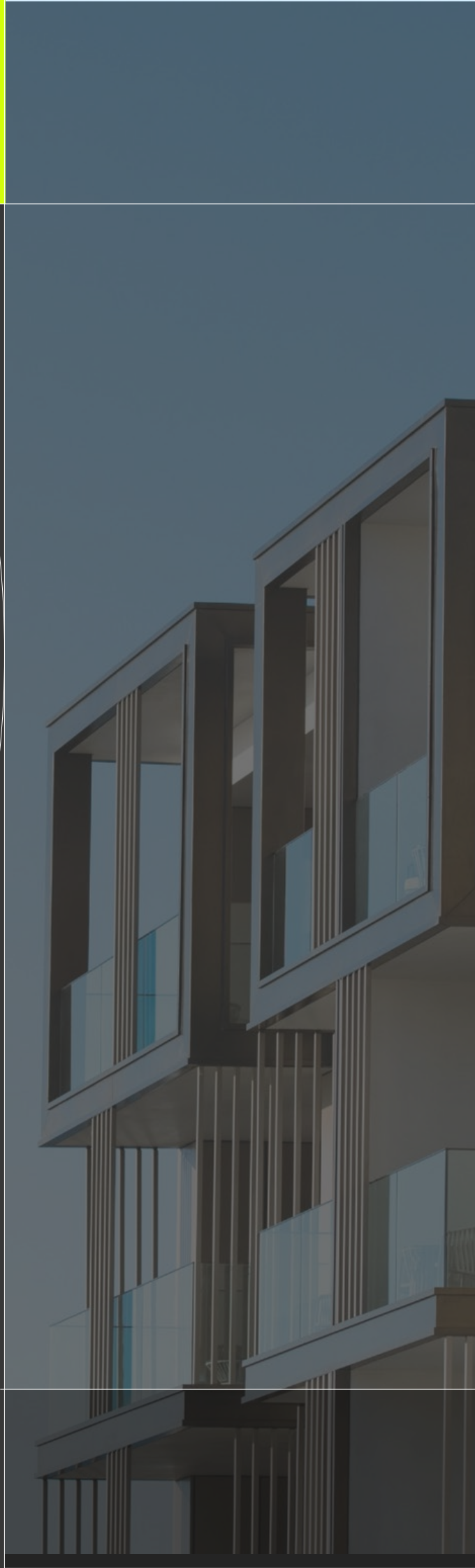
BCA
Business Council of Australia

Housing supply regulation: Interim report

Submission to the Productivity Commission

September 2026



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This submission addresses key issues highlighted by the BCA, including:

1. Key recommendations

Recommendation 1.

Adopt the proposed reform directions from the interim report in full.

Recommendation 2.

With no one state having a perfect planning system, best practice approaches from across Australia should be adopted by each state and territory.

Recommendation 3.

Planning systems should use consistent statewide zones, definitions and assessment requirements. There should also be a state-determined proponent-led rezoning pathway in every jurisdiction that can proceed in parallel with development assessment where appropriate.

Recommendation 4.

While development applications are an important component, the efficiency of the full approval process, from rezoning through to occupation certificate, should be examined and transparently reported against.

Recommendation 5.

Where statutory approval timeframes are exceeded, proponents should be able to trigger a decision, obtain deemed approval for suitable code-assessable development, or transfer the matter to another decision-maker.

Recommendation 6.

Community consultation should focus on material, evidence-based impacts and be proportionate to development risk. Code-compliant development should not be subject to merits objections, and decision-makers should consider the interests of future residents and the benefits of additional housing.

Recommendation 7.

Approval and certification systems should be construction-method-neutral and recognise national certification of prefabricated and modular components, avoiding repeated assessment across jurisdictions.

Recommendation 8.

The Federal Government should expand and double down on funding via the National Productivity Fund, linked to independently verified regulatory reforms and housing outcomes. State governments should reward strong council performance and intervene where councils persistently fail to meet their statutory responsibilities.

Recommendation 9.

The Federal Government should amend the New Home Bonus incentive program to link it to interim milestones to allow funding to flow to states and territories for investment in infrastructure during the Accord period, rather than at the back end of the program. This would better align funding with infrastructure need.

Recommendation 10.

The reforms to the EPBC Act should be supported by transparent and comprehensive reporting by the National EPA and Federal Government, to confirm whether they are achieving intended outcomes.

Recommendation 11.

