in an effort to ensure planning requirements are clear and understood as early as possible in the process. They are an effort to minimise inefficiencies and confusion further into the planning process.

Even this is characterised by the following:

- Limited access to queries
- Advice provided is often subjective and represents the subjective view of the designated, and often inexperienced, planner
- Staff turnover amongst planners is alarmingly high
- There is widespread recognition for the need to train more planning professionals
- The designated planner's advice is frequently over-ruled or reversed by a more senior planning officer

The official part of the process begins with application lodgement (4-6 weeks).

However:

- There appears to be an inability to manage the process internally
- There is often little early assessment of the application for adequacy of information
- Consequently there are frequently late requests for additional information

Advertising (2-4 weeks) represents a mandatory part of the process, the period of which is governed by a statutory period.

Following advertising the responsible authority undertakes an assessment (4-6 weeks) of the proposed development.

This stage is often characterised by the processing of objections generated by the advertising period. The objection process often leads to a frustrating and time consuming period as the parties endeavour to resolve differences. It should be noted that:

- Objecting is free of charge and relatively easy
- The mediator in a planning dispute is frequently the Statutory Planner. While many have been trained in mediation, their core qualification is in planning not dispute resolution
- Objectors often do not understand the ramifications of the objection
- Planners rarely 'screen' the enquiries of potential objectors to comment on the validity of certain objections

The final stage in the planning process often leads developers to the Victorian Civil and Administrative Tribunal (VCAT) Appeals (3-6 months) in an effort to seek a resolution to unresolved issues in the planning application, or alternatively as a direct route of appeal in an effort to expedite the planning process.

In generating the information required to deal with matters on appeal the system is often further frustrated by:

- Council indifference
- Delays, due in part to slow responses by councils in providing information to VCAT
- Slow processing by VACT due to workload and the fact there is little incentive within VCAT to get decisions out quickly

It should be noted that local government admits to being under resourced with planners.

## **Engineering and standards**

The approval of engineering design represents a necessary, but at time frustrating, part of the development process for the developer.

UDIA (Vic) is increasingly concerned at the introduction of new and often expensive design and engineering standards often imposed without a true understanding of the broader costs to the community and the home buyer in particular.

Like most stages of land development there are unnecessary delays caused by inefficiencies in the relevant approval authorities. These are estimated to be adding 2 to 3 months to the overall engineering design and approval process.

UDIA (Vic) believes that while engineering and design standards should be regularly reviewed and amended if required, there is an increasing tendency by government (and their agencies) to 'over engineer' certain specifications in order to minimise what may be a minor risk to one party, but a significant cost to the wider community and to the home buyer in particular.

It is our view that prior to design standard changes a comprehensive and mandatory cost – benefit analysis should be undertaken taking into account not just the changed risk profile of the responsible authority but the true costs to the community at large.

## **External and indirect authority requirements**

There is a major issue with government funding of services and infrastructure as governments seek to increasingly transfer the capital cost of infrastructure to developers through 'developer contribution levies'.

We accept developer contributions for physical infrastructure on a proper basis (i.e. an appropriate share of the costs related to demand) and a contribution to community infrastructure. However the government must budget for broader infrastructure requirements and fund it through normal means. We query the equity contained in these policies whereby the new young homeowners pay for infrastructure that the rest of the community has had provided to them through taxes.

The following section relating to the imposition of taxes and charges on the production of residential lots was contained in a commissioned report for the UDIA Victoria, "Residential Land Development Industry in Victoria – assessment of Economic Benefits 2005" by Charter Keck Cramer. The full report is included as an attachment to this submission.

## 5. Taxation and Government Charges

Based upon the 2005 level of lot production and the direct employment it is conservatively estimated that there was the equivalent of \$965 million of revenue extracted directly from the activities of the Residential Land Development industry in the form of direct taxes and charges. These revenues and charges were distributed amongst Federal, State and Local governments.

The costs and charges were paid directly by the employees and employers / producers within the industry as well as purchasers of the serviced residential lots. It is identified that whilst a range of taxes and charges may be initially absorbed by Developers they ultimately become incorporated into the pricing structure of individual lots. The affordability of serviced lots for prospective purchasers may therefore become eroded with first home buyers being particularly affected.

