



FINAL REPORT

Reform of the NSW planning system

Better Regulation Statement

*Prepared for
NSW Planning and Infrastructure
October 2013*

The Centre for International Economics is a private economic research agency that provides professional, independent and timely analysis of international and domestic events and policies.

The CIE's professional staff arrange, undertake and publish commissioned economic research and analysis for industry, corporations, governments, international agencies and individuals.

© Centre for International Economics 2013

This work is copyright. Individuals, agencies and corporations wishing to reproduce this material should contact the Centre for International Economics at one of the following addresses.

CANBERRA

Centre for International Economics
Ground Floor, 11 Lancaster Place
Majura Park
Canberra ACT 2609

GPO Box 2203
Canberra ACT Australia 2601

Telephone +61 2 6245 7800
Facsimile +61 2 6245 7888
Email cie@TheCIE.com.au
Website www.TheCIE.com.au

SYDNEY

Centre for International Economics
Suite 1, Level 16, 1 York Street
Sydney NSW 2000

GPO Box 397
Sydney NSW Australia 2001

Telephone +61 2 9250 0800
Facsimile +61 2 9250 0888
Email ciesyd@TheCIE.com.au
Website www.TheCIE.com.au

DISCLAIMER

While The CIE endeavours to provide reliable analysis and believes the material it presents is accurate, it will not be liable for any party acting on such information.

Contents

Executive summary	1
Reforming planning is a key part of making NSW number one	1
There is considerable evidence of problems with the current planning system	2
Options for improving the NSW planning system	4
Assessment of options	5
Implementation of reforms	8
Review and evaluation	8
2 Context	9
The role of the planning system in the NSW economy	9
Leading practice principles for planning reform	9
Developing a new planning system for NSW	10
Transformative changes to the NSW planning system	11
The Better Regulation Statement	12
3 The case for government action and its objectives	14
The need for government action on its planning system	14
Stated objectives of government action to change planning	20
4 What does a good planning system look like?	25
Defining leading practice and successful planning	25
Criteria for a good planning system	27
5 Assessment of options for planning regulation	36
Coverage of assessment	36
Options for government intervention in planning	37
Summary of assessment	41
The current NSW planning system (option 1)	42
The planning system proposed in the White Paper (option 2)	44
Planning Bills presented to Parliament	48
Assessment of variations to the White Paper reforms	50
Implementation risks	56
6 Assessment of options for building regulation	57
Options for building regulation	57
Changes to building regulation outlined in the White Paper	60
7 Review and evaluation	62
Review of the legislation	62

Strategic planning framework, planning policies and plans	62
DETAILED ASSESSMENT OF OPTIONS	65
8 Do options meet the principles of a good planning system?	67
Do options meet leading practice?	67
Performance of other alternative options against leading practice	83
9 Do options address problems identified in the existing system?	86
10 Types of benefits and costs from NSW planning reforms	89
11 Economic gains from improving the NSW planning system	90
A top-down approach comparing NSW to the rest of Australia	90
Bottom-up approach to estimating potential economic gains	94
Key points	104
12 Benefits and costs of White Paper option	105
How far will the White Paper reforms go to achieving the potential economic gains?	105
Environmental and amenity impacts from reforms	111
Government costs from reforms	111
Net benefits and economic impacts of reforms	114
Risks to implementation	115
13 Benefits and costs of Bills presented to Parliament	118
Environmental and amenity impacts from Bills presented to Parliament option	121
Government costs of Bills presented to Parliament option	121
Net benefit and economic impacts of the Bill presented to Parliament	121
14 Benefits and costs of other options for the NSW planning system	123
Community consultation	123
Strategic planning	124
Development assessment	125
Infrastructure	126
15 Detailed assessment of changes to the building system	127
Size and nature of problems with existing building regulation	127
Potential impact of the proposed building reforms	134
ATTACHMENTS	137
A The CIE Model	139
B Leading practice components	142

BOXES, CHARTS AND TABLES

1	Issues raised by the community	5
2	Assessment of proposed options	7
2.1	Changes proposed to planning effort in the White Paper	12
2.2	Principles of Better Regulation	13
3.1	Business views on the performance of state planning systems	17
3.2	Tracing the problems of the current NSW planning system	20
3.3	Measures of objectives	22
4.1	Productivity Commission leading practice principles	25
4.2	COAG criteria for Capital City Strategic Planning Systems	26
4.3	Grattan Institute necessary and peripheral elements of success	27
5.1	Components of the proposed planning system	37
5.2	Taxonomy of types of government intervention	38
5.3	Issues raised by the community	40
5.4	Options considered for regulation of the planning system	40
5.5	Summary of assessment of proposed options	42
5.6	Planning effort	50
8.1	Performance of current system, White Paper Option and Bills presented to Parliament option against leading practice principles	67
8.2	Assessment of early resolution of land use and coordination issues	69
8.3	Assessment of community engagement	71
8.4	Assessment of broad and simplified development controls	72
8.5	Assessment of infrastructure charging rules	75
8.6	Assessment of development assessment and rezoning	78
8.7	Approval times for different value development	80
8.8	Assessment of disciplines on timeframes	81
8.9	Assessment of transparency and accountability	82
8.10	Performance of variation in reforms against leading practice	83
9.1	Do the changes proposed in the White Paper address current problems?	86
9.2	Do the changes proposed in the Bills presented to Parliament address current problems?	87
9.3	Do variations in proposed changes address current problems?	88
10.1	Benefits and costs from changes to the NSW planning system	89
11.1	Housing completions in NSW and the rest of Australia	92
11.2	Causes of slow development in Sydney	93
11.3	Development approval tracks in NSW	95
11.4	Use of complying development across council areas	95
11.5	Cost impacts associated with parts of the NSW planning system	96
11.6	The costs of excessive risk	98
11.7	Average lot size and land value change 2001 to 2011	100
11.8	Relative importance of manufacturing and financial services	100

11.9 Economic value from alternative land use patterns in Sydney	101
11.10 Secondary dwellings	103
11.11 Bottom-up estimates of potential gains from improved planning	104
12.1 Thornton North development area case study	106
12.2 Changes in risk from White Paper reforms	107
12.3 Impacts of Vancouver's strategic planning focus	109
12.4 Value of land use change under alternative timelines	110
12.5 Costs arising from poor planning for infrastructure	112
12.6 Changes to the costs of strategic planning for White Paper option	113
12.7 Timelines for achieving benefits	115
12.8 Benefits and costs of White Paper option	115
12.9 Reforms to building standards	116
12.10 Reforms to road access	117
13.1 Avoided development costs from Bills presented to Parliament	119
13.2 Changes in risk from Bills presented to Parliament option	120
13.3 Benefits and costs of Bill presented to Parliament	121
14.1 Costs and benefits of community consultation on code assessment	123
14.2 Costs and benefits of changes to strategic planning	124
14.3 Costs and benefits of changes to development assessment	126
15.1 Home building complaints	129
15.2 Defects in strata schemes	129
15.3 Defects by type	130
15.4 Estimated costs of rectification in hypothetical situations	130
15.5 Hypothetical cost breakdown for a 20 unit scheme with 2 or 3 major defects	131
A.1 CIE-REGIONS industries/commodities and margin services	140
A.2 Federal and state taxes	141
B.1 Identified leading practice components	142

Executive summary

The New South Wales (NSW) Government is proposing new planning legislation to improve the integrity and performance of the planning system. This new legislation represents the first major overhaul of planning laws since the introduction of the *Environmental Planning and Assessment Act 1979* over 30 years ago. The new legislation comprises the *Planning Bill 2013* and *Planning Administration Bill 2013*. These Bills are enabling legislation to support the implementation of a new NSW planning system.¹

A Better Regulation Statement (BRS) is required for significant new and amending regulatory proposals. Its purpose is to analyse the regulatory proposal in accordance with Better Regulation Principles to justify the need for regulation.² This means that a BRS examines costs and benefits of alternative options and assesses if the regulatory proposal has a higher net benefit compared to other options.

The key regulatory changes examined in this BRS include:

- community participation – the introduction of upfront community participation undertaken together with strategic planning;
- strategic planning – the introduction of a clear hierarchy of strategic plans to link state regional, sub-regional and local planning;
- development assessment – the introduction of a new development track known as code assessment;
- infrastructure – improved links between growth and infrastructure and a new framework for infrastructure contributions; and
- building regulation – the retention and expansion of the building certification system.

Reforming planning is a key part of making NSW number one

Planning is a critical part of the NSW economy, society and environment. Over \$20 billion of potential economic activity passes through the planning system in a given year via the development assessment system.³ The planning system also influences the ongoing economic value of housing, mining, agriculture, manufacturing and services through the allocation of land for these uses.

¹ Detailed changes to subordinate legislation will be subject to a Regulation Impact Statement.

² NSW Better Regulation Office 2009, Guide to Better Regulation.

³ Development assessment statistics provided by NSW Planning, July 2013.

The reform of the NSW planning system is a strategic priority of Government and an important micro economic reform initiative. *NSW 2021: A Plan to Make NSW Number One* commits the Government to the following goals:

- place downward pressure on the cost of living, through using the planning system to deliver more housing
- increase the competitiveness of doing business in NSW, including reducing red tape associated with the planning system;
- build liveable centres; and
- restore confidence and integrity in the planning system.

To achieve these goals, the NSW Government has embarked on an extensive process to reform the NSW planning system. This began with an Independent Review in July 2011 to July 2012, led by The Hon Tim Moore and The Hon Ron Dyer. The Independent Review released *The way ahead for planning in NSW: Recommendations of the NSW planning system review*. Following this, the NSW Government released a Green Paper in July 2012, proposing major changes to the NSW planning system. In response to consultation, the Government subsequently released a White Paper in April 2013 along with draft planning legislation.

The consultation with the community, local councils, environmental groups, business and industry groups has led to:

- over 300 submissions received by the Independent Review prior to its Issues Paper and more than 500 submissions in response to its Issues Paper;
- more than 1500 submissions in response to the Green Paper and around 2000 people contributing their feedback and ideas through community and stakeholder workshops, practitioner forums and online discussions;
- close to 5000 submissions in response to the White Paper and over 2000 people attending the 40 White Paper discussion sessions and events.

This means that over this two-year period, some 7000 submissions have been received and over 5000 people have attended consultation forums. This extensive consultation represents an unprecedented level of community and stakeholder engagement to support the development of planning system reforms.

The NSW Government has modified the proposed changes to the planning system as a result of this process. The Bills presented to Parliament reflects changes proposed in the White Paper with some modifications as a result of community input.

There is considerable evidence of problems with the current planning system

- The planning system is not delivering good outcomes for NSW

- Housing completions in NSW have declined by 29 per cent since 1996, compared to a 21 per cent increase in housing completions in the rest of Australia.⁴ Over the past five years, NSW has produced 40 per cent less new dwellings than Victoria despite similar levels of population increase.
- Housing is least affordable in Sydney of all Australian capital cities and commercial rents are the second most expensive.⁵ This increases the cost of living for people in NSW and the cost of doing business.
- Businesses and residents do not trust the current NSW planning system
 - Residents of Sydney have the lowest agreement that the state is effective at planning of any city surveyed (at 14 per cent) and the second lowest that local government is effective at planning (15 per cent).⁶
 - Reflecting a distrust of planning, residents of Sydney are also the least agreeable to population growth. They are the most likely to note transport congestion and public transport crowding as reasons for not wanting population growth.⁷
 - NSW businesses have a more negative view of planning competence and the ease of doing business than those in Victoria and Queensland.⁸
- The planning system is overly complex and costly
 - NSW is noted for the complexity of its planning system, both legislative complexity and complexity for users, which increases time and financial costs for users.⁹
 - Even minor developments go through merit assessment processes unlike in other states, leading to higher costs for new development.¹⁰
- The planning system has not allowed NSW to respond to economic and demographic change.¹¹
 - The planning system has limited the response to changing preferences for higher density development, leading to lower supply of new housing and inefficient use of land

⁴ Australian Bureau of Statistics, Building Activity Australia, Catalogue No. 8752.0.

⁵ NSW Treasury 2012, Submission to NSW Planning system review.

⁶ Productivity Commission 2011, Performance benchmarking of Australian business regulation: Planning, zoning and development assessment, Research Report, p. XXXVIII.

⁷ Productivity Commission 2011, Performance benchmarking of Australian business regulation: Planning, zoning and development assessment, Research Report, p. 28.

⁸ Productivity Commission 2011, Performance benchmarking of Australian business regulation: Planning, zoning and development assessment, Research Report, p. 385.

⁹ Property Council 2013, *Planning gone mad: a story about the NSW planning system and how it drives applicants crazy*; Productivity Commission 2011, Performance benchmarking of Australian business regulation: Planning, zoning and development assessment, Research Report, p. 379.

¹⁰ NSW planning development assessment statistics; NSW Planning 2013, *A new planning system for NSW*, White Paper, p. 123.

¹¹ The CIE and ARUP 2012, *Costs and benefits of alternative growth scenarios for Sydney focusing on existing urban areas*, prepared for NSW Planning, p. 55

- The planning system has responded slowly to changes in the industrial structure of the NSW economy, leading to an inefficient use of land

Options for improving the NSW planning system

The NSW Government is seeking to change the current planning system to:

- realign and reprioritise its purpose with broader economic and social goals;
- set up robust, self-sustaining/evolving governance arrangements for planning based on community participation, strong evidence-based strategic planning principles and streamlined approval processes; and
- achieve a user-friendly planning system that is simpler in terms of reduced complexity, delays and red-tape and more certain and transparent in terms of its predictability to investors and the community

The options for addressing these objectives are:

- maintaining the current planning system (option 1)
- the planning system proposed in the White Paper (option 2, box 1)
- the planning system presented in the Bills to Parliament (option 3). This is based on the planning system proposed in the White Paper with the following major changes:
 - there will be no target for the share of development that is assessed through code and complying development. Code assessment will be applied to residential development only in nominated growth areas
 - the 35 zones in the current standard instrument will be retained instead of moving to broader zones identified in the White Paper
 - there will be a notification period for residential complying development of 14 days prior to determination and a notification period of 7 days prior to construction.
- variations to specific parts of the planning system proposed in the White Paper, which include:
 - changes to community consultation
 - ... allowing community consultation on code assessable development (4a)
 - ... not requiring community consultation on NSW Planning Policies (4b)
 - changes to strategic planning including:
 - ... reducing the levels and breadth of strategic planning (4c)
 - ... not enabling strategic planning in statute (4d)
 - Changes to the development assessment system including:
 - ... a lower target (40 per cent) for development that will be assessed through streamlined development tracks (complying and code assessable development) (4e);
 - ... no code assessable development track (4f)
 - ... implementing disciplines on time frames for development assessment as deemed-to-comply instead of deemed-to-be-refused (4g)

- Deferring collection of infrastructure contributions from the point at which a subdivision certificate is granted to the point of sale (4h)

The options considered include examination of a range of issues raised in stakeholder submissions (box 2).

This Better Regulation Statement also considers changes to building regulation. The changes made to current building regulation in the Bills are minimal — substantive changes to building regulations will be made through subordinate legislation. A detailed assessment of costs and benefits of alternative options for building regulations will therefore be undertaken in the Regulation Impact Statement that will support this subordinate legislation.

1 Issues raised by the community

The extensive community consultation process has raised a number of issues, many of which are related to details of implementation. The major issues identified from community responses to the White Paper are as follows.

- The view that the objects of the legislation should include the principles of ecologically sustainable development
- The role of community participation, with some arguing for a strengthening and some a weakening of statutory weight given to the Community Participation Charter, many arguing against reduced community participation for up to 80 per cent of development and for code development and a view that consultation should be required for Ministerial amendments to a local plan
- The place for heritage within the new planning system, including its place within a set of broad zones and approvals under a one stop shop.
- Limiting third party appeals and judicial reviews
- Implementation concerns including the level of resourcing, transitional issues, significant operational changes for councils and managing a process of cultural change

Assessment of options

Each option for the NSW planning system is assessed based on the following methods.

- How well does each option align with leading practice principles for planning system identified by the Productivity Commission, COAG Reform Council and Grattan Institute?
- How well does each option address the problems identified with the current NSW planning system?
- What are the quantified benefits and costs associated with each option, relative to maintaining the current NSW planning system?

A summary of the assessment of options using these methods is set out in table 3. The numbers in this table present only the low end of the range of benefits.

The assessment of the proposed changes for all options extends well beyond the changes to primary legislation, as set out in the Planning Bill 2013 and Planning Administration Bill 2013. This means that there are significant risks that the full implementation of the planning system will not match the changes put forward in the reforms to Parliament. In this case and where this leads to deviation from leading practice principles this would reduce the net benefits of the proposed changes to the planning system.