The Productivity Commission should encourage the finalisation of bilateral assessment and decision agreements between the Federal Government and states and territories to remove the duplication between the EPBC Act and state environment laws.

Recommendation 12.

Coordinated strategic infrastructure and land use planning should be best practice. However, the lack of proper planning should not be an excuse to delay or defer decision making on new housing approvals.

Recommendation 13.

The combined impact of developer contributions and related costs should be considered, rather than individual charges. The interim report's proposed approach around nexus and timing of contributions is supported.

Recommendation 14.

Mandatory affordable housing requirements should be avoided for private developments. Voluntary schemes that provide a clear and predictable development benefit sufficient to offset the requirement should instead be encouraged.

2. Introduction

The Business Council of Australia has been a strong proponent of measures to promote housing supply. Our members are the CEOs of Australia's leading companies from across the economy. One of the six major challenges we have identified to pull Australia into the top ten countries for global investment is tackling the housing crisis. We recognise that for Australia to be a successful and prosperous society, people need housing that they can afford, that is close to job opportunities, community amenities, and their family and friends.

Over the last few years, we have released policy reports that have examined this issue in detail. *Housing Australia's Talent (2023)* made the point that without reasonably priced and suitable housing, the nation risks driving away the best talent, limiting our economic growth, and ultimately putting the nation's future prosperity at risk. The subsequent *It's time to say yes to housing (2024)* laid out 29 recommendations for governments to advance the housing supply agenda. Annually, the BCA has been tracking the performance of the nation's planning systems at state and territory level through our *Regulation Rumble* rankings.

We back many of the measures being undertaken by Federal and state governments directed at delivering new supply. That includes the National Housing Accord target of 1.2 million homes, and reforms to planning systems that aim to increase zoned capacity and drive improved planning system performance.

The BCA fundamentally agrees with the Productivity Commission's interim report, and **we back every reform direction proposed by the Commission**:

- Allow up to 3-storey developments across most residential land.
- Allow mid-rise or high-rise apartments in high-demand areas.
- Reduce or remove minimum lot size requirements.
- Allow residential development in commercial zones, unless there is a clear rationale for excluding it.
- Review, reduce and remove land-use controls that reduce commercial feasibility and do not adhere to best practice principles.
- Relax or remove built-form controls that limit flexibility and choice for households.
- Consider infrastructure requirements and trade-offs associated with development early through strategic planning.
- Expand the use of fast-track pathways to assess simple developments.
- Use state-significant pathways to approve developments with a clear need for state-led assessment.
- Improve housing approval assessments with better coordination of referrals, improved use of technology including AI, and transparent reporting.
- Coordinate strategic planning for infrastructure with housing objectives.
- Improve infrastructure sequencing with housing development.
- Ensure developer contributions reflect the accurate cost of providing infrastructure.
- Enhance design of developer contribution frameworks towards best practice.

Governments should adopt every one of these as a priority to advance the delivery of new housing supply.

Recommendation 1.

Adopt the proposed reform directions from the interim report in full.

3. Features of the regulatory systems

The overarching objective and the four best practice principles identified in the interim report of 'a build mindset', 'only regulating where necessary', 'coordinating with infrastructure', and 'keeping the process simple' are sensible and supported by the BCA.

The BCA has been using a framework developed with planning professionals as part of our Regulation Rumble annual evaluation of planning systems. This system is used to rank planning systems against each other, and while it considers the system from the perspective of establishing a business (that is, it is not solely housing focused), it highlights the qualities that developers value. Specifically, it prioritises the ability for a developer to have the information to make an investment decision and develop a complying application, and have the confidence that the approval system will then deal with the application quickly, fairly, and without unanticipated variation.

The four elements are:

- **Efficiency**: exemplified by the time taken to receive an approval. This includes the time taken for development applications, construction approvals (post-DA), and rezonings.
- **Consistency**: standardised planning instruments and consistency of zones between councils in the same state, and the amount and complexity of documentation across a particular jurisdiction.
- **Certainty**: clear timeframes for decisions, limits on the ability to stop assessments and request further information, streamlined delegations for decisions, clear development contribution requirements.
- **Transparency**: clear digital systems to facilitate lodgement and tracking of application status for individual applicants, together with granular system-wide performance reporting.