It is estimated that 20.5% of the sale price of serviced residential lots was accounted for by the various government charges and taxes that must be borne by the developer. In 2005, these taxes and charges equated to an average of \$24,400 per lot.

It should be noted that the above analysis understates the likely actual result given that it was based upon the assumption that all residential lots were sold to owner-occupiers, rather than to other businesses such as home builders or investors. Given that a proportion of the annual lot production is sold to other businesses, there would be additional land taxes, company taxes and other holding charges payable than indicated in this analysis.

**Table 1: Aggregate value of taxes and charges from Residential Land Development industry– Victoria (2005)**

<b>Tax / Charge</b>	<b>Payable By</b>	<b>Payable To</b>	<b>Annual Cost (\$M)</b>
<b>From Direct Employment</b>			
Personal Income Taxes	Employee	Federal	\$132.3
Payroll Tax	Employer	State	\$27.5
<i>Subtotal</i>			<i>\$159.8</i>
<b>From Development Process</b>			
Stamp duty of purchase of englobo parcel	Developer	State	\$51.8
Land tax on holding of holding englobo parcel	Developer	State	\$28.5
Council Rates on holding of englobo parcel	Developer	Local	\$86.0
Infrastructure / Authorities Charges and Levies* (mainly State)	Developer	State	\$158.1
GST on sale of lots	Developer	Federal	\$194.6
Corporate Taxes on Developers	Developer	Federal	\$146.1
Corporate Taxes on other direct industry participants	Other	Federal	\$35.4
<i>Subtotal</i>			<i>\$700.5</i>
<b>From Purchase of lots</b>			
Stamp duty on purchase of lots**	Purchaser	State	\$89.8
Council Rates on completed lots***	Purchaser	Local	\$11.4
Melbourne Water Drainage Charge (Metro only)***	Purchaser	State	\$3.8
<i>Subtotal</i>			<i>\$105.0</i>
<b>TOTAL</b>			<b>\$965.2</b>

\* Other Charges and Levies do not incorporate allowance for DCPs in Melbourne's Growth Areas announced in November 2005

\*\* does not assume adjustment for First Home Owners Grant (Federal) or First Home Bonus (State) which is payable upon commencement of construction on a new dwelling, not purchase of land

\*\*\* on-going annual charge

Furthermore, the above analysis is premised upon the prevailing situation in 2005 and therefore does not incorporate the proposed Developer Contribution Plan surcharge for new lots in Melbourne's Growth Areas (announced in November 2005) which may further reduce the affordability of new housing in residential estates as a choice for home buyers.

## 6. Recommendations

In concluding this Submission, UDIA (Vic) tables the following recommendations for the Productivity Commission to consider in tabling its final report. The following recommendations are regarded as practical and achievable, and capable of providing genuine benefits to home buyers generally:

- A formal review of the nation's Planning Systems with a view to streamlining the processes, eliminating inefficiencies and unnecessary delays;

- Establishing national benchmarks for the supply of residential land including a formal recognition of the importance of land supply to housing affordability.
- That the Commonwealth and State Governments remain mindful of distortions in the markets (and society) generally caused by the high concentration of population in the two largest cities.

In this sense UDIA(Vic) encourages policies that are supportive of regional growth, though mindful that such policy must be managed in an efficient and astute manner

- Clarification of the Commonwealth's responsibilities in the provision of public housing through the Commonwealth – State Housing Agreement.
- A review of design and engineering standards applied to land and housing development and the introduction of mandatory cost-benefit analyses applied on a holistic basis to all future proposed changes in required standards.
- The establishment of a public comparative report identifying construction costs on a state by state (or capital city) basis
- The introduction of land tax exemptions on the holding of land for future development – this being the only example of tax applied to an industry's core stock in trade.
- GST exemptions on the supply of infrastructure
- Permanent and guaranteed Commonwealth funding for the Development Assessment Forum (DAF) to encourage the adoption of best practice and, where possible, uniform standards and practices between the states and territories.

Chris McNeill  
Policy Director  
29 September 2006

***Attachments:***

- a) *Residential Land Development in Victoria – Assessment of Economic Benefits (2005) : Charter Keck Cramer*
- b) *The 2006 UDIA State of the Land (UDIA National Land Supply Study and Consultation Paper for a National “Cities of the future” Strategy*