The Bills presented to Parliament

The Bills presented to Parliament (option 3) is a substantial improvement on the current planning system. This option:

- moves the NSW planning system closer to leading practice. Under the Planning Bill presented to Parliament, leading practice would be met in 33 of the 42 components identified. Leading practice would be partly met in another 6 areas. It would not be met in three cases;
- addresses 4 of the six major problems identified with the current NSW planning system and partly addresses the remaining two problems. It is likely to only partly address the community being involved at the wrong level of planning and the overly prescriptive and complex land use controls; and
- has estimated net benefits once fully implemented of \$569 to \$1035 million per year. After accounting for transition costs and time for implementation, *average* net benefits over the next 30 years are estimated at \$442 to \$811 million per year.

The net benefits once fully implemented are equivalent to a productivity change for the NSW economy of 0.1 per cent to 0.2 per cent. Using the CIE Regions economic model, we estimate that the changes would flow through to a longer-term increase in NSW Gross State Product of \$2 to \$3 billion per year.

The different methods used to assess the Bills presented to Parliament and other possible options give considerable confidence that the proposed changes will lead to substantial net benefits for NSW if fully implemented.

The preferred option

The preferred option is the changes proposed in the White Paper, plus an adjustment to specify development approval timelines as deemed-to-comply (option 4g). This option

- meets leading practice in 40 of the 42 categories assessed;
- addresses the 6 major problems identified as arising from the current NSW planning system; and
- has the highest net benefits to the community. The White Paper reforms have net benefits once fully implemented of \$848 to \$1482 million per year, over 40 per cent higher than the Bills presented to Parliament. After accounting for transition costs and time for implementation, average net benefits per year over the next 30 years from this

option are estimated at \$663 to \$1165 million. The adjustment to make timelines deemed-to-comply adds an additional \$26 million per year in benefits to the numbers discussed above — i.e. a low estimated of net benefits once fully implemented of \$874 million per year.

This option has the highest net benefits because it is likely to lead to the largest reduction in development costs and risks and is likely to lead to the most efficient use of land, of the options assessed. This is not surprising given that it is most closely aligns to leading practice of the options assessed.

2 Assessment of proposed options

Option	Meets leading practice (out of 42)?	Addresses problems (out of 6)?	Net benefits relative to current planning system once fully implemented	
			Low (\$m/year)	High (\$m/year)
Current planning system (1)	12	0	0	
White Paper reforms (2)	38	6	848	1 482
Planning bill reforms presented to Parliament (3)	33	5 ^a	569	1 035
Other variations to white paper ^b reforms				
Community consultation				
▪ Community consultation on code assessed development (4a)	35	4	540	
▪ Not requiring community consultation on State Planning Policies (4b)	34	5	na	
Strategic planning				
▪ Reducing level and breadth of strategic planning (4c)	31	3	652	
▪ Non-statutory strategic planning (4d)	34	4	750	
Development assessment system				
▪ Lower target for code and complying development (4e)	35	4	602	
▪ No code assessable development track (4f)	35	4	540	
▪ Changes to implementation of timeframes (4g)	40	6	874	
Infrastructure contributions				
▪ Deferring infrastructure contributions (4h)	37	6	na	

^a The Bills presented to Parliament would fully address four problems and partly address 2 problems. ^b The net benefits reported in this table for additional options are for the low end of the range and once reforms are fully implemented.

Source: The CIE.

Implementation of reforms

The net benefits estimated for the reform options set out in this BRS are based on each option being fully and successfully implemented. There are considerable implementation risks, as many of the details that will support the reforms are to be worked out in regulations, planning policies and through the development of strategic plans. (The proposed planning reforms have as a design principle that the primary legislation is enabling and provides the fundamental framework for planning and development. Subordinate legislation, policies and strategic planning documents provide the details for managing land use and guiding development decisions.) If the reforms are not implemented as intended then the net benefits will be smaller.

As the Productivity Commission notes:

The state and territory planning systems have also been subject to rolling reforms which are often not fully implemented or evaluated before being replaced with further reforms.¹²

The Grattan Institute has also noted the implementation risk for the planning reforms for NSW.

The white paper will not be easy to implement. The NSW government has set itself a monumental challenge. It is proposing a process of community engagement on a scale not yet seen in Australia.¹³

Review and evaluation

The Planning Bill 2013 presented to Parliament requires a review of the legislation to begin 5 years after the commencement of the Act. This is to be tabled within 12 months in Parliament.

The White Paper also specifies a number of review and evaluation actions to ensure that the changes to the NSW planning system are achieving their intended objectives. These include the preparation of a Performance Monitoring Guideline, monitoring of delivery aspects of strategic planning (such as housing completions and infrastructure provision) and continuation of monitoring of development assessment.

¹² Productivity Commission 2011, Performance benchmarking of Australian business regulation: Planning, zoning and development assessment, Research Report , p. XXII.

¹³ Kelly, J. 2013, "Vision splendid for Sydney needs community input", Sydney Morning Herald, 17 April.

2 Context

The role of the planning system in the NSW economy

The planning system plays a critical role in the NSW economy and plays a role to support the competitiveness of NSW, both nationally and internationally. A well performing planning system can:

- ensure that land is allocated efficiently to meet housing and business demands;
- reduce the costs of doing business in NSW by reducing costs of using the planning system and reducing land and building costs;
- reduce the cost of living in NSW, through the price of housing by reducing the costs of building new dwellings and increasing housing supply; and
- accommodate state-wide population and economic growth pressures in NSW by ensuring adequate housing and business land.

One channel through which planning influences the NSW economy is through the construction of dwellings and other non-residential construction. The value added from the construction industry in total in NSW in 2011/12 was \$22 billion, or 5 per cent of the NSW economy.¹⁴ A better performing planning system would increase productivity of housing and non-residential construction. Even if improvements to the planning system increased productivity of the construction sector by only 1 per cent, either through reducing costs or increasing the value of what was built in NSW, then this would lead to an expansion of the NSW economy of over \$700 million (per year).¹⁵ Most of this expansion occurs outside of the dwelling and non-dwelling construction sector, with the construction sector itself expanding by over \$150 million.¹⁶

On top of the gains to dwelling and non-dwelling construction, a better planning system also has the potential to improve other sectors such as retailing, transport, entertainment and recreation, tourism, mining, manufacturing and agriculture.

Leading practice principles for planning reform

Over the last four years, there has been a considerable body of work to develop leading practice principles for a planning system.

¹⁴ ABS National Accounts: State Accounts 2011/12, Current prices.

¹⁵ Note that a 1 per cent improvement in productivity in construction is equivalent to a much smaller increase in productivity across the entire NSW economy.

¹⁶ The CIE Regions Economic Model, as detailed in Attachment A.

- In 2010, the Grattan Institute began a program of investigating planning and housing in Australian cities. In the second of its reports, it focused on governance arrangements for cities.
- In 2011, the Productivity Commission reviewed planning, zoning and development assessment processes across Australian governments. As part of this, it identified seven leading practice principles.
- In 2011, the COAG Reform Council undertook a review of capital city strategic planning systems against nine criteria.

Together these reviews have provided an evidence base about the components of a well-functioning planning system. The findings of these studies are set out in detail in chapter 4 of this report.

Developing a new planning system for NSW

The NSW Government has committed to improving the performance of the NSW planning system. In *NSW 2021: A Plan to Make NSW Number One*, the NSW Government has committed to:

- restore confidence and integrity in the planning system;
- involve the community in decision making on Government policy, services and projects;
- build liveable centres;
- increase the competitiveness of doing business in NSW, including reducing red tape associated with the planning system; and
- place downward pressure on the cost of living, through using the planning system to deliver more housing.

To achieve these goals, the NSW Government has embarked on a major process of reforming the NSW planning system, building on previous work to understand leading practice. This began with an Independent Review in July 2011 to July 2012, led by The Hon Tim Moore and The Hon Ron Dyer. The Independent Review released *The way ahead for planning in NSW: Recommendations of the NSW planning system review*. Following this, the NSW Government released a Green Paper in July 2012, identifying major changes to the NSW planning system. In response to consultation, the Government subsequently released a White Paper in April 2013 along with draft planning legislation.

In arriving at directions for the NSW planning system there has been extensive community involvement.

- The Independent Review received over 300 submissions prior to its Issues Paper and more than 500 submissions in response to its Issues Paper. It conducted over 80 community forums.
- The Government received more than 1500 submissions in response to the Green Paper and around 2000 people have contributed their feedback and ideas through community and stakeholder workshops, practitioner forums and online discussions.

- To date there have been more than 4900 submissions on the White Paper received during May, June and July 2013 and over 2000 people attended the 40 White Paper discussion sessions and events.

Transformative changes to the NSW planning system

The NSW Government has proposed a number of major changes to the planning system.

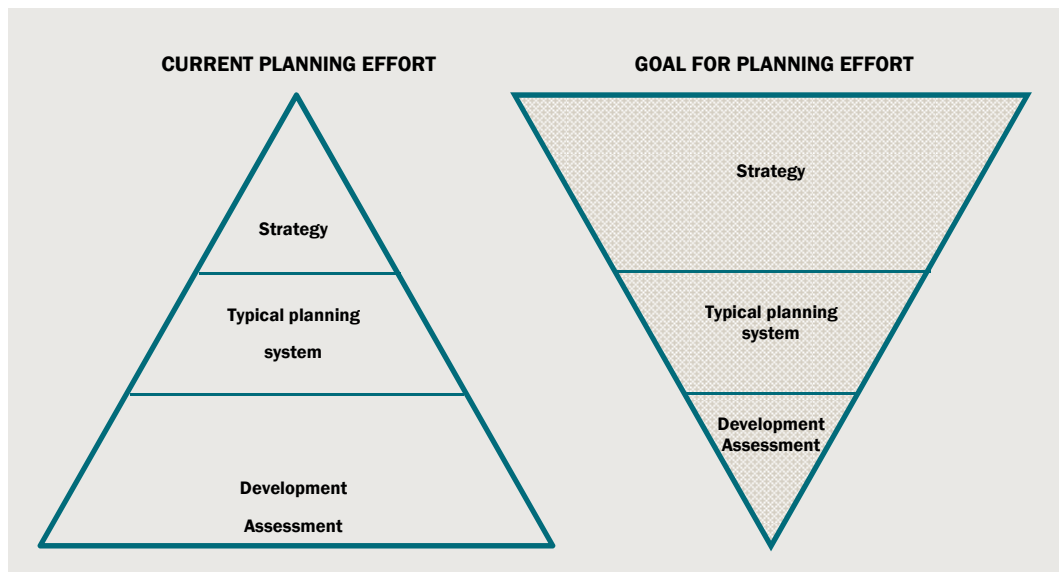
It released a White Paper and draft *Planning Bill 2013* and the *Planning Administration Bill 2013*. These set out legislative changes as well as changes to other aspects of the planning system. The White Paper identified the transformative changes as:

- changing the delivery culture for the planning system;
- increasing community participation in the preparation of plans and vision for their local areas, and reducing community participation in development assessment (chart 2.1);
- increased emphasis on strategic planning and a clearer link between plans for NSW, a region, sub-region and local area;
- a streamlined development assessment system including using a new development assessment track (code assessment);
- planning for infrastructure at the same time as planning for housing and jobs; and
- a more robust, consistent and transparent building regulation and certification system.

Following community consultation on the White Paper, the Government has amended some aspects of the proposed planning reforms. Legislative changes have been made to the draft Bills in the *Planning Bill 2013* and the *Planning Administration Bill 2013* that are being presented to Parliament. These Bills would replace the *Environmental Planning and Assessment Act 1979*. Changes to other parts of the reforms proposed in the White Paper have also been made.¹⁷ The main changes made are to code assessable development. The changes include limiting code assessable development to nominated growth areas and not requiring targets for code assessable development.

¹⁷ NSW Minister for Planning and Infrastructure 2013, “Government listens to community and councils on planning bills”, Media releases, 19 September; Hansard 2013, “Planning system reform”, extract from NSW Legislative Assembly Hansard and Papers, 19 September, p. 43.

2.1 Changes proposed to planning effort in the White Paper



Data source: Productivity Commission 2011, p. XLIII.

The Better Regulation Statement

A Better Regulation Statement is to be prepared to support a proposal to introduce significant new or amending regulation. The Better Regulation Statement must consider the Principles set out in Box 2.2. In doing this, a Better Regulation Statement:

- reviews the objectives and rationale being met by the regulatory changes
- considers the size and nature of the problem being addressed
- considers the options to address the problem
- assesses the benefits and costs of alternative options, and
- recommends a preferred option.

This Better Regulation Statement considers the changes to the legislative framework that underpins the NSW planning system. As discussed above, the full extent of planning reforms is far broader than the changes to primary legislation alone. To a significant extent, the impacts of the changes to the legislation can only be measured in conjunction with the broader set of planning reforms. In this BRS, we have considered options for reform as a whole, which has involved consideration of the set of regulatory changes that would need to occur alongside changes proposed to primary legislation in order to fully obtain the net benefits and economic impacts estimated.

2.2 Principles of Better Regulation

Principle 1 – The need for government action should be established

Principle 2 – The objective of government action should be clear

Principle 3 – The impact of government action should be properly understood by considering the costs and benefits of a range of options, including non-regulatory options

Principle 4 – Government action should be effective and proportional

Principle 5 – Consultation with business and the community should inform regulatory development

Principle 6 – The simplification, repeal, reform or consolidation of existing regulation should be considered

Principle 7 – Regulation should be periodically reviewed, and if necessary reformed to ensure its continued efficiency and effectiveness

3 *The case for government action and its objectives*

The need for government action on its planning system

The case for new regulatory framework for the NSW planning system is built around three key propositions (set out below and expanded on in subsequent sections):

- economic, social and environmental impacts relating to the allocation and use of land cannot be dealt with efficiently by markets alone (markets may fail) — this establishes a role for government intervention to promote economic growth and development for the benefit of the entire community and provide public goods, services and infrastructure in particular
- the appropriate form of government intervention is, however, uncertain, and there are significant risks that government intervention may impose excessive costs (government failure). The appropriate form of government intervention requires constant review and updating to remain relevant
- there is considerable *prima facie* evidence that the current NSW planning system is no longer leading practice and is imposing costs on the NSW and wider Australian economy because it:
 - has not been overhauled for 30 years despite enormous economic, technical and social change, but rather, has had 150 *ad hoc*, reactionary changes. As a result, it has not responded to changing economic needs;
 - lacks the strong confidence and support of wider business interests and the community;
 - is overly complex and costly; and
 - is strongly linked to a lack of housing supply, poor housing affordability and high commercial office rents.

The role of government intervention in planning and building

The reason why governments are involved in planning reflects underlying ‘market failures’.¹⁸ As the NSW Better Regulation Office notes:

‘Market failure’ has a very precise meaning in economics. It does not simply mean dissatisfaction with market outcomes. It refers to a situation when a market left to itself does not allocate resources efficiently. Where Market failure exists, there is a potential role for government to improve outcomes for the community, the environment, businesses and the economy.¹⁹

¹⁸ A market failure exists where the market would not provide an efficient allocation of resources.

¹⁹ NSW Better Regulation Office 2009, *Guide to Better Regulation*, p. 29.

The main forms of market failure are:

- public goods and services — where provision of a good or service for one person makes it available for all at no extra cost;
- externalities — where an action of one person (or business) impacts on other's not involved in the decision;
- information asymmetry — when those making a transaction have different levels of information about the good or service being traded; and
- imperfect competition and market power — where one buyer or seller can exert influence over the quantity traded or the price of a good or service.

In planning, market failures that may justify government intervention include:

- the impacts that land uses impose on neighbours and the broader community — for example, an industrial business might need to operate around the clock with noise implications for neighbours; and
- the impacts that land use imposes on others through infrastructure costs and other monetary costs that are not borne by those deciding on the use of land. For example, development of an area might lead to costs of connecting electricity that are borne by the community.

Governments may also intervene in markets for land for social reasons including to promote equity across different parts of the community.

For these reasons, planning has a longstanding role in Australia's regulatory system. As the Productivity Commission notes:

While markets will go a long way towards delivering an allocation of land to ensure community access to a balanced range of goods and services, including a range of housing and shopping choices, almost all cities in developed economies provide for a significant role by governments in controlling how land is allocated, used and developed.²⁰

The Productivity Commission also identifies broad characteristics of the building industry that may justify government intervention.²¹

- Complex information and knowledge gaps — there are several characteristics of buildings that make it difficult for buyers and users to assess and/or understand.
- Aspects of buildings may have adverse impacts on third parties ('externalities').