Over the past three years South Australia has come out as the best performing jurisdiction in our ranking, although no single jurisdiction is best in every element. The BCA has called out key elements as good practice including:

- A centralised and consolidated planning code approach which delivers consistency across the state (South Australia).
- Deemed approvals for simple applications, where delays from council result in an automatic approval (Queensland).
- Centralised referral agency, where input from across governments into an application is managed centrally (Queensland, recently adopted by NSW).
- Open data and clear performance benchmarking of individual councils (NSW).
- Clear statutory timeframes across the development process to ensure timely decision making (Tasmania).
- State-significant processes to elevate decisions from council to state government (NSW, Western Australia).
- Large-scale rezoning to facilitate more housing capacity across priority areas with existing infrastructure (Victoria, NSW).
- Clear limits on 'stop the clock' provisions that allow assessors to seek additional information while pausing the development assessment process (Queensland).

Recommendation 2.

With no one state having a perfect planning system, best practice approaches from across Australia should be adopted by each state and territory.

4. Regulation's impact on feasibility and capacity

There are a broad range of regulatory requirements that impose design constraints on new housing. These range from the National Construction Code at a national level (implemented via the states and territories), to apartment design guides that specify things like room sizes, to local planning controls that restrict height and specify floor space ratio limits, and other add-ons such as art requirements and design competitions.

Land use controls that restrict the height and dimensions of a building will clearly impact the number of new dwellings that are able to be built on a site. Appropriate heights are an important part of achieving feasibility, particularly in areas that have high land costs. This allows the cost of the land to be divided into more dwellings. The NSW Productivity Commission previously identified the lowest-cost apartment height as 15 storeys[1], while the RBA identified 20 storeys as the efficient building height[2].

Rezoning of land around existing infrastructure is also the more affordable option for governments, with work from Infrastructure Victoria finding that building new infrastructure to service greenfield developments can be up to four times more expensive than adapting infrastructure in existing suburbs to cater for growth[3]. For developers these costs often materialise as higher infrastructure contributions charges, as well as charges to fund utility connections and trunk infrastructure.

This is why zoning changes driven by governments such as activity centres in Victoria or the Transport Oriented Development program in NSW are so important, as is having proponent-initiated rezoning processes that are efficient and effective.

Zoning should operate within a more consistent statewide framework. Common zones, definitions and assessment requirements can reduce unnecessary local variation, while a state-determined proponent-led rezoning pathway with appropriate statutory timeframes can allow suitable proposals to progress in parallel with development assessment.

Recommendation 3.

Planning systems should use consistent statewide zones, definitions and assessment requirements. There should also be a state-determined proponent-led rezoning pathway in every jurisdiction that can proceed in parallel with development assessment where appropriate.

Other design requirements impact feasibility by imposing constraints on the design of a building, reducing the number of homes that can be built, as well as through cost increases that introduce requirements that may not be valued by a customer but still generate a higher cost for delivery.

For example, apartment design rules can particularly impact buildings to be built on small or irregular sites. One BCA member has told us that they have assessed new apartment design requirements proposed in Victoria against one example project with around 475 apartments. The new requirements would see the loss of 335 apartments or 70 per cent, and a 40 per cent increase in the cost of each apartment.

Clearly, if a project is already close to the minimum return required by investors and lenders, an additional cost means it does not proceed.

[1] NSW Productivity Commission, Building more homes where people want to live, May 2023.
[2] Reserve Bank of Australia, RDP 2020-04: The Apartment Shortage, August 2020.
[3] Infrastructure Victoria, Our Home Choices, March 2023.

5. Approval delay

Efficient planning systems are vital to proponents. Delays can mean more interest on finance, land tax and council rates, insurance premiums, security, utilities, and professional-service costs. They also delay sale or rental income, leaving funds tied up that could otherwise fund another project. Delays also leave the development exposed to further construction cost increases.

The message that the BCA has heard from members is that the entire approval process, from inception to occupation, needs to be in focus, not solely the development application. That includes:

- Any rezoning process that is needed.
- Development application approvals.
- Construction permitting and post-development application consent processes.
- Occupancy certificate approvals.

Delays can be driven by factors such as deferred lodgements to prevent an application entering the system (and therefore being counted as under assessment), requests for additional information that stop assessment clocks, government referrals for comment from other agencies (such as transport, environment, and rural fire services), significant post-approval conditions that need to be satisfied before construction can start, and external appeals processes and challenges. Many of the best practice proposals identified earlier seek to address these: statutory timeframes, limits on information requests, centralised referrals management, and deemed approvals pathways have been identified. These must be part of a broader culture of supporting new homes being delivered (as the Commission has suggested, a 'build mindset') and must be clearly measured and tracked with accountability to decision-making authorities. The timeframes considered need to include the actual time taken, not solely the 'assessment clock' time that can exclude elements of the process.

Recommendation 4.

While development applications are an important component, the efficiency of the full approval process, from rezoning through to occupation certificate, should be examined and transparently reported against.

Transparent reporting should be supported by enforceable consequences. Once a statutory timeframe is exceeded, a proponent should be able to require a decision, obtain deemed approval for suitable code-assessable development, or have the matter transferred to another decision-maker.

Community consultation and third-party appeal rights should be proportionate to development risk and focused on material, evidence-based impacts and the interaction of the development with rules for the site. Code-compliant development should not be exposed to merits objections, and decision-makers should give appropriate weight to the interests of future residents and the broader benefits of additional housing.

Approval and certification systems should also be construction-method-neutral. National certification of prefabricated and modular components should be recognised across jurisdictions so that equivalent products and processes are not repeatedly assessed, with the national certification scheme that is currently proposed moving ahead into implementation.

Recommendation 5.

Where statutory approval timeframes are exceeded, proponents should be able to trigger a decision, obtain deemed approval for suitable code-assessable development, or transfer the matter to another decision-maker.

Recommendation 6.

Community consultation should focus on material, evidence-based impacts and be proportionate to development risk. Code-compliant development should not be subject to merits objections, and decision-makers should consider the interests of future residents and the benefits of additional housing.

Recommendation 7.

Approval and certification systems should be construction-method-neutral and recognise national certification of prefabricated and modular components, avoiding repeated assessment across jurisdictions.

6. Reform efficacy

There has been a broad and extensive range of reforms across the country since the agreement to the National Housing Accord. These include reforms to planning legislation, new coordination bodies, changes to planning schemes and approval pathways, and continued rollouts of up-zonings.

The anecdotal feedback from BCA members is that these changes are largely positive, and should be encouraged.

Many large developments can take several years to progress from investment decision through delivery to completion. With reforms still in the very early stages of being rolled out or still to be brought online, and this potentially lengthy timeframe for developments, it is understandable that the fruits of these reforms are only just beginning to become apparent.

The transparent reporting of progress against delivery timeframes is needed to make sure that reforms are delivering their intended outcomes.

Implementation should be supported by incentives, drawing on the National Productivity Fund. Australian Government funding should be linked to measurable and independently verified regulatory reforms and housing outcomes, including delivery of agreed reforms, commercially feasible housing capacity, end-to-end approval times, and dwelling commencements and completions. The Fund is already being leveraged in this way, and this should be expanded.

State governments should apply a similar approach to councils. Strong performance should be rewarded, while persistent failure to meet statutory responsibilities should lead to escalation, additional support and, where necessary, transfer of assessment or decision-making functions.

Recommendation 8.

The Federal Government should expand and double down on funding via the National Productivity Fund, linked to independently verified regulatory reforms and housing outcomes. State governments should reward strong council performance and intervene where councils persistently fail to meet their statutory responsibilities.

Additionally, the Federal Government has put $3 billion in incentive funding on the table as part of the 'New Home Bonus'. This funding is to reward states that exceed their target under the Housing Accord. The BCA supports this incentive funding but suggests that a more meaningful structure would see payments against interim milestones, that provide funding during the Accord period to allow additional infrastructure to be built as housing is delivered, rather than the current back-ended structure. This would allow for better coordination between new housing and infrastructure investment, while still rewarding those states and territories that are doing their part to build homes. We recognise that the Federal Government does have other programs that assist in housing-linked infrastructure provision, but restructuring the $3 billion fund could add meaningfully to these existing programs.

Recommendation 9.

The Federal Government should amend the New Home Bonus incentive program to link it to interim milestones to allow funding to flow to states and territories for investment in infrastructure during the Accord period, rather than at the back end of the program. This would better align funding with infrastructure need.

The Federal Government has just made major changes to the Environment Protection and Biodiversity Conservation (EPBC) Act. These include a new streamlined pathway that could be used by housing developers

and reworking of the framework that allows for states and territories to undertake Federal EPBC assessment as part of their own planning and environment processes. The new approval regime is due to commence by 1 December 2026. The BCA supports an EPBC Act that delivers improved efficiency while at the same time improving environmental protections. At this stage, the jury is still out on whether the reforms will deliver these outcomes. Close monitoring of the performance of the system will be necessary, and to facilitate that, the Federal Government and the new National Environment Protection Agency (EPA) must be transparent in publishing timeframes for project assessment and approvals. Ideally, this would consider whether appropriate levels of information are being required of proponents upfront, and the number of additional information requests post-submission, together with their timing impact on the overall assessment. This should be paired with appropriate measures of environmental outcomes, to confirm that the legislation is delivering on its environmental purpose.