Appropriate government intervention and potential government failures

Although there are areas where markets will fail to deliver socially appropriate outcomes, this does not necessarily warrant government and community intervention in all cases.

²⁰ Productivity Commission 2011, Performance benchmarking of Australian business regulation: Planning, zoning and development assessment, Research Report, p. 19.

²¹ Productivity Commission, 2004, Reform of Building Regulation, Productivity Commission Research Report, November, pp. XXII-XXIII.

Government intervention in planning has a mixed record in Australia's history.²² The costs associated with government failure need to be balanced against the costs associated with market failure to determine the type and scale of government intervention.

The cost of government failure in planning can include:

- the administrative costs involved in the government and community being involved in planning;
- time delays and financial costs for those seeking to undertake development;
- restrictions on the use of land whose costs exceed their benefits; and
- greater rigidities in land use and economic activity.

The current NSW planning system suffers from a number of concerns related to government failure, set out in detail in the next section.

Similarly, not all measures to improve compliance with building regulation will be in the best interests of the community. Improved compliance may deliver benefits through better building outcomes, but there are also likely to be costs. In some cases, the costs associated with achieving better compliance will exceed any benefits.

Size and nature of the current planning problem

The current NSW planning system fails to deliver an efficient set of outcomes for NSW in many respects. Indicators suggest the problems arising from the planning system are a major issue for the NSW economy, and that the NSW system is worse than for other states.

The NSW planning system has not responded to change

- The planning system has not adequately responded to changes in what people want. People increasingly prefer higher density areas. This is evidenced by suburbs with higher density in 2001 achieved growth in land values of 100 to 150 per cent from 2001 to 2011 compared to 50 to 75 per cent for suburbs with lower density.²³ In 2011, the value people place on land zoned for higher density development is around 10-25 per cent higher than low-density development. Within a given residential zone, the size of lots also appears to be larger than what people are demanding.
- The planning system has not adequately responded to economic change and the changes in the type and location of industrial activity occurring in Sydney. This is reflected in the lower value attached to industrial land compared to similar residential land (almost half the value).²⁴

²² For example, land release restrictions have been noted as one contributor to the Eureka Stockade. (Peter FitzSimons, Eureka: The unfinished revolution).

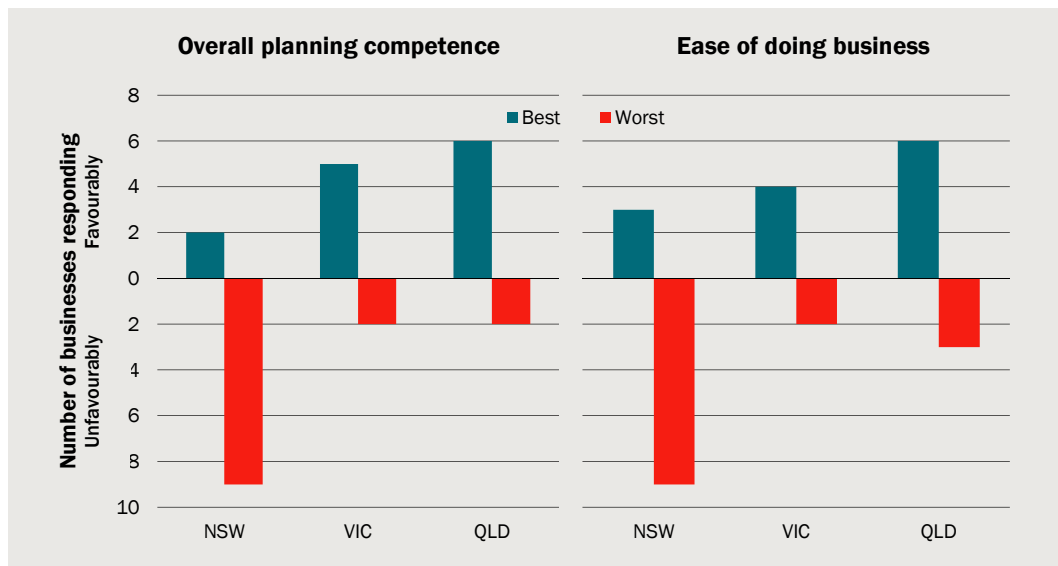
²³ The CIE and ARUP 2012, *Costs and benefits of alternative growth scenarios for Sydney focusing on existing urban areas*, prepared for NSW Planning, August, p. 55.

²⁴ The CIE and ARUP 2012, *Costs and benefits of alternative growth scenarios for Sydney focusing on existing urban areas*, prepared for NSW Planning, August.

There is low business and community confidence in the NSW planning system

- There is a high level of business dissatisfaction with the NSW planning system relative to that of Victoria and Queensland (chart 3.1).²⁵
- Community views of planning in NSW are also negative. Of people surveyed by the Productivity Commission, 14 per cent considered the state government to be effective in planning (the lowest of all states) and 15 per cent considered local government to be effective in planning (the second lowest of any state).²⁶ These views have fed through into community attitudes to increased population (and development), with 64 per cent of Sydney residents surveyed indicating that they would not like increased population, the highest of any capital city.²⁷

3.1 Business views on the performance of state planning systems



Note: Responses from 51 businesses with experience of 2000 developments.

Data source: Productivity Commission 2011.

The NSW planning system is overly complex and costly

- The Property Council (2012)²⁸ released a publication titled: *Planning Gone Mad: a story about the NSW planning system and how it drives applicants crazy*. This highlights the complexity and costs of the current NSW planning system for those seeking to use it.
- The Productivity Commission has also noted the complexity of the NSW planning system.

²⁵ Productivity Commission 2011, Performance benchmarking of Australian business regulation: Planning, zoning and development assessment, Research Report.

²⁶ Productivity Commission 2011, Performance benchmarking of Australian business regulation: Planning, zoning and development assessment, Research Report, p. XXXVIII.

²⁷ Productivity Commission 2011, Performance benchmarking of Australian business regulation: Planning, zoning and development assessment, Research Report, p. 28.

²⁸ Property Council, May 2012, Sydney.

Legislative complexity and conflicting objectives appeared to be particularly troublesome in Queensland and New South Wales.²⁹

- NSW processes a far larger share of low value developments through development assessment compared to other states.³⁰ Over 50 per cent of development applications are valued at less than \$50,000.³¹ Deloitte has estimated that moving to a new system with streamlined approvals could save \$174 million per year³².
- The CIE has estimated that planning delays and uncertainties and excessive land prices from zoning restrictions add \$48 000 per dwelling for a greenfield dwelling or \$78 000 for an infill dwelling in Sydney³³. Removing such restrictions would lead to an increase in housing supply and lower prices for new homes.

Lack of housing supply, low affordability and high office rents

- The NSW Treasury (2012)³⁴ has stated the following:
Available evidence suggests that the NSW Planning System, as the central system facilitating land use and development in New South Wales, could contribute to the following outcomes in economic and affordability indicators:
 - A significant downturn in housing supply over the last decade that cannot be explained by lagging population growth or Gross State Product
 - Sydney having the highest house prices and rents in the country and the poorest performance in the nation in terms of housing affordability
 - Higher commercial office rents in the Sydney Central Business District than other capital cities (with the exception of Perth), with supply side factors having played a role
 - Major restrictions on retail development and competition that are having impacts on productivity in the retail sector and on prices for food and other goods.

There appears to be a strong case for a changed approach. Comprehensive reform of the planning system represents one of the main areas of micro-economic reform that should be pursued in New South Wales.

- KPMG rated Sydney as the lowest ranked of Australia's capital cities against four performance indicators (budget alignment, population management, key worker housing affordability and congestion).³⁵

²⁹ Productivity Commission 2011, Performance benchmarking of Australian business regulation: Planning, zoning and development assessment, Research Report, p. 379.

³⁰ NSW Planning 2013, A new planning system for NSW, White Paper, p. 123.

³¹ Data provided by NSW planning based on 2011/12.

³² Deloitte 2012, Time and cost benchmarking project: a new planning system for NSW, prepared for NSW Planning and Infrastructure.

³³ The CIE 2011, *Taxation of the housing sector*, prepared for the Housing Industry Association, September, Table 3.3.

³⁴ NSW Planning System Review, Submission from NSW Treasury, April 2012

³⁵ KPMG 2010, Spotlight on Australia's Capital Cities: an independent assessment of city planning systems, Discussion paper prepared for the Built Environment Meets Parliament (BEMP), 1 June.

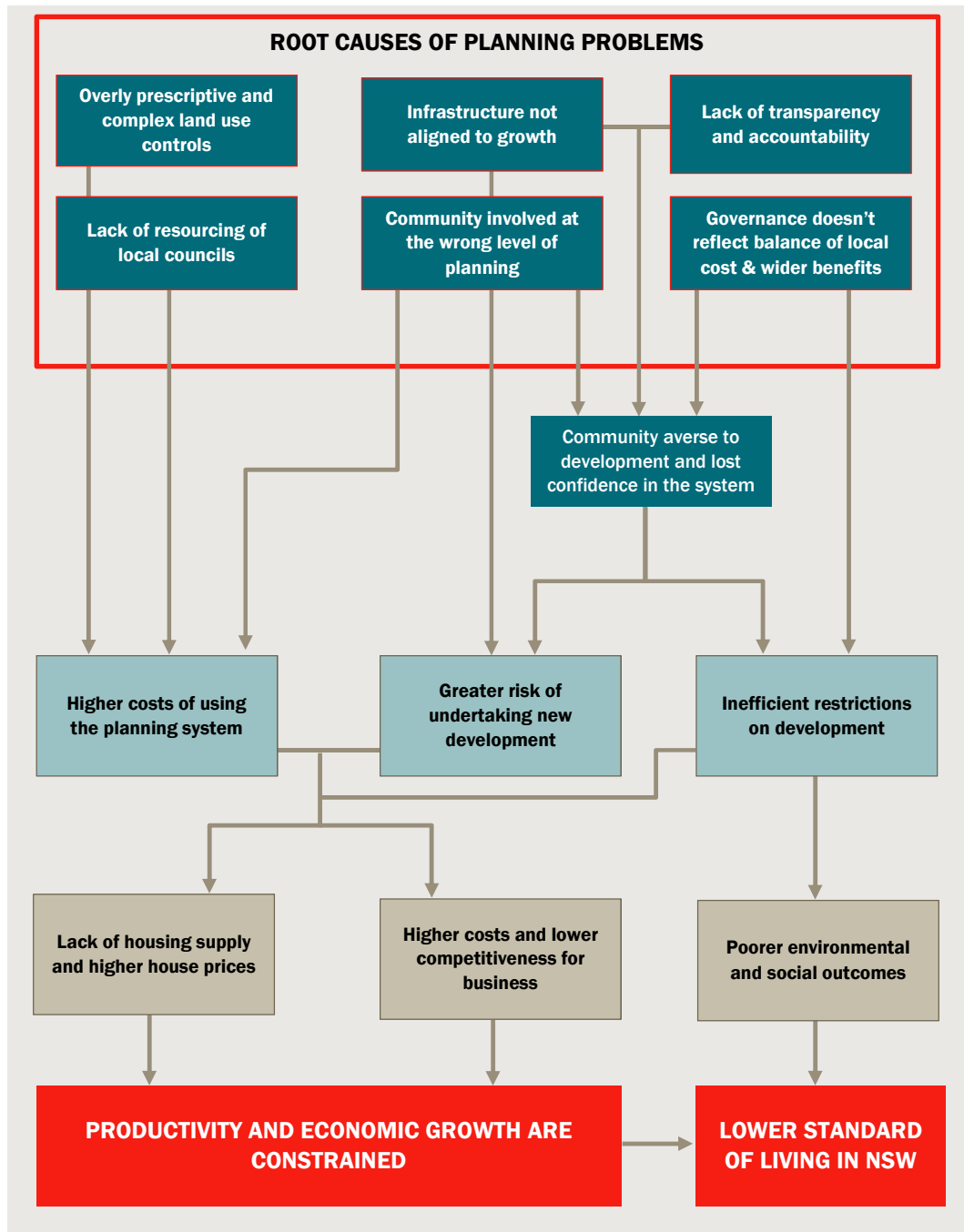
Root causes of problems of NSW planning system

Many of the above are symptoms of a poor planning system. The root causes of these symptoms identified by the Productivity Commission, COAG and others are set out in chart 3.2. These can be mapped to economic implications as follows.

- Higher costs of development because the community is involved at the wrong level of planning, councils are not appropriately resourced and there are overly prescriptive and onerous development controls.
- Higher risks associated with development because infrastructure is not aligned to growth and because the community is averse to development and has lost confidence in the system.
- Inefficient restrictions on land use and development because the community is averse to development and has lost confidence in the planning system and because governance does not reflect the balance of local costs and wider benefits.

In turn, higher costs of using the planning system, higher risk and inefficient restrictions combine to lower productivity in new development. This then flows into a lack of new housing, higher costs for business and poorer social and environmental outcomes. In turn, this leads to a less productive economy and a lower standard of living in NSW.

3.2 Tracing the problems of the current NSW planning system



Source: The CIE based on Productivity Commission 2011, NSW Treasury submission to Independent Review, COAG Reform Council.

Stated objectives of government action to change planning

The stated purpose and objectives of what the new planning system is designed to achieve are set out clearly on page 17 of the Green Paper. These can be summarised as follows.

- Drive sustainable growth in NSW to facilitate it being the number one choice to live and work in Australia and in the Asia Pacific Region.
- Sustainable development — Integrate economic, environmental and social considerations in planning and development decisions.³⁶
- Transparent — Decisions are publicly available and based on strong community participation and evidence.
- Integrated — Provide cooperative partnerships between all levels of government to facilitate a high performing planning system.
- Certain — Provide predictability and certainty in planning and development decisions.
- Effective — Deliver planning strategies that respond to change and facilitate investment.
- Efficient — Achieve timeframes for completion of planning processes through increased accountability for efficient decision making.
- Responsive — Provide flexibility to respond to change and ensure markets are competitive.
- Simple — Reduce complexity and remove red tape.

In the broader economic context of the need and desirability of changing legislation and regulation to change the planning system, the purpose and objective of change appear to be:

- to realign and reprioritise the purpose and objectives of the planning system with broader economic and social goals of:
 - promoting sustainable development and competitiveness by:
 - ... establishing better mechanisms to resolve land use trade-offs based on social, economic and environmental factors
 - ... effectively managing growth and change
 - ... efficiently connecting people and places through the provision and renovation of infrastructure
 - subject to protecting and enhancing the environment
 - with the view to improve people's quality of life
- to set up robust, self-sustaining governance arrangements for planning based on:
 - community participation, accountability, transparency, new technology and workable delivery structures/cultures
 - strong evidence-based strategic planning principles and streamlined approval processes underpinned by:
 - ... clear hierarchies of objectives, goals, targets
 - ... cost benefit/financial feasibility analysis

³⁶ The definition of sustainable development in the Bill presented to Parliament is more closely based on the Brundtland definition — development that meets the needs of the present without compromising the ability of future generations to meet their own needs. (United Nations. 1987. "Report of the World Commission on Environment and Development." General Assembly Resolution 42/187, 11 December 1987)

- ... provision for fast-track code-based assessment processes
- ... independent expert decision making and simplified, faster appeal provisions
- ... better provision of leading practice governance processes to all levels of government
- ... integrated/contestable provision of infrastructure
- to achieve a user-friendly planning system that is:
 - simpler in terms of reduced complexity, delays and red-tape
 - more certain and transparent in terms of its predictability to investors and the community
 - more efficient and effective in terms of process, integration of goals/levels of government, tracking and solving problems (responsiveness) and facilitating/achieving more and better investment.
- The stated objectives of the Better Buildings Model and therefore building reform more broadly are to achieve better buildings in NSW by improving consumer protection, building work compliance and accountability of all involved in the system.³⁷

The Better Regulation Office considers that objectives should, where possible, be measurable. Box 3.3 identifies measures that could be used to judge the success or otherwise of the proposed planning reforms. These would, in some cases, require careful interpretation as they are influenced by other factors aside from the NSW planning system.

3.3 Measures of objectives

Measures of these objectives could include:

- the number of housing approvals and completions in NSW;
- the cost of housing;
- the cost of commercial leases;
- the share of the community viewing planning by state and local councils as being effective;
- the responses from feedback forms to those using the planning system;
- the risk premium developers are placing on development in NSW;
- the share of development moving through streamlined processes, and
- the time taken for development assessment.

³⁷ NSW Government, A new planning system for NSW: White Paper, p. 183.

Rationale underlying objectives

All economic activity seeks to find a balance or compromise between conflicting objectives. Only by clearly prioritising objectives to best reflect a community's desires and needs will policy make good choices that deliver sound solutions.

With progressive economic development, population growth and increasing population density, the scarcity of land intensifies bringing into sharper focus conflicting objectives about its allocation and use. This is a major issue for planning and one identified in the Productivity Commission (2011)³⁸

Planning, zoning and development assessment systems are used to manage the growth of cities and towns, preserve the environment, provide and coordinate community services and facilities, and promote and coordinate the orderly and economic use and development of land. These systems are intended to balance the needs of communities by taking into account the often competing social, environmental and economic goals as well as the impact of land use and development.

The Productivity Commission (p1) also notes that planning systems in all jurisdictions are increasingly suffering from 'objective overload' and that (p379):

Legislative complexity and conflicting objectives appeared to be particularly troublesome in Queensland and New South Wales. One New South Wales council observed that a significant increase in resources had been required over the last 10 years to deal with the increased complexity and expectations of the planning system. Another pointed to the link between complexity and costs, noting that the increased complexity of planning issues had led to a requirement for additional technical specialists which created greater costs for council and development applicants. Councils in Queensland and New South Wales (along with Western Australia) were also more likely to nominate delays arising from objections/appeals, consultation and referrals as a significant factor impacting on their ability to manage the planning process.

Also, the NSW Green Paper on *a new planning system* notes (p28) that within existing planning there are overlapping and contradictory controls and no mechanism to prioritise planning requirements in particular contexts and locations. This invariably results in blockages in the system and frustrates the delivery of quality outcomes. Absence of a strategic context has resulted in inefficient decision-making processes.

In discussing leading practice in planning, the Productivity Commission emphasises the need for strategic focus and reliance on strategic planning to deliver guidance, consistency and efficiency to planning.

At its broadest level, planning is the process of making decisions to guide future allocation and development of land. Strategic planning at the state and territory government level gives structure to this process by identifying long-term goals and objectives and then determining the best approach for achieving those goals and objectives. The number and structure of plans varies greatly across the jurisdictions with some being part of a hierarchy of plans where consistency is required. Others may deal with a specific issue such as heritage. All states have councils and (except Tasmania) regional level statutory plans which should be consistent with the overarching goals and objectives of the state. (p2)

³⁸ Productivity Commission 2011, Performance benchmarking of Australian business regulation: Planning, zoning and development assessment, Research Report, p. 1, p. 12

Successful strategic planning clearly identifies objectives, articulates a hierarchy among these to consistently align goals and expected outcomes and offers various governance processes and performance benchmarks/indicators/measures (cost benefit analysis) to provide guidance toward desired results.

Assessment of the stated objectives

The Green Paper/White Paper and the Exposure Draft (through its statement of strategic principles, section 3.3) all identify a consistent hierarchy of objectives, goals and targets relating to governance and performance assessment to achieve them. They appear designed to put strategic planning at the centre of planning in line with the leading practice guidelines outlined by the Productivity Commission.

4 *What does a good planning system look like?*

There has been a substantial body of work in the past four years to investigate successful governance arrangements for a planning system. This chapter details the findings of the Productivity Commission, COAG Reform Council and Grattan Institute.

Defining leading practice and successful planning

In 2011, the Productivity Commission undertook a comprehensive, wide-ranging benchmarking analysis of Australian zoning, planning and development assessment schemes and articulated seven leading principles for planning systems, as noted in box 4.1.

The underlying message through the Productivity Commission's leading practices is that the focus of land use planning should be on strategy and vision for future development, and a reduced focus on assessment of each development — see chart 2.1.³⁹ The rationale is that once the strategic vision is established then it is generally the market that is best able to identify efficient types, locations and timing of development. For example, home owners or developers can respond to the land use demands within the constraints of the strategic vision.

4.1 Productivity Commission leading practice principles

- 1 Early resolution of land use and coordination issues
- 2 Engaging the community early and in proportion to likely impacts
- 3 Broad and simplified development control instruments
- 4 Rational and transparent allocation rules for infrastructure costs
- 5 Improving development assessment and rezoning criteria and processes
- 6 Disciplines on timeframes
- 7 Transparency and accountability

Productivity Commission (2011) Performance Benchmarking of Australian Business Regulation: Planning, Zoning and Development Assessment. Research Report, Canberra

The Productivity Commission's seven leading practice principles can be broken into 42 more detailed categories, as has been done in chapter 8 and is set out in Attachment B.

³⁹ Productivity Commission 2011, Performance benchmarking of Australian business regulation: Planning, zoning and development assessment, Research Report, p. XLIII

This allows for an assessment of different planning system options against detailed criteria.

The COAG Reform Council in 2012 completed a review of the strategic planning systems of all Australian capital cities, based on nine key criteria (box 4.2).

With a focus on national capital cities, the key criteria identified indicate that an important element of a well-functioning planning system is effective integration. This integration is required on a number of levels such as within governments, across communities, across cities and the nation (introducing requirements for connective infrastructure) as well as over time.

4.2 COAG criteria for Capital City Strategic Planning Systems

- 1 Integration across planning elements and government agencies
- 2 Hierarchy of future oriented plans
- 3 Allowance for and development of nationally significant infrastructure
- 4 Addressing of nationally significant policy issues
- 5 Consideration and strengthening of capital city networks
- 6 Provision for planned, sequenced and evidence-based land release across greenfield and infill
- 7 Clear identification of investment priorities and frameworks
- 8 Encouragement of world-class urban design and architecture
- 9 Effective implementation and support through
 - a) clear accountabilities, timelines and performance measures
 - b) intergovernmental coordination
 - c) evaluation and review cycles

COAG Reform Council (2012) Review of capital city strategic planning systems, COAG Reform Council, Sydney

For an international perspective, the Grattan Institute, in 2010, considered eight international cities and the policies and philosophies behind their planning systems. Through this empirical case study approach, five high-level success themes were established, along with two notable themes that were not substantiated (box 4.3).

The Grattan Institute notes that their first three common themes of public engagement: consistent strategic direction over time, across governments and, collaboration across different community sectors, are all self-reinforcing. That is, where one element is strengthened, this lends strength to the other two.

The two notable themes that were not common across successfully planned international cities were the structure of planning authority adopted and the model of development adopted. That is, changing the governance structure does not itself result in success. This suggests that a good planning system reflects good strategic management rather than the form of oversight and centralisation implemented.

4.3 Grattan Institute necessary and peripheral elements of success

Common elements of successful planning:

- 1 High and sustained levels of public engagement in decision making
- 2 Consistency of strategic direction
- 3 Collaboration across different sectors of society
- 4 Regional cooperation
- 5 Underlying trigger for improvement

Peripheral elements of successful planning:

- 6 Planning authority structures, e.g. the metropolitan authority
- 7 Models of development, e.g. government or private sector led development

Kelly, J. (2010) *Cities: Who decides?* Grattan Institute, Melbourne

Criteria for a good planning system

There is considerable concurrence between the three key investigations considered above. The Grattan Institute findings are largely empirically based observations and given their consistency with the Productivity Commission's and COAG's principles-based frameworks, they help to confirm the robustness of the two other approaches. The COAG framework is specifically metropolitan-based whereas the Productivity Commission framework is a more general state wide within a federated system. Below, we draw together the findings and critical elements of all three investigations under the Productivity Commission leading practice headings.

Early resolution of land use and coordination issues

The Productivity Commission identified the importance of ensuring that land use and coordination issues are resolved early in the *strategic* planning process. Such an approach was supported by both the COAG Reform Council and the Grattan Institute. They also identified important elements such as planning hierarchies and guiding objectives to clarify and coordinate the planning system.

That is, for a well-functioning planning system, it is important to be able to follow clearly the strategy and design of land use planning systems from the broad national or state level through to more detailed regional and local level plans. To be able to achieve this strategic planning program, clearly defined hierarchies and well-articulated and generally quantifiable planning objectives are crucial.

Structured use of hierarchies

While each of the Productivity Commission, the Grattan Institute and the COAG Reform Council outlined a clear hierarchy of plans as an important element of land use planning all three took a slightly different approach to this requirement.

- The Productivity Commission noted the importance of clear land use plan hierarchies to ensure efficiency and consistency across government department and planning authority actions:

Strategic land use plans that are integrated across different levels of government and across different government departments and agencies to make consistent decisions about relevant matters, ranging over infrastructure, environment, housing and human services.⁴⁰

- The COAG Reform Council considered the importance of temporal hierarchies of land use plans, moving from the long term (15-30 years) to the near term (less than 5 years) considering more immediate actions to be taken.⁴¹ It was also noted that a temporal hierarchy implicitly contains a spatial hierarchy in that the immediate term planning levels will also be more likely associated with local and regional development plans, with longer-term visions considering more of a State or National focus.
- The Grattan Institute findings pointed to the importance of regional cooperation in land use planning where planning decisions frequently move across administrative boundaries.⁴² Regional cooperation across administrations is not possible without a higher-level hierarchy based approach to strategic planning so that all parties are aware of the vision for the region and their individual and collective roles in the process.

Together, the three reports indicate that all three of these hierarchy elements (government, temporal and regional) have an important role to play in developing a well-functioning land use planning system.

Guiding objectives

In any leading practice policy, a clearly defined objective, rationale or goal is essential to ensure that: firstly, all parties are clear on the reasons for, and direction of, the work to be undertaken; and secondly, to ensure that some form of measurement or assessment of progress may be undertaken. In a land use planning system, many different objectives may be aimed for, and indeed, it is becoming more common for the planning system to be called upon to address an ever-growing number of social, economic, environmental and political objectives.⁴³

⁴⁰ Productivity Commission 2011, Performance benchmarking of Australian business regulation: Planning, zoning and development assessment, Research Report, p. XLIV

⁴¹ COAG Reform Council (2012) Review of capital city strategic planning systems, COAG Reform Council, Sydney, p. 33

⁴² Kelly, J. (2010) Cities: Who decides? Grattan Institute, Melbourne, p. 41

⁴³ Productivity Commission 2011, Performance benchmarking of Australian business regulation: Planning, zoning and development assessment, Research Report, p. XXI

As the number and complexity of objectives increases, it is important that these objectives are clearly tied to elements of the planning system that are being used to address them. This is noted by the Productivity Commission who state that not only is clarifying objectives relative to development assessment requirements “useful in itself, clarifying the objectives served by requirements is also likely to reduce the number of matters requiring approval”.⁴⁴ That is, clearly identified objectives and requirements can reduce the regulatory burden and improve the efficiency of the planning system.

Further, clearly stated guiding objectives also assist in dividing the planning and approval task effectively and efficiently across government agencies, allowing for a more structured and streamlined planning system that is able to achieve desired growth patterns.

Engaging the community early and in proportion to likely impacts

Two key elements to successful consultation are identified:

- ensuring consultations are a two way consultative process, not simply a one way information sharing exercise; and,
- ensuring that consultations are held in proportion to the scale and scope of likely impacts and are not unduly influenced by well-mobilised interest groups to the detriment of the wider community or economy.

Consultation versus information sharing

Effective community engagement and consultation was a strong feature of the findings of both the Grattan Institute and the Productivity Commission’s leading practices.

The Grattan Institute concluded that “early, genuine, sophisticated, sustained and deep engagement” with communities was a driver of successful implementation of difficult planning outcomes and trade-offs.⁴⁵ The underlying message is that the most successful community engagement processes focussed on a two-way information gathering exercise as follows.

- From planning authorities to communities — outlining the key trade-offs that are required within the planning system is important. For example, increased residential density supported by more shared, open urban spaces, or reduced urban density and necessitating increased spending on supporting infrastructure by Government.
- From communities to planning authorities — where the information was provided to communities on the important trade-offs required within the planning decisions, communities were able to provide authorities with critical information on the community values. With more information on values, successful planning authorities were able to construct widely accepted development plans that were less susceptible to objection and government change.

⁴⁴ Productivity Commission 2011, Performance benchmarking of Australian business regulation: Planning, zoning and development assessment, Research Report, p. XLVII

⁴⁵ Kelly, J. (2010) Cities: Who decides? Grattan Institute, Melbourne, p. 36

Underlying these findings was the acknowledgement that there is a fine balance between approaching communities with sufficient information to understand the necessary trade-offs and approaching communities with almost fully developed plans that appear (or are) set. When a consultation plan is being developed, communities and stakeholders were found to be more responsive and engaged in the process when presented with realistic planning choices to consider. Experiences from Vancouver's planning system noted that "people were not presented with two leper colonies and a Club Med' but rather with 'real choices' along with their pros, cons and consequences".⁴⁶

A more collaborative approach to land use planning consultation has not generally been adopted in Australia in the past, with many consultation processes beginning with a well formed and almost complete planning document already prepared. This is reflected in the Productivity Commission's finding that:

Responses to surveys indicated that a number of councils and state and territory agencies regard consultation primarily as a way to inform communities about their plans rather than engaging residents with a view to building plans around informed community options and preferences.⁴⁷

Proportionate consultation

The Productivity Commission also notes that community consultation needs to be proportionate to ensuring efficiency and effectiveness. This ensures that wide views and values are obtained from communities when there are impacts that are potentially large in scale or scope, but limiting the time and costs associated with consultations when impacts are considered to be minimal.

A second element that may be attributed to proportionate consultation is the risk of the planning processes being captured by interest groups and not reflecting wider benefits. Some land-use planning decisions lead to costs for a clearly identified local group of stakeholders, residents or businesses, while the benefits are more dispersed across the region, state or even country. It is important in these situations to ensure that the consultation process is able to take into account the likely imbalance in voicing concerns. A well-planned, transparent, two-way consultative process that clearly outlines options, trade-offs and consequences of planning decisions may go some of the way to alleviate this issue.

Broad and simplified development control instruments

The Productivity Commission's leading practices points to less prescriptive development control mechanisms (including zoning), to promote market oriented development

⁴⁶ Kelly, J. (2010) *Cities: Who decides?* Grattan Institute, Melbourne, p. 37

⁴⁷ Productivity Commission 2011, *Performance benchmarking of Australian business regulation: Planning, zoning and development assessment*, Research Report, p. XLV

options, as well as reducing costs imposed on planning authorities from ongoing, detailed prescriptive zoning and development requirements.⁴⁸

Simplifying land use zones and allowable uses was highlighted as a means of promoting innovation and adaptation in retail and business formats and allowing greater scope for businesses to respond to community and consumer demands. Further, simplified zoning and use requirements could assist in reducing the costs to councils and planning authorities by reducing the need to continually amend local plans in response to changing business demographics and technologies.

For this approach to work effectively and efficiently, it is important that firstly, the strategic vision of the planning system is clear and that community and stakeholder consensus is achieved, and secondly, there is sufficient skill level within the planning authorities to follow through and support a less prescriptive system.

Rational and transparent allocation rules for infrastructure costs

New development often has associated infrastructure costs. An efficient allocation of these costs would ensure that development takes account of these costs. This generally means that costs are allocated to those residents that are identified as benefiting from the construction of infrastructure.

In a new residential or commercial development this identification is reasonably easy and the Productivity Commission advocates for upfront charging and developer charges to be used in instances of major shared infrastructure and social infrastructure (for example neighbourhood parks) with identifiable demand. It is anticipated that at least part of the costs will be passed on to residents in the form of higher purchase prices which will in turn be passed on to subsequent residents through purchase prices as well.

Further, for local roads, paving and drainage, the Productivity Commission advocates that these forms of infrastructure be constructed by developers without assistance from government authorities, passing these costs on to purchasers.

However, where there is difficulty in identifying a clear group of beneficiaries, more complex infrastructure cost charging arrangements are required to ensure efficiency. For example, for in-fill developments that require large-scale infrastructure upgrades that will benefit both new developments and existing developments, the Productivity Commission advocates general government borrowings to cover upfront costs, to be recovered over time through rates or taxes for example. A similar approach is taken to wider social infrastructure projects where benefit and cost allocation is hard to establish, in which case general revenue is again considered the most efficient and effective charging option.

Improving development assessment and rezoning criteria and processes

Once the strategic planning framework has been established, a planning authority typically is required to assess and determine developments, ensuring that they meet the

⁴⁸ Productivity Commission 2011, Performance benchmarking of Australian business regulation: Planning, zoning and development assessment, Research Report, p. XLVI

strategic goals of the planning system. There are a number of structural elements of planning regulations that are important to ensuring the efficiency of this process, with the following being highlighted by the Productivity Commission:

- linking development assessment requirements to their planning objectives;
- utilising a risk based approach to assessing development applications;
- adopting practices to facilitate the timely assessment of applications;
- facilitation of timely access to relevant information; and
- transparent and independent alternative assessment mechanisms that are well supported by the planning authorities.⁴⁹

Further, while no single form of oversight authority was found to be associated with a successful planning system by the Grattan Institute⁵⁰, there are important management and strategic elements of an oversight system that are required to ensure efficiency and effectiveness. Such elements also discussed by the Productivity Commission include:

- centralisation to limit the duplication of tasks and costs for both planning authorities and developers;
- integration of government activities between government agencies, over time and across administrative boundaries to facilitate timely completion of referrals for example; and,
- skilled and effective planning personnel with the resources to fully implement less prescriptive planning policies.⁵¹

Structural assessment and zoning requirements and processes within regulations

The provision of business certainty, reduced costs and accurate assessment of applications against strategic plans are key to ensuring the efficiency of development assessment. The Productivity Commission, the Grattan Institute and the COAG Reform Council all recognise these key issues to varying degrees, with the Productivity Commission most clearly articulating the pertinent requirements for state, regional and local planning authorities.

The assessment criteria for development applications should be clearly linked to the planning objectives they are attempting to achieve⁵². Where development assessment requirements are linked to policy objectives, this is likely to reduce costs associated with more subjective assessment methods, provide increased certainty for developers submitting applications, as well as providing scope for more developments to be assessed as complying rather than requiring more formal and costly assessment.

⁴⁹ Productivity Commission 2011, Performance benchmarking of Australian business regulation: Planning, zoning and development assessment, Research Report, p XLVII-XLVIII.

⁵⁰ Kelly, J. (2010) Cities: Who decides? Grattan Institute, Melbourne.

⁵¹ Productivity Commission 2011, Performance benchmarking of Australian business regulation: Planning, zoning and development assessment, Research Report, p XLVIII.

⁵² Productivity Commission 2011, Performance benchmarking of Australian business regulation: Planning, zoning and development assessment, Research Report, p. XLVII

When implementing these objective decision criteria, the use of risk based assessment ‘tracks’ supported by well skilled planning personnel, will work to further expedite development applications.

Finally, where it is considered that a development provides costs and benefits wider than the local planning authority borders, a planning system should incorporate clear criteria to elevate approval decisions to regional, city or state authorities. Clear trigger mechanisms ensure that development applications are identified early as requiring wider assessment, reducing the chances of requiring a second round of assessment after a local authority. In considering such criteria and assessment processes, the Productivity Commission notes that stakeholders may more readily receive the use of expert and independent panels or commissions.

Centralisation, integration and adequate skills support

In their leading practices, the Productivity Commission notes a number of areas in which the importance of eliminating doubling up of tasks is clear. In considering the effective implementation and support arrangements for all plans, the Productivity Commission notes the importance of “one clear authority which monitors progress against the strategic plan”.⁵³ Further, in considering the timely completion of referrals, the Leading Practices advocate for “all referral requirements [to be] collectively detailed and located in one place” and “as far as technically possible, resolve all referrals simultaneously rather than sequentially”.⁵⁴

State and territory land use planning systems are not operating in isolation, in the same way that local council planning systems are not operating independently of regional and State planning systems. Further, land use planning is not going to be the domain of a single government entity or group of professionals. For these reasons, a number of the COAG Reform Council assessment criteria consider the importance of integration.

The first criterion for assessment put forward by the COAG Reform Council highlighted the need for integration “across functions, including land use and transport planning, economic and infrastructure development, environmental assessment and urban development, and across government agencies”.⁵⁵ This level of integration is distinct from centralisation, in that a number of different agencies may be involved (for example, infrastructure, housing and human services). However, these agencies are ideally working to their areas of expertise in adding to the planning system, all the while maintaining a strong understanding of how this role intersects with the operations of other agencies, to limit time delays, confusion and costs to both governments and developers. The oversight of a single authority monitoring progress against the strategic plan is an important element to ensure this integration continues effectively.

⁵³ Productivity Commission 2011, Performance benchmarking of Australian business regulation: Planning, zoning and development assessment, Research Report, p. XLIV

⁵⁴ Productivity Commission 2011, Performance benchmarking of Australian business regulation: Planning, zoning and development assessment, Research Report, p. XLVIII

⁵⁵ COAG Reform Council (2012) Review of capital city strategic planning systems, COAG Reform Council, Sydney, p. 32

A broader concept of integration considers the integration of planning systems across jurisdictional boundaries. The COAG Reform Council highlights a number of areas in which capital city strategic planning systems should allow for national integration of plans for elements such as infrastructure, longer term nationally significant policy issues and more generally ensuring the networks connecting capital cities and regional centres for example are well functioning.⁵⁶

Finally, a crucial component to the efficient functioning of land use planning is the skill base of the planners and assessors at both the strategic and frontline levels. This importance is highlighted by the Productivity Commission who advocate for a highly skilled planning workforce with “a good understanding of the commercial implications of requests and decisions and the capacity to assess whether proposals comply with functional descriptions of zones etc., rather than judging them against detailed prescriptive requirements”.⁵⁷

Disciplines on timeframes

While disciplined timeframes around assessments has been incorporated implicitly in a number of other leading practice elements, both the Productivity Commission and the COAG Reform Council view them as essential elements within regulations and therefore single them out for separate consideration.

Within the Productivity Commission’s leading practices, the following timing elements are considered important to development assessment and referral processes:

- statutory timeframes;
- limited ‘stop the clock’ provisions; and,
- deemed to comply provisions.

Where development applications themselves can be a source of delay within the process, the Productivity Commission also notes the potential effectiveness of requiring professional advice to support applications, as well as penalties for submission of incomplete applications.

The COAG Reform Council also considers the wider use of timeframe discipline, placed on planning authorities to implement strategic plans and deliver on outcomes and actions in short term plans, as well as monitoring progress on medium to long-term plans.

Transparency and accountability

The ability of a planning system to alter land values, capture and disperse returns and shape future growth means that there is an ongoing underlying risk of capture of the process by interested parties. Strong transparency and accountability processes within the system will assist in alleviating this risk. The Productivity Commission outlined six

⁵⁶ COAG Reform Council (2012) Review of capital city strategic planning systems, COAG Reform Council, Sydney, p. 34, 35, 36

⁵⁷ Productivity Commission 2011, Performance benchmarking of Australian business regulation: Planning, zoning and development assessment, Research Report, p. XLVIII

options that may be able to improve transparency and accountability within a planning system.

- 1 Ensure amendments to planning systems are subject to as much scrutiny as development assessments.
- 2 Make avenues of appeal available to those directly affected including limited third party appeal options.
- 3 Publish comparative data on council outcomes.
- 4 Provide access to rules and regulations in clear and consistent format to limit the chance of complicated rules and regulations being subjectively applied.
- 5 Promote probity processes.
- 6 Thorough and effective notification of development and planning scheme amendments brought under merit and impact assessment tracks or alternative assessment mechanisms.⁵⁸

The Grattan Institute noted that a number of successful planning systems internationally had the common characteristic of long term continuity of planning policies that were able to withstand changing governments. This constancy allows for greater certainty about development. This in turn reduces costs to governments, developers and communities. It may also reduce the chance of capture from interested parties. The importance of continuity of vision was noted within the report, “[incoming] politicians have tended not to try to... do 180 degree changes, but rather always build on what former generations have done towards the goal... they keep moving forward”.⁵⁹

The success of bipartisan support is based on strong community consultation at the strategic development stage to limit ongoing objections to proposed developments. This need for collaboration extends beyond collaboration between planning authorities and communities to include collaborative approaches by different sectors of society.⁶⁰

⁵⁸ Productivity Commission 2011, Performance benchmarking of Australian business regulation: Planning, zoning and development assessment, Research Report, p. L

⁵⁹ Kelly, J. (2010) *Cities: Who decides?* Grattan Institute, Melbourne, p. 39

⁶⁰ Kelly, J. (2010) *Cities: Who decides?* Grattan Institute, Melbourne, p. 39

5 *Assessment of options for planning regulation*

This chapter identifies and assesses options for regulation of land use and development. It:

- sets out the coverage of the assessment undertaken;
- identifies the range of regulatory options used in planning;
- sets out the main characteristics of the current NSW planning system;
- sets out in detail the changes to the planning system identified by the White Paper,;
- sets out proposed changes to the current system based on the Bills presented to Parliament, which have made some modifications to the reforms put forward in the White Paper;
- sets out our approach to identifying additional alternative options for regulation;
- summarizes the assessment of options using three assessment methods.
 - Does the option meet leading practice principles? (Detailed assessment in is chapter 8)
 - Does the option address the problems identified with the current planning system? (chapter 9)
 - Does the option have the highest net benefits to NSW? (Chapters 7, 8 and 9)

Wholesale changes to the planning system are complicated and it is difficult to precisely measure how changes will flow through to costs and benefits. We use these three methods in order to provide a reasonable level of confidence about the preferred option for planning regulation.

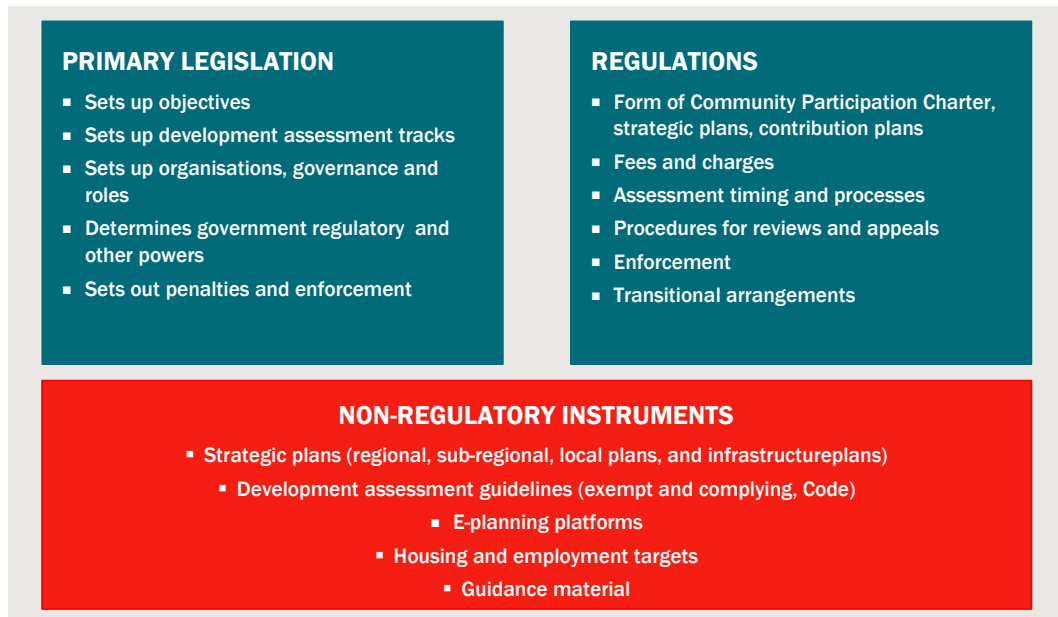
Coverage of assessment

The planning system comprises of primary legislation, regulations (subordinate legislation) and non-regulatory instruments (chart 5.1). The attributes of a planning system operates within these different instruments.

The proposed planning reforms have as a design principle that the primary legislation is enabling and provides the fundamental framework for planning and development. Subordinate legislation, policies and strategic planning documents provide the details for managing land use and guiding development decisions. This allows for greater flexibility and discretion in changing the details of the regulatory framework without having to change primary legislation.

Under the current planning system, legislation has been changed over 150 times since 1979, or around 5 changes per year.

5.1 Components of the proposed planning system



Source: The CIE.

For this Better Regulation Statement we have assessed the changes to legislation within the context of the broader set of reforms identified by the White Paper. This means that the assessment considers:

- the regulatory requirements imposed through the enabling primary legislation;
- changes to subordinate regulation identified in the White Paper; and
- changes to the operation of the planning system that will not be legislated, such as guidelines, education mechanisms and state planning policies.

Because the primary legislation enables subsequent changes, there are significant risks that these subsequent changes will differ to those that are considered in this assessment. We identify a number of major risks as part of the assessment of regulatory options. The subsequent changes will in many instances be subject to processes that will require cost benefit analysis. This process will assist in ensuring that the details of a new planning system meet or exceed the net benefits assessed in this Better Regulation Statement.

Options for government intervention in planning

The NSW Better Regulation Office sets out a broad taxonomy of the ways in which a government may act to achieve their objectives (box 5.2).

5.2 Taxonomy of types of government intervention

- Taking no action or maintaining the status quo
- Non-regulatory instruments
- Provision of information
- Mandatory information provision
- Self-regulation
- Quasi-regulation
- Co-regulation
- Creating Markets or Developing Market Based Instruments
 - Creating markets in tradeable property rights
 - Imposition of government charges
 - Providing government subsidies
 - Creating financial liability
- Prescriptive regulation
 - Controls on quantity and quality
- Direct government provision of goods and services

Source: NSW Better Regulation Office 2009, Guide to Better Regulation; The CIE.

Intervention in planning is typically characterised by multiple forms of government intervention. Governments:

- impose government charges, such as infrastructure charges, to reflect the costs of development and push development towards areas that have lower infrastructure costs to develop;
- control the quantity and type of development through zoning, development assessment and development conditions;
- regulate building quality through requirements for certification (and licensing arrangements for tradesmen) and insurance;
- provide many of the services essential for new development directly, such as roads, schools, drainage, water and electricity; and
- undertake development themselves, such as through Government developers like Urban Growth NSW (formerly Landcom).

There would be few areas of Australia's economy where a Government has as extensive a role as it does in planning and development.

It is not easy to measure the characteristics of a planning system in a systematic way.⁶¹ Possible characterisations include the extent to which regulation is market based versus prescriptive. (Market based instruments are those that create economic incentives to

⁶¹ Gurran, G., P. Phibbs, G. Bramley, C. Gilbert and T. Austin 2012, "Quantifying planning system performance and Australia's housing reform agenda: an Investigative Panel", Australian Housing and Urban Research Institute Final Report, No. 191.

achieve policy objectives⁶².) A system that is more market based, for example, would make greater use of pricing, would have broader zoning categories, and would use performance based⁶³ rather than prescriptive development controls (and fewer controls). There may also be ways to bring market incentives into zoning and development controls.

The way that governments around Australia intervene in land use and development activity are relatively similar at a broad level. All systems feature government playing a part in development approval, pricing of infrastructure for new development and strategic planning.⁶⁴ However, it is often the details that determine how well these systems work in practice.

Approach to identifying options

Generally, a Better Regulation Statement should seek to cover a full range of options from no government involvement, non-regulatory approaches and regulatory approaches. The options evaluated by this BRS reflect the following considerations.

- There are no examples of developed countries that do not have a significant role for government in planning. Any consideration of a system with no regulation would therefore be purely theoretical.
- The development of the NSW planning reforms has sought to move towards leading practice as identified by the Productivity Commission and others and has narrowed on reforms through an extensive consultative process. We consider options that vary particular aspects of the reforms. However, because the existing system is far from leading practice we do not seek to examination options that vary only particular parts of the current planning system.

This means that we consider the current planning system, the system proposed in the White Paper, the modifications made to this in the Planning Bills presented to Parliament and variations to specific parts of the system proposed in the White Paper.

The White Paper identifies the transformative changes to the NSW Planning system under the following components:

- Delivery culture
- Community participation
- Strategic focus
- Streamlined approval
- Provision of infrastructure

⁶² NSW Better Regulation Office, Guide to Better Regulation, p. 33.

⁶³ For example see Frew, T. 2011, *The implementation of performance based planning in Queensland under the Integrated Planning Act 1997: an evaluation of perceptions and planning schemes*, PhD, Queensland University of Technology.

⁶⁴ Productivity Commission 2011, Performance benchmarking of Australian business regulation: Planning, zoning and development assessment, Research Report

We identify alternative options within each of these components for the NSW planning system, except for delivery culture. These variations involve changing all other aspects of the planning system as specified in the White Paper and then assessing variations in the particular component. We use the reforms proposed in the White Paper as the basis for considering variations as they are closer to leading practice for land use planning (see chapter 8 for details).

The alternative options identified within each component are based on consideration of current planning system arrangements for the component, leading practice as set out in chapter 4 and submissions made by the community (summarised in box 5.3). A more detailed assessment of submissions to the White Paper is set out in a separate Feedback Report.

5.3 Issues raised by the community

The extensive community consultation process has raised a number of issues, many of which are related to details of implementation. The major issues identified from community responses to the White Paper are as follows.

- The view that the objects of the legislation should include the principles of ecologically sustainable development
- The role of community participation, with some arguing for a strengthening and some a weakening of statutory weight given to the Community Participation Charter, many arguing against reduced community participation for up to 80 per cent of development and for code development and a view that consultation should be required for Ministerial amendments to a local plan
- The place for heritage within the new planning system, including its place within a set of broad zones and approvals under a one stop shop.
- Limiting third party appeals and judicial reviews
- Implementation concerns including the level of resourcing, transitional issues, significant operational changes for councils and managing a process of cultural change

We do not consider variations in delivery culture. This is a critical element of the planning system. Options for delivery culture are not considered as delivery culture is either influenced by specific changes identified in other components (such as community participation) or influenced by other activities that are not regulatory.

The options identified from this process are set out in table 5.4.

5.4 Options considered for regulation of the planning system

No.	Option details
1	Current NSW planning system
2	Planning system proposed in the White Paper

No.	Option details
3	The Planning Bill presented to Parliament and modifications to planning reforms, which includes targeted code assessment, retention of existing standard zonings and increases in the notification period for complying development (residential)
Community consultation	
4a	Community consultation on code assessed development
4b	Not requiring community consultation on State Planning Policies
Strategic planning	
4c	Reducing level and breadth of strategic planning
4d	Non-statutory strategic planning
Development assessment system	
4e	Lower target for code and complying development
4f	No code assessable development track
4g	Changes to implementation of timeframes
Infrastructure	
4h	Deferring infrastructure contributions from subdivision certificate to settlement

Source: The CIE.

Summary of assessment

A summary of the performance of each of the options is set out in table 5.5. The assessment has been made on the basis of:

- how each option compares to leading practice;
- the extent to which each option addresses the problems with the existing system; and
- the net benefits of the option once fully implemented — for variations to aspects of the White Paper benefits and costs have been reported only once fully implemented and for the low range of the estimated benefits.

Assessment of each option is set out below and a detailed assessment is presented in chapters 8 to 12. The net benefits set out in this table show only the low end of the range of net benefits once the reforms are fully implemented.

All options evaluated show significant net benefits relative to the current planning system. The option with the highest net benefits is the White Paper reforms with timelines specified as deemed-to-comply (option 4g). This option is the most closely aligned to leading practice principles, addresses the six main problems identified with the current planning system and has the highest net benefits.

5.5 Summary of assessment of proposed options

Option	Meets leading practice (out of 42)?	Addresses problems (out of 6)?	Net benefits relative to current planning system once fully implemented	
			Low (\$m/year)	High (\$m/year)
Current planning system (1)	12	0	0	
White Paper reforms (2)	38	6	848	1 482
Planning bill reforms presented to Parliament (3)	33	5 ^a	569	1 035
Other variations to white paper ^b reforms				
Community consultation				
▪ Community consultation on code assessed development (4a)	35	4	540	
▪ Not requiring community consultation on State Planning Policies (4b)	34	5	na	
Strategic planning				
▪ Reducing level and breadth of strategic planning (4c)	31	3	652	
▪ Non-statutory strategic planning (4d)	34	4	750	
Development assessment system				
▪ Lower target for code and complying development (4e)	35	4	602	
▪ No code assessable development track (4f)	35	4	540	
▪ Changes to implementation of timeframes (4g)	40	6	874	
Infrastructure contributions				
▪ Deferring infrastructure contributions (4h)	37	6	na	

^a The Bills presented to Parliament would fully address four problems and partly address 2 problems. ^b The net benefits reported in this table for additional options are for the low end of the range and once reforms are fully implemented.
Source: The CIE.

The current NSW planning system (option 1)

The key components of the current planning system can be viewed as follows.

- Strategic planning undertaken by the NSW Government through regional plans and sub-regional plans. (For example the Sydney Metropolitan Plan.) There is no statutory requirements for these plans and they are not undertaken for all regions across NSW. Effect can be given to these plans through a Ministerial Order.

- State Environment Planning Policies (SEPPs). These are legal instruments developed by the NSW Government that provide permissibility and development control requirements. There are more than 50 active SEPPs listed on the NSW Planning website covering.
- Local Environment Plans (LEPs). LEPs are a legal instrument that detail zones and development controls for a local government area.
- Development control plans. These are non-legal documents that support the LEP with more detailed planning and design guidelines.
- Development assessment system. This comprises the set of processes for assessing new development. Depending on the scale of development, the approving authority might be the local council or the NSW Minister for planning. Decisions can be delegated to independent bodies such as the Planning Assessment Commission, Joint Regional Planning Panels or Independent Hearing and Assessment Panels. The system currently includes:
 - exempt development (which does not require approval);
 - complying development (which can be approved by a private certifier or a council); and
 - development assessment (which can only be approved by a council and for which there is community input).
- The ability to collect developer contributions at a state level (through Special Infrastructure Contributions) and at a local level through section 94 and section 94A contributions.

Assessment of the current NSW planning system (option 1)

The current NSW planning system is not leading practice. It meets leading practice principles identified by the Productivity Commission in 12 out of 42 components.

The problems with the existing system have been set out in chapter 2. These are quantified in detail in chapter 11.

- From a top-down perspective, NSW appears to be producing far less housing than would be expected given the size of the state and population growth. Over the past five years, housing completions have been 40 per cent lower in NSW than in Victoria, with both states accommodating a similar amount of additional population over this period. Housing completions are on a trend decline in NSW compared to a trend increase in the rest of Australia. The implied economic costs that get to outcomes such as these is substantial and could be equivalent to a constraint on NSW Gross State Product of over \$5.6 billion per year.
- Bottom-up estimates of the excessive costs for delay and documentation imposed by the current system, the costs associated with excessive risk and the inefficient use of land also suggest that the current system is imposing a considerable economic cost on NSW. We estimate this cost as between \$1 billion and \$2 billion per year.

... If costs of this order are imposed as productivity shocks this suggests that the constraint on NSW Gross State Product is between \$3 billion and \$7 billion.⁶⁵

The planning system proposed in the White Paper (option 2)

The planning system proposed in the White Paper involves many changes to the current planning system. Below we detail the key changes set out according to whether they are changes to primary legislation and whether they are changes to:

- Community consultation (Part 2 of the Planning Bill 2013)
- Strategic planning (Part 3 of the Planning Bill 2013)
- Development assessment (Parts 4, 5, 6 and 9 of the Planning Bill 2013), or
- Infrastructure (Part 7 of the Planning Bill 2013).

Changes to building regulation are identified separately.

Legislative changes

The draft Planning Bill 2013 and draft Planning Administration Bill 2013 set the following changes to the planning system.

- Change in the objects underpinning the legislation that shift the focus towards a balance of economic, environmental and social well-being (sections 1.3 and 3.3).⁶⁶
- Community participation
 - A mandatory Community Consultation Charter (Part 2) for strategic plans and mandatory community consultation for state planning policies and strategic plans
 - A shift of community input from the development assessment stage to the strategic planning stage. This is given effect through mandatory community participation (as above) and code assessable development.
- Strategic planning
 - statutory provision for a hierarchy of strategic plans (NSW planning policies, regional plans, sub-regional plans, sections 3.4 to 3.8) and the content required in these plans;⁶⁷
 - requirement that all planning provisions are contained within a local plan (section 3.8) and the content of local plans, which reduces confusion about the relationship between state policies and the current local environment plans and will also ensure that state policies on exempt, complying and code based development are part of council plans;

⁶⁵ The impacts on GSP are larger than the net benefits because productivity gains in housing lead to a larger expansion in investment than in consumption.

⁶⁶ The current act includes ecologically sustainable development, which overweights environmental factors because it links to the precautionary principle and does not include social factors.

⁶⁷ Currently these plans can be given effect through a direction from the Minister (section 117 of the EP&A Act).

- Development assessment
 - provision for Code assessable development (sections 4.17 and 4.18), which would
 - ... allow for faster approval of development, and
 - ... reduce uncertainty about allowable development, and
 - one stop shop for development assessments that requires other approvals, concurrences or consultations (Division 6.3);
 - put in place an amber light approach for merit assessment. This requires a consent authority to consult with the applicant at the earliest opportunity before determining to refuse an application or substantially altering an application through conditions
 - allowance of variations for complying development (section 4.8)
 - requirement for environmental impact assessments for state significant development limited to some developments (section 4.30)
 - the introduction of Strategic Compatibility Certificates (division 4.7), which allow for approval for development that is strategically consistent with regional or subregional plans (prior to implementation in local plans);
 - streamlined processes for Public Priority Infrastructure (Division 5.3)
 - internal reviews available for a greater set of development determinations (section 9.2);
 - requirement to establish online delivery of planning services and information (section 2.7), which will make the planning system easier to use;
- Infrastructure
 - three level structure for contributions (regional growth fund, regional infrastructure contributions and local infrastructure contributions) to replace current two tiered arrangement of section 94/94A contributions and Special Infrastructure Contributions
 - ... restriction of infrastructure types allowed in local infrastructure contributions to be limited to essential infrastructure attributable to development (local roads, local drainage, open space and community facilities, section 7.1)
 - ... movement of land for regional drainage and open space (which were in local contributions) to regional infrastructure contributions and planning growth funds (section 7.1)
 - ... restriction of regional infrastructure contributions to state and regional roads, transport land and works and education land or works.
 - ... restriction of planning growth fund to regional open space and drainage
 - ... these changes imply a removal of contributions associated with, emergency services, Attorney General's services, precinct planning and delivery services and health services and will also likely restrict infrastructure funding to 'necessary' works. They also broaden the scope of infrastructure to include capital for education, which allows for a better alignment of cost for infill areas. This also likely means a more even application of infrastructure contributions than the current Special infrastructure contributions, which only apply to specified areas.

- principles to guide setting of infrastructure contributions and linking local infrastructure plans to principles (section 7.3 and 7.11). New principles extended the current principles of reasonableness (as demonstrated by a nexus) and accountability to also include provision of funding infrastructure within a reasonable time, consideration of housing affordability, and infrastructure contributions based on reasonable estimate of costs⁶⁸
- system to allow for deferment of payment for developer contributions from the time of obtaining a subdivision certificate to time of settlement (of a lot or dwelling)
- local and regional infrastructure contributions integrated in local plans rather than a separate contributions plan;
- requirement to spend money collected from local infrastructure contributions within three years or longer with ministerial approval (section 7.9), compared to current unlimited time period — this has been adapted to five years in revised Bills;
- Allows for the development of Growth Infrastructure Plans (GIPs) with reference to principles (described in section 3.3). The GIPs area also required to include a ‘contestability assessment’ – an assessment of the opportunities for infrastructure identified in the plan to be “provided and operated by the private sector”. (section 7.20)
- Biodiversity offset contributions — the key change is that the contribution will be specified in the local plan and contributions will be payable into a new fund (the Biodiversity Offset Fund)
- Voluntary planning agreements (section 7.28). The key change is to narrow the scope of what can be levied for. Subsection 1 requires the agreement to be linked to and specified in the local infrastructure plan or growth infrastructure plan, the provision of affordable housing identified in a strategic plan, the conservation/enhancement of the natural environment or the provision of infrastructure for any other public purpose that provides a material public benefit identified in a Ministerial planning order.

These changes are expected to impact mainly on new residential and non-residential construction. Through this channel, most sectors of the NSW economy will then be impacted.

Other key changes proposed by the White Paper

The changes to primary legislation above are only one part of the proposed reforms. There will also be substantive changes to regulations (subordinate legislation) and policies to align to the changes in legislation. We have drawn out major changes from the White Paper.

The White Paper puts forward a number of other aspects of the proposed changes to planning reforms that will be part of regulations and planning policies.

⁶⁸ It is not clear how trade-offs will be made between principles (eg affordability versus cost-reflectivity)

- Strategic planning
 - Development of housing and employment targets by the NSW Government to inform regional growth plans and subregional delivery plans (p 79)
 - Testing economic feasibility of local plans (p 80)
 - Assessment of plans against targets and performance indicators (p 83, 90)
 - Measurement of economic, social and environmental costs and benefits of alternative options through strategic impact assessments (p 88)
 - Shift to fewer broader zones (p 94-95)
 - Shift to building envelopes instead of more prescriptive development controls (p 98)
 - Development guides that align development types to assessment tracks for each local plan (p 98-99);
- Development assessment
 - 80 per cent of developments to be complying or code assessed within the next five years (p 114)
 - Expanded range of developments to be exempt, complying or code assessed (p 114, 124)
 - Lower cost appeals processes (p 143)
 - Promotion of independent expert decision making (p 114)
 - Faster approval timeframes of 10 days for straight forward complying development approvals and 25 days for complying development with minor variations and code assessment.⁶⁹ (p 119) Note for Code (25 days) and Merit (50-90 days) is a deemed refusal period so this is unlikely to have any impact on timeframes
 - Reviewing existing concurrences and referrals to remove those not justified (p 120)
 - Statewide toolbox of development conditions (p 120)
 - Accreditation of consultants for EIS (p 138)
- Infrastructure
 - removal of contribution caps (i.e. \$20 000 for established areas and \$30 000 for greenfield areas), local infrastructure contributions will now be uncapped
 - local infrastructure costs to be benchmarked by IPART
 - regional infrastructure contributions will apply across Sydney and all other areas of the state experiencing high growth, compared to the current arrangement of Special Infrastructure Contributions which only applied in the North West Sydney and South West Sydney Growth Centres and the Central Coast; and
 - funding sources will be identified for the first five years of GIPS

The regulations and planning policies will be developed within the next several months and over a period of several years respectively.

The extent to which these changes are implemented will impact on the timing and magnitude of benefits and costs arising from the NSW planning reforms.

⁶⁹ Note for Code (25 days) and Merit (50-90 days) is a deemed refusal period so this is unlikely to have any impact on timeframes.

Assessment of the White Paper reforms (option 2)

The White Paper reforms are a significant improvement on the current NSW planning system. Our assessment indicates that these changes would:

- move the NSW planning system close to leading practice. Under the White Paper changes, leading practice would be met in 38 of the 42 components identified. Leading practice would be partly met in another 3 areas. It would not be met in one instance, because timelines for development assessment are specified as deemed-to-be refused;
- address the six major problems identified with the current NSW planning system; and
- have net benefits once fully implemented of \$848 to \$1482 million per year. After accounting for transition costs and time for implementation, *average* net benefits per year over the next 30 years are estimated at \$663 million to \$1165 million.

The net benefits once fully implemented are equivalent to a productivity change for the NSW economy of 0.2 per cent to 0.3 per cent. Using the CIE Regions economic model, we estimate that the changes would flow through to a longer-term increase in NSW Gross State Product of \$3 to \$5 billion.

The estimates presented of the impacts of the reforms are lower than the current constraint imposed by the NSW planning system. This reflects the conservative approach taken to estimating the impacts of the reforms.

The assessment of the changes proposed in the White Paper extends well beyond the changes to primary legislation, as set out in the Planning Bill 2013 and Planning Administration Bill 2013. For example, for 23 of the leading practice components, the assessment is at least partly influenced by changes not detailed in primary legislation. This means that there are significant risks that the full implementation of the planning system will not match the changes put forward in the White Paper. In this case and where this leads to deviation from leading practice principles this would reduce the net benefits of the changes to the planning system.

Planning Bills presented to Parliament

The Planning Bills presented to Parliament option reflects the changes identified in the White Paper, with subsequent modifications made by the NSW Government. The changes have been made in response to community consultation.⁷⁰ The following summarizes major changes made to the reforms put forward in the White Paper and draft planning bills.

- Allowing councils to modify the State-wide codes to better reflect their local area
- Code assessable development will only apply in nominated growth areas (for example around the North West and South West train lines or areas nominated by councils)

⁷⁰ NSW Minister for Planning and Infrastructure 2013, “Government listens to community and councils on planning bills”, Media releases, 19 September; Hansard 2013, “Planning system reform”, extract from NSW Legislative Assembly Hansard and Papers, 19 September, p. 43.

- The target for code assessable developments has been removed entirely
- Councils will be made to prepare Neighbourhood Impact Statements if they intend to implement code assessable development
- The full range of current land zonings will remain as they are (i.e. 35 zones)
- Appeal rights will remain as they are
- Local and State heritage protections will continue.
- There will be a notification period for residential complying development of 14 days prior to determination and a notification period of 7 days prior to construction. (There will be some additional time for determination in addition to these times.)⁷¹

Assessment of the Planning Bills presented to Parliament

The Planning Bills presented to Parliament option is a significant improvement on the current NSW planning system. Our assessment indicates that these changes would:

- move the NSW planning system closer to leading practice. Under the Planning Bill presented to Parliament, leading practice would be met in 33 of the 42 components identified. Leading practice would be partly met in another 6 areas. It would not be met in three areas;
- address four of the six major problems identified with the current NSW planning system and partly address the remaining two problems; and
- have net benefits once fully implemented of \$569 to \$1035 million per year. After accounting for transition costs and time for implementation, *average* net benefits per year over the next 30 years are estimated at \$442 to \$811 million.

The net benefits once fully implemented are equivalent to a productivity change for the NSW economy of 0.1 per cent to 0.2 per cent. Using the CIE Regions economic model, we estimate that the changes would flow through to a longer-term increase in NSW Gross State Product of \$2 to \$3 billion.

The assessment of the proposed changes in the Bills presented to Parliament option extends well beyond the changes to primary legislation. For example, for 23 of the leading practice components, the assessment is at least partly influenced by changes not detailed in primary legislation. This means that there are significant risks that the full implementation of the planning system will not match the changes intended by the Bill presented to Parliament. In this case and where this leads to deviation from leading practice principles this would reduce the net benefits of the changes to the planning system.

⁷¹ This compares to current average determination times of 18 days in 2011/12 based on the NSW Performance Monitoring data provided by local councils to NSW planning and notification of 2 days prior to construction.

Assessment of variations to the White Paper reforms

Variations to community consultation (options 4a and 4b)

Community consultation could be structured to represent a smaller change in the planning system than that envisaged in the White Paper. In particular:

- the community could be consulted for code assessable development; and
- consultation of NSW Planning Policies could be limited — this option is similar to the current system whereby SEPPs are not necessarily subject to community consultation.

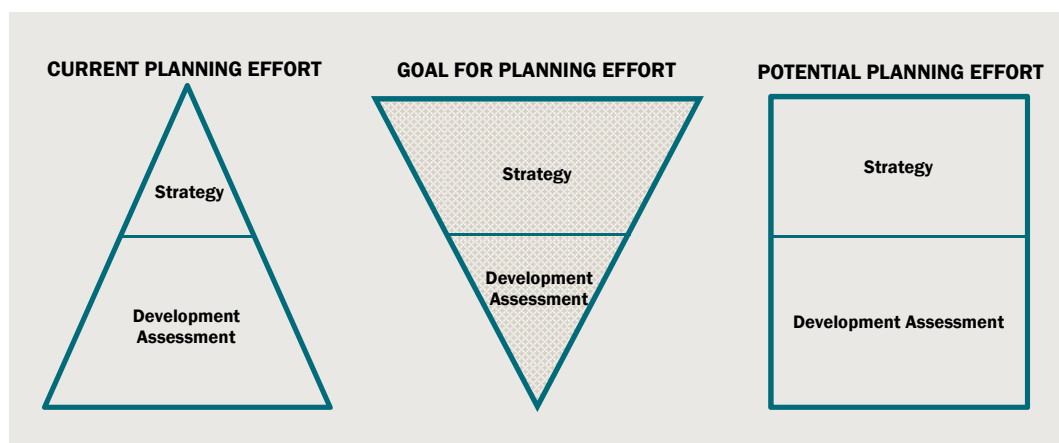
These options are further from leading practice than the White Paper. Leading practice principles indicate that the community should be engaged early and in proportion to the impacts. Neither of these options would meet this principle.

These options are likely to have lower net benefits than the structure of community engagement proposed in the White Paper. The net benefits of allowing community consultation on code development while maintaining other aspects of the White Paper reforms are estimated at \$540 million per year once changes are fully implemented. This is over \$300 million per year less than the White Paper option. The benefits and costs of removing consultation requirements for State Planning Policies has not been quantified.

The integrity of the reforms rests on shifting the focus of community consultation as set out in the middle component of chart 5.6. Either of the options would reduce the alignment of the planning system to this. As the Grattan Institute notes:

At the heart of the white paper is a bargain – in return for giving up objection rights and enabling swifter approvals, residents get an opportunity to help write the rules for development within their local area over the next decade.⁷²

5.6 Planning effort



Data source: Productivity Commission 2011, p. XLIII; The CIE.

Achieving effective community engagement is a difficult implementation task for the planning reforms. Challenges include presenting the community with real options for the

⁷² Kelly, J. 2013, "Vision splendid for Sydney needs community input", Sydney Morning Herald, 17 April.

development of their area and associated trade-offs and understanding community preferences. The processes of community engagement will also have to ensure that there are sufficient dwellings and employment land to accommodate population growth.

NSW and particularly Sydney residents currently have mainly negative attitudes to population growth and presumably therefore development. This reflects the history of provision of services to accompany growth and particularly the view that additional development and population growth means increased transport congestion.⁷³ The timeframes over which these attitudes will moderate in response to services and infrastructure that responds to growth, and a more credible framework for identifying and funding future infrastructure through Growth Infrastructure Plans, is not clear. If this is not successful then community engagement may conflict with the need to accommodate a growing population. How this would resolve itself is not yet clear.

If the strategic plans that arise from community engagement processes do not lead to an easier path for new development and an expansion of housing supply in particular then a large part of the benefits of the reforms are at risk. This would put at risk the \$413 to \$800 million per year in benefits from allowing a more efficient land use pattern and potentially impact on a large part of the economic gains achievable from a more productive housing sector.

Though the benefits would be significantly lower without an engaged community, the reforms would continue to have net benefits even if they only achieved a streamlined development assessment system.

Variations to strategic planning (options 4c and 4d)

The proposed planning reforms set out four levels of strategic planning — state planning policies, regional growth plans, sub-regional delivery plans and local plans. This is similar to the current levels of planning used in NSW (SEPPs, regional plans in some areas, sub-regional plans for some areas and LEPs).

Two options for changes to this component of the reforms include:

- reducing the breadth of strategic planning, through reducing the coverage of Regional Growth Plans (such as to high growth areas only) and removing Sub-regional Delivery Plans (option 4c);
- maintaining the current arrangement where state-level strategic planning is not set out in statute (option 4d).

These changes perform less strongly against leading practice principles. Reducing the breadth of strategic planning would:

- reduce the extent to which the planning system would support the early resolution of land use and coordination issues; and
- reduce the extent to which the community is engaged early and in proportion to the likely impacts.

⁷³ See chapter 2 for the results of surveys of NSW resident attitudes.

Sub-regional Delivery Plans are also an important component in providing a credible link between growth and infrastructure (through Growth Infrastructure Plans⁷⁴) and for implementation of infrastructure contributions.

- Residents and businesses in Sydney will be looking for specific infrastructure relevant to their area — Sydney-wide infrastructure would not provide as credible a link between growth and infrastructure as planning at a sub-regional level.
- If regional infrastructure contributions were charged at the same rate across the whole of Sydney then this could lead to cross-subsidisation between developments in different areas and a less efficient pricing mechanism. That is, because costs would not be reflected in charges developers would not be pushed towards developing in areas of lower infrastructure cost.

The need for a sub-regional mechanism also reflects the large number of councils in NSW. Sub-regional delivery plans will be one method of ensuring that decisions are not made on an overly-localised view of impacts in Sydney, as well as providing integration between the state government and local governments.

The second option, of using non-statutory state strategic planning documents, would give less confidence to the community on their involvement in these plans and what these plans would do. It would also provide a less direct line of sight between these plans and local plans.

The net benefits are estimated to be highest where the four levels of strategic planning identified in the White Paper are allowed for.

- Reducing the breadth of strategic planning would put at risk the \$413 to \$800 million per year possible from improving the efficient use of land. A conservative estimate is that it would reduce these benefits by around half. This would mean that the low end of the estimated benefits would be \$652 million per year, around \$200 million per year lower than the White Paper option.
- Non-statutory strategic planning would also put at risk the \$413 to \$800 million per year possible from improving the efficient use of land. The extent to which this benefit would be lowered would depend on whether plans are developed in a similar way whether they are statutory or non-statutory. We consider it reasonable to expect that this could reduce the benefits identified above by around a quarter. This would mean that the low end of the estimated benefits from the reforms would be \$750 million per year under this option, around \$100 million per year lower than the White Paper option. This is a conservative estimate given that land use inefficiencies have developed under the current non-statutory arrangements.

Variations to development assessment (options 4e, 4f and 4g)

A major change in the proposed reforms is an additional development track, called code assessment. Strategic planning will identify a set of development characteristics that are allowed to be approved under code assessment. Code assessment will then be undertaken

⁷⁴ Note that Growth Infrastructure Plans can be aligned to Regional Growth Plans as well.

by councils with community notification only. It is envisaged that complying and code assessed developments will comprise 80 per cent of developments requiring approval.

The code will be part of a local plan but will be influenced by both the local area and the broader community.

- The NSW Government could influence what is Code assessed through a planning policy. This could, for example, limit codes to considering building envelopes only.
- The Regional Growth Plan and Sub-Regional Delivery Plans could impact on what is code assessed as local plans have to be consistent with these plans.
- Local plans will ultimately set out which developments can be code assessed.

There is considerable scope for the reforms to fail to deliver the proposed targets for complying and code assessed development. If codes have overly onerous conditions that significantly limit how land can be used then few developments are likely to be able to be code assessed. In this case the target of 80 per cent would not be met.

If the target for code and complying development was lower (4e), such as 40 per cent, we estimate that the net benefits of the reforms would be \$246 million per year lower (once fully implemented).⁷⁵ This reflects a smaller number of developments gaining from lower costs and a small reduction in the risks associated with developing in NSW.

We also consider that a lower target would align less well with leading practice principles. It would:

- not engage the community early and in proportion to likely impacts — a considerable amount of the development going through merit based assessment would have low value (averaging \$100 000 value); and
- perform less well in improving the development assessment and rezoning criteria and processes.

An alternative option is to have no code based assessment at all (4f), similar to the current system. This performs less well than having a target of 40 per cent. We estimate that this option would have net benefits that are \$309 million per year lower than the changes proposed in the White Paper.⁷⁶ This reflects the additional development costs and risks compared to having the code assessable development track.

One further change to the development assessment system that could be made is to specify timelines for consent authorities in a different way. The White Paper proposes to specify timelines as deemed-to-be-refused. This provides very limited discipline on consent authorities because it only grants a right of appeal following the period specified. Very few applicants are likely to appeal at this stage and will instead wait until the consent authority has processed their application. The current legislation also has specified timelines that are deemed-to-be-refused. These have not limited delays to development.

⁷⁵ Relative to the \$848 million per year from the low-end estimated of the benefits from the White Paper reforms once fully implemented.

⁷⁶ Relative to the \$848 million per year from the low-end estimated of the benefits from the White Paper reforms once fully implemented.

The alternative is to specify timelines as deemed-to-comply. That is, once the time specified is up, if the consent authority has not made a decision then the development is automatically approved. The Productivity Commission has noted that timelines for development applications should be deemed-to-comply, as part of its leading practice principles. This was also proposed in the Green Paper.

A deemed-to-comply system would likely reduce timelines for development applications relative to the changes proposed in the White Paper and the current development assessment system. The extent to which delays are reduced by a deemed-to-comply timeline are difficult to determine precisely. Based on current development assessment times, we estimate that at least 10 days could be shaved off average development approval times. This would imply a reduction in time cost of \$26 million per year compared to the changes proposed by the White Paper.

Moving to a deemed-to-comply system would require consideration of the resourcing available for councils and other consent authorities.

At this stage we consider that specifying timelines as deemed-to comply is the preferred option. The specification of timelines will occur in the regulations and be subject to a regulation impact statement. A more detailed assessment of the costs and benefits of alternative timelines will be considered there.

Variations to infrastructure (option 4h)

Infrastructure contributions are an important part of funding the infrastructure costs associated with new development. The important components of an infrastructure charging regime areas follows:

- What activities are to be recovered through infrastructure charges?
- How are the costs of these activities to be estimated?
- How are costs going to be allocated to specific developments, such as charges are levied per hectare or per dwelling, and the spatial linkage used to align costs to development (such as a precinct, local council area or sub-region)?
- How much of these costs should be recovered from development versus the broader community?
- When are costs to be recovered?
- How will processes ensure and account for activities matching those included in charges?

Details for a number of these aspects of the infrastructure charging regime are still to be determined. Because the benefits and costs of infrastructure charging will reflect the details we have not assessed the costs and benefits of the changes proposed in the White Paper in substantial detail, although we have noted where potential benefits may accrue.

The White Paper raised a number of options for when infrastructure charges would be levied. It indicated that the system would allow flexibility in the timing of payment. An alternative to flexibility would be to specify the timing of infrastructure contributions and make this mandatory for all developers. This could include:

- contributions levied at the time of subdivision (and linked to a subdivision certificate) — this is the current approach used; or
- contributions levied closer to the point of sale of developed land, such as at settlement.

The delays in timing between these options would likely be in the order of two years.⁷⁷

These options could be different in terms of:

- the cost borne by developers, councils and the NSW Government — for example, if financing costs are not added-in then a developer bears a lower share of costs by paying later than if they pay up-front. If financing costs are included then the timing of payment does not impact on this. We would expect that financing costs would have to be accounted for in a reasonable infrastructure charging regime. This detail will be considered in the Regulation Impact Statement;
- the risks borne by developers, councils and the NSW Government — for example:
 - if a developer pays upfront, the council may delay its expenditure on infrastructure, leaving the developer to bear the risk of this; and
 - if a developer pays at the point of sale, then a council may incur expenditure for infrastructure that is not recovered because the lot is not sold or sale is delayed by the developer.
- the administrative costs of the different arrangements for payment.

The Productivity Commission leading practice identifies that infrastructure such as local roads, paving and drainage should be viewed as developer construction costs. For these costs, it would be expected that a developer would pay costs *just as they would any other cost of development*. Because the gaining of a subdivision certificate necessitates some part of the work being undertaken, it would be preferred to align this expenditure to the time of a subdivision certificate being granted. A deferred payment scheme would represent a deviation from this and hence fit less well with leading practice principles.

For some other parts of infrastructure contributions, such as open space and community facilities, the timing of expenditure is less closely linked to the subdivision certificate. The requirement for these facilities (and additional demand placed on facilities by new development) would be aligned to the completion of dwellings.

The administrative costs of a deferred payment scheme may also be higher than charging at the point of subdivision certificate. NSW Planning has indicated that discussions with developer groups have noted the complexity of a deferred payment scheme.

Note that if a deferred payment scheme were preferred, this would only be cost reflective if financing charges were included in the calculation of infrastructure charges. For example, if a council expended \$1 million on local roads and drainage for a particular development area then:

⁷⁷ Productivity Commission 2011, Performance benchmarking of Australian business regulation: Planning, zoning and development assessment, Research Report, table 5.2, based on the time to address approval conditions and install infrastructure.

- a developer paying two years after expenditure would face a charge of \$1 million plus two year's financing cost. This would be around \$1.14m; and
- a developer paying five years after expenditure was incurred would face a charge of \$1 million plus five year's financing cost. This would be around \$1.40m.

In this case, a developer is implicitly bearing the risks associated with delays. However, a council would retain the risk of sale not occurring at all. There may also be unintended consequences of this, such as a developer choosing not to sell some part of a development because of the liability associated with the infrastructure charge.

Implementation risks

The tables in chapter 8 note where the assessment that the proposed changes is dependent on legislative changes and other changes. For 23 of the 42 components, the assessment is influenced by factors outside of the primary legislation. If these changes do not match the intent of the White Paper then the proposed system would, in implementation, be less closely aligned to leading practice.

The main implementation risks can be broadly aligned with the areas of identified benefits from reforms.

- Where the code assessment stream does not end up being an important streamlined development track, a significant part of the benefits from reduced cost and risk will not be gained. This could occur if local plans specify codes that would only allow development that is not commercially feasible, for example. Monitoring of the tracks taken by development applications will be necessary to manage this implementation risk, as has been anticipated in the White Paper. This will also feed into the risk for merit assessed development: where codes are commercially feasible many merit assessed developments will face less onerous requirements as they are only merit assessed where they deviate from the code.
- Achievement of a more efficient use of land is dependent on community acceptance of the need to allow for more development than is currently occurring. This in turn is dependent on the funding mechanisms and level of funding for infrastructure and transport services. It is also dependent on finding a balance between state needs and local preferences through the line of sight between the various plans. The benefits of a number of major reforms have been constrained by the role played by local councils (see boxes 12.9 and 12.10).
- Achievement of a more efficient use of land is also dependent on broad zones being effective in allowing for changes to land use. Councils may seek to layer more extensive development controls underneath each zone in order to gain greater control of the activities allowed. This could then limit the ability of the market to find the most efficient use of land.

6 *Assessment of options for building regulation*

Building regulation generally relates to the safety of buildings by ensuring minimum standards for structural integrity and fire safety. More recently, building regulations have also covered issues, such as minimum energy efficiency requirements.

The issues addressed through building regulation are therefore distinctly different to the issues covered by the planning system, though there are some significant areas of overlap between planning and building regulation.

The primary legislation sets out requirements for building regulation in Part 8 of the Planning Bill 2013.

Options for building regulation

There are many options that could potentially be considered for reforming building regulation. However, not all of these options are within the scope of this BRS.

While building regulation is the responsibility of state and territory governments, the technical standards are set out in a nationally-consistent building code, the Building Code of Australia (now incorporated in the National Construction Code).

While the standard-setting role is performed by a national body — the Australian Building Code Board (ABCB) — state and territory governments remain responsible for administration and enforcement of the BCA. The building reforms set out in the White Paper primarily relate to improving compliance with the BCA.

Unlike planning systems, no leading practice model has been identified for buildings. The Productivity Commission nevertheless identified the types of mechanisms employed by state and territory governments to encourage and support compliance with building regulations. These include:⁷⁸

- the availability of training, to help ensure building practitioners are competent to implement Code-compliant building solutions
- licensing and registration schemes, including ongoing competency requirements and audits
- insurance requirements, to provide incentives for compliance and some measure of consumer protection
- contractual arrangements, to clearly set expectations and the consequences of non-compliance

⁷⁸ Productivity Commission, 2004, Reform of Building Regulation, Productivity Commission Research Report, p. 186.

- a system of inspection of work and other approval mechanisms, to spot non-compliance at an early stage, and maintenance procedures to ensure on-going compliance of certain essential building safety systems.
- enforcement mechanisms, to implement appropriate strategies in the case of non-compliance with regulations
- dispute resolution processes, so that continued or disputed non-compliance can be dealt with quickly, fairly and cost-effectively.

The primary legislation makes minimal changes to the current building system, with the main changes being:

- the requirement for a Building Manual — this would replace a fire safety schedule. While there may be some minimal costs associated with preparing the Building Manual, there are also likely to be savings ;
- simplification of the approval process by requiring the appointment of one person to both issue the construction certificate, undertake inspections and issue an occupation certificate;
- the introduction of a compliance certificate for certain completed building work, which is essentially a change in terminology to improve clarity;
- making provision for a gateway proposal that would prevent councils from unreasonably attaching conditions to consents that require higher standards (and costs) than what is required in the BCA without approval of the Director-General of the Department of Planning. Councils would also require approval if building standards adopted in local plans are over and above the technical requirements of the BCA.

The NSW Government Guide to Better Regulation requires consideration of a range of options, including non-regulatory options and 'light-handed' regulatory options.

Various reports have shown that there are significant benefits associated with a nationally-consistent building code. Furthermore, changes to the BCA are subjected to rigorous cost benefit analysis at the national level. While it is acknowledged that there can be an excess regulatory burden from the specification of regulatory standards, changes to the technical code are considered to be outside the scope of this BRS.

However, the Bill establishes the certification system for building and subdivision work, requires that certifiers are accredited and requires that the building or subdivision work complies with the BCA before a certificate can be issued. (This is similar to the current system.) Several options requiring less regulation could potentially be considered within the scope of this BRS.

- One option would involve the NSW Government not giving legislative effect to the BCA.
- Another option would be to require that builders comply with the BCA without a mandated certification system. Under this option builders would be solely responsible (and legally liable) for compliance with the BCA.

Assessment of the need for building regulation

As noted by the Productivity Commission, the shortcomings with buildings do not in themselves justify regulation.⁷⁹ In theory, considerations such as the risks to a builder's reputation from poor quality work and legal liability for any defective building work could provide sufficient consumer protection and ensure that builders produce buildings that do not compromise the safety of building users, neighbouring properties and passers-by, even without regulation.

However, in practice there are potentially large costs associated with fires and building collapses, which suggests that some regulation is required. In addition, there can be significant benefits associated with prescribed minimum standards, such as time savings for building designers and builders not having to 'reinvent the wheel' for every building. There may also be costs associated with regulation of building standards, particularly where these are imposed outside of good governance arrangements as discussed later in this chapter.

The Productivity Commission did not recommend full deregulation in its study on building regulation in Australia. This option has therefore not been considered in any detail.

Assessment of the need for a mandatory certification system

The primary legislation re-establishes the certification system currently in place in NSW. This requires mandatory certification of buildings by accredited certifiers.

There are alternative options for enforcement of building standards. These could include:

- voluntary certification, and
- voluntary accreditation of certifiers.

Under such a system:

- builders would retain liability for defects (for a period of six years) and therefore might seek to manage quality themselves in order to avoid the costs of correcting defects;
- insurers of builders would incur a liability for defects and might therefore seek to manage the quality of work undertaken by builders that they insure; and
- home builders would likely have liability for some level of defects, both through costs while waiting for the correction of defects and where the cost of fixing defects could not be obtained from builders or insurers. (For example, where defects were noticed after a six year period.)

This system would be similar to that used in France, although that system requires mandatory insurance of owners and builders, instead of mandatory certification. (Most other developed countries and every state in Australia require certification of buildings.)

The costs of certification are considerable. For a substantial renovation, certification costs in the order of \$3000 (for six inspections). If this amount is applied across all construction

⁷⁹ Productivity Commission, 2004, Reform of Building Regulation, Productivity Commission Research Report, p. XXIV.

certificates issued (of around 50 000 per year) then the overall cost would be \$150 million per year. It could be possible for building regulation to function effectively without mandatory certification. However, some form of technical inspection would typically occur even if not required by regulation, so only part of these costs would be additional.

If there was no mandatory certification system then it would be expected that over a period of time market solutions could be found to issues of building quality where these issues imposed costs on those involved in development. If costs were imposed on others, such as through fire or safety risks to neighbouring buildings, then these would be unlikely to be met by a market solution. The extent to which a market solution would provide an efficient level of building quality would also reflect the ease with which subsequent buyers would be able to identify defects and factor these into the price they were willing to pay.

In addition, there is currently no private insurance market operating in NSW.⁸⁰ This means that a non-government response to ensuring building quality through the insurance market is problematic.

There are no good counterfactuals that could be used to examine the extent to which mandatory certification changes the level of defects. The level of defects under the current regulatory arrangements in NSW is set out in chapter 15. It is therefore difficult to consider the rationale for a mandatory certification system apart from in-principle.

On balance, we consider that having a mandatory certification system is likely to be in the public interest, given the current arrangements for insurance in NSW and information asymmetries in building that arise for subsequent ownership. Were an appropriate counterfactual available then this case could be examined in more detail and costs and benefits quantified. This is not currently possible.

Changes to building regulation outlined in the White Paper

The proposed reforms set out in the White Paper include the following.

- Accreditation of additional occupations involved in building design and construction such as designers, specialist engineers, fire protection systems installers and inspect/test technicians, energy efficiency designers, access consultants and other relevant professions (White Paper, p. 180).
- Mandatory certification of specified building aspects, including the design, installation and commissioning of critical building systems and elements (White Paper, p. 180). There will also be a change to the mandatory building inspection regime (White Paper, p. 194).
- Strengthened controls on certifiers through stronger disciplinary guidelines increased auditing and increased obligations to report non-compliant building work and other controls (White Paper, p. 180).

⁸⁰ The NSW Government operates home warranty insurance. Home Warranty Insurance Fund website, <https://homewarranty.nsw.gov.au/portal/server.pt/community/a%3Bhome/255>, accessed 7 August 2013.

Many of the proposed reforms aim to reduce the costs to the community caused by building defects. Building defects could be costing the NSW community more than \$100 million per year (see chapter 14 for further details).

The proposal to prevent councils from imposing higher building standards than is required in the BCA without approval aims to address the issue of variations from the BCA across local government areas. State and local government-based variations from the BCA are estimated to cost the NSW community around \$72 million per year. An effective gateway model could deliver benefits to the community of around \$36 million per year (see chapter 14 for further details).

Most of the substantive changes to regulatory framework for buildings will be reflected in changes to regulations (or other legislation such as the Building Professionals Act) or non-legislative policies and are not reliant on changes to the primary legislation. The changes to planning regulations will be considered in detail in a Regulation Impact Statement at the time of consideration of the subordinate legislation.

7 *Review and evaluation*

A Better Regulation Statement is to consider whether there is sufficient requirement for periodic review of the regulation, and if necessary reform of the regulation to ensure its continued efficiency and effectiveness. The provision for periodic review and evaluation relating to the new planning system are detailed in *Planning Bill 2013* (the Act) and the White Paper.

The key areas of periodic review and evaluation under the new planning system, as set out in the White Paper, relate to the legislation, strategic planning framework and supporting planning documents.

Review of the legislation

Part 11, Section 11.28 of the Act requires the Minister to review the Act and the *Planning Administration Act 2013* as soon as possible after the period of 5 years after the commencement of the Act. The review is to determine whether the policy objectives of the Acts remain valid and whether the terms of the Acts remain appropriate for securing those objectives. Furthermore, the Act requires a report on the outcome of the review to be tabled in each House of Parliament within 12 months after the end of the period of 5 years.

Strategic planning framework, planning policies and plans

Part 3 Section 3.9 Clause 4 of the draft Bill requires relevant planning authorities are to keep strategic plans — NSW planning policies, regional growth plans and subregional delivery plans — under regular and periodic review to ensure they continue to achieve the objects of the Act. Review timeframes are not specified in the Act but are detailed in the White Paper as follows:

- ***NSW Planning Policies*** — to be reviewed every four years and updated at the time if required, or reviewed if initiated/requested by the Minister for Planning and Infrastructure in light of changes to policy, availability of information, environmental or economic circumstances.⁸¹
- ***Regional Growth Plans*** — to be reviewed every four years and updated at that time if required, such as changes to housing and employment targets in line with changes in data or demand and supply issues.⁸²

⁸¹ NSW Planning, 2013, A new planning system for NSW, White Paper, p. 69

⁸² NSW Planning, 2013, A new planning system for NSW, White Paper, p. 74

- **Subregional Delivery Plans** — to be reviewed every four years and amended if required, taking into account new evidence and research as well as changes to the character and form of particular places.⁸³

Community participation plans

Part 2 Section 2.4 Clause 6 of the Act specifies that community participation plans are to be reviewed periodically. The White Paper also reiterates that community participation plans will be reviewed and updated periodically in addition to evaluation of the community participation process after the Subregional Delivery Plan has been adopted.⁸⁴

Local Plans

Part 3 Section 3.15 sets out the requirements for the periodic review and staged repeal of local plans including:

- regular and periodic review by the relevant planning authority to ensure the continual achievement of the objects of this Act
- the regulations may establish a staged repeal program for the provisions of local plans to facilitate the replacement of transitional planning control provisions and the regular and periodic review of local plans, and the staged repeal program may provide for the repeal of provisions of local plans by the operation of the regulations and for the making of replacement provisions.

Review timeframes are not specified in the Act but are detailed in the White Paper, with local plans to cover a timeframe of 10 years with reviews conducted every four years. Reviews are expected to evaluate the historical performance of the plan and consider changes in the character and form of the local area.⁸⁵

Growth Infrastructure Plans

The Act does not legislate periodic review of Growth Infrastructure Plans. However, the White Paper specifies that Growth Infrastructure Plans will be updated every four years alongside Subregional Delivery Plans, to account for changes in demand for housing and employment or as projects are completed.⁸⁶

Infrastructure contribution framework

Part 7 Section 7.11 Clause 7 of the Act enables a local infrastructure plan to be amended or repealed by a further local infrastructure plan however the Act does not legislate periodic review of local infrastructure plans, nor outlines the required timeframe.

⁸³ NSW Planning, 2013, A new planning system for NSW, White Paper, p. 82

⁸⁴ NSW Planning, 2013, A new planning system for NSW, White Paper, p. 48 and p. 51.

⁸⁵ NSW Planning, 2013, A new planning system for NSW, White Paper, p. 92

⁸⁶ NSW Planning, 2013, A new planning system for NSW, White Paper, p. 158

The White Paper details review processes that are expected to be built into the infrastructure contribution framework, including:

- IPART is to have an expanded role in reviewing contribution plans proposed by the state and local councils⁸⁷
- the methodology and administration of contributions is to be reviewed after four years to ensure consistency with contribution principles and to align with the preparation of Local Plans.⁸⁸
- Annual reports on the collection, management, disbursement of funds and infrastructure delivery related to both local contributions and regional contributions are to be completed. Reports on local contributions are to be subject to annual independent performance auditing and reports on regional contributions are to be reviewed by the Auditor-General.⁸⁹

⁸⁷ NSW Planning, 2013, A new planning system for NSW, White Paper, p. 163.

⁸⁸ NSW Planning, 2013, A new planning system for NSW, White Paper, p. 167.

⁸⁹ NSW Planning, 2013, A new planning system for NSW, White Paper, p. 169.

PART II

Detailed assessment of options



8 *Do options meet the principles of a good planning system?*

Do options meet leading practice?

The leading practice principles for planning have been identified by the Productivity Commission, COAG and the Grattan Institute as set out in chapter 3. The NSW Government White Paper reforms to the planning system move the NSW planning system very close to the type of system put forward by these groups (table 8.1). Of the 42 components of leading practice that contribute to the seven leading practice principles:

- the current system meets leading practice for 12 components, partly meets leading practice for 13 components and does not meet leading practice for 17 components;
- the White Paper option meets leading practice for 38 components, partly meets leading practice for 3 components and does not meet leading practice for 1 component.

8.1 Performance of current system, White Paper Option and Bills presented to Parliament option against leading practice principles

Item	Current System	White Paper system	Bills presented to Parliament
Meets leading practice	12	38	33
Partly meets leading practice	13	3	6
Does not meet leading practice	17	1	3

Source: The CIE.

Key areas where the current system does not perform well against leading practice principles are:

- there is not a strong link between strategic planning and land use provisions; and
- development assessment is complex and not proportionate to the development being undertaken.

The assessment of alternative options, such as the White Paper and Bill presented to Parliament partly reflects changes in the primary legislation and partly reflects changes expected in regulations and planning policies. Of the 42 components, 23 are at least partly dependent on the shape of subsequent regulations, planning policies and implementation. If changes to regulations and other policies are not implemented as assumed then this could lead to a poorer assessment of changes to the planning system against leading practice principles.

The main area where the White Paper system does not meet or only partly meets leading practice principles is in discipline on timeframes. The White Paper expects most time

disciplines on code and merit assessment to be set as **deemed refusal** periods.⁹⁰ This is unlikely to be an effective discipline on the timeliness of approvals, as applicants are not likely to seek appeal at the end of the deemed refusal period.

The Bills presented to Parliament option performs less well than the White Paper reforms compared to leading practice and better than the current planning system. The main areas where it does not fully meet leading practice are:

- time disciplines on code and merit assessment are to be set as deemed refusal, similar to the White Paper option;
- public consultation and notification periods does not reflect the proportionality of the potential impact on businesses or neighbourhoods, i.e. the greater the impact the greater the attention paid to public consultation;
- zones and development control instruments are likely to be more narrowly defined than under the White Paper option; and
- the system is likely to be less risk-based, with notification periods extended for complying development that is low risk and less use of code development for low risk development.

In each section below we outline the assessment made of the current system, White Paper option and the Bill presented to Parliament against leading practice principles.

Early resolution of land use and coordination issues

A key focus of the Productivity Commission's leading practices, and the proposed changes in the White Paper option and Bill presented to Parliament is a shift from resolution at the development approval stage to the strategic planning stage.

Currently, there is strategic planning at a regional (and sometimes subregional) level, and strategic planning through state environmental planning policies. There has not been an effective link between this strategic planning and local environmental plans. This reflects:

- difficulties in measuring the extent to which LEPs are giving effect to higher level documents;
- the slow times for update of LEPs and slow progress towards standardisation of LEPs; and
- the requirement to consider multiple documents in deciding on land use, including LEPs and SEPPs.

There have been examples in the current system where there has been a coordinated approach, such as the Growth Centres Commission.

The changes proposed in the White Paper and Bill presented to Parliament will, if effectively implemented, mean early resolution of land use and coordination issues (table 8.2).

⁹⁰ NSW Planning, 2013, A new planning system for NSW, White Paper, p. 141.

8.2 Assessment of early resolution of land use and coordination issues

Leading practice element	Performance of current NSW planning policies	Expected performance of White Paper	Expected performance of Bill presented to Parliament	Addressed in primary legislation
Strategic land use plans that include information on future urban growth, alternative land use options, timing, infrastructure and services	<u>Partly</u> The link between higher strategic plans, local plans and infrastructure requirements is not clear and there is a confusion of instruments (SEPPs).	<u>Yes</u> Detail requirements in each of the strategic planning hierarchy levels cascades from high-level objectives at the State level, to planning provisions in Local Plans. Infrastructure coordination sought through Growth Infrastructure Plans, — legislation specifies that these <i>may</i> be prepared.	<u>Yes</u>	<u>Yes</u>
Strategic land use plans that are integrated across government levels and departments	<u>No</u> The current