Recommendation 10.

The reforms to the EPBC Act should be supported by transparent and comprehensive reporting by the National EPA and Federal Government, to confirm whether they are achieving intended outcomes.

As part of the reforms to the EPBC Act, the Federal Government has committed to working with the state and territories to enter into bilateral assessment and decision making agreements under the revised Act. The intention is to remove the duplication of Federal and state environmental approval processes for proponents. The agreements struck will need to be in line with the new National Environmental Standards to ensure that there is no reduction in environmental protections.

The BCA sees these agreements as central to delivering the promised efficiency gains for the EPBC Act. The Productivity Commission should encourage the finalisation of these agreements as soon as practical, so that this regulatory improvement can take effect.

Recommendation 11.

The Productivity Commission should encourage the finalisation of bilateral assessment and decision agreements between the Federal Government and states and territories to remove the duplication between the EPBC Act and state environment laws.

7. Housing and infrastructure

Strategic planning for housing and land use is best undertaken in conjunction with strategic planning for infrastructure. This ensures that major government investment is planned and sequenced in a way that supports housing supply, and conversely infrastructure is delivered that has a viable user base and can scale over time to match and service the community as it grows.

While this is the ideal scenario, it is also important that essential housing supply is not paused while governments attempt to determine their infrastructure plans. Poor planning today by governments should not be allowed to be an excuse for delayed action tomorrow.

Strategic plans, while ideally above politics, are by their nature political documents. That means they can contain infrastructure and housing plans that are dictated by the government of the day, and can change if there is a change in government. While the Productivity Commission should support the optimal approach, in some circumstances perfect coordination will not always be possible, and housing supply should still be able to proceed.

Recommendation 12.

Coordinated strategic infrastructure and land use planning should be best practice. However, the lack of proper planning should not be an excuse to delay or defer decision making on new housing approvals.

7.1 Developer contributions

New housing should contribute its fair share of funding to the infrastructure that is required to support it. It should not be seen as a cash cow or as a means to pay for broader infrastructure that should actually be funded via general tax revenue or user charges. Timing for payment of contributions should also be better aligned to project cashflows, so that the impact on project feasibility is reduced.

In some states there is a multi-layered approach to developer charges, which can include:

- Local council levied infrastructure contributions.
- Broad regional or state government-levied infrastructure contributions.
- Additional area-specific infrastructure contributions levied by the state.
- Targeted funding imposts such as for open space or art.
- Additional 'voluntary' planning agreements that may be negotiated to receive consent.

These are in addition to other taxes and charges levied on developments, as well as 'inclusionary zoning' costs. While individual charges may be reasonable and manageable when viewed in isolation, the combined result of the layering of charges can have a significant detrimental effect on project feasibility.

Mandatory affordable housing requirements on private projects should be avoided given the cumulative government-imposed burden. Voluntary schemes should be used that provide for a clear and predictable development benefit sufficient to offset the requirement.

A clear and direct nexus between the housing development and infrastructure charges should be established. The charges should be transparent, simple, and clear upfront, but levied at a point that supports feasibility of the housing development. The Productivity Commission's proposed reform directions in the interim report sensibly capture this issue.

Federal Government funding provides an opportunity to supplement developer, local, and state government funds when appropriately targeted to infrastructure that supports new housing supply. This could come in many forms, including:

- grants to state governments for projects that have explicit and direct links to support for new housing;
- support for infrastructure investment tied to marginal housing projects that would otherwise not proceed if full development charges were levied; and
- zero-interest bridging financing to allow for local governments to proceed with infrastructure investment in advance of developer contributions that have been retimed to match completion or occupation rather than upfront payment.

Recommendation 13.

The combined impact of developer contributions and related costs should be considered, rather than individual charges. The interim report's proposed approach around nexus and timing of contributions is supported.

Recommendation 14.

Mandatory affordable housing requirements should be avoided for private developments. Voluntary schemes that provide a clear and predictable development benefit sufficient to offset the requirement should instead be encouraged.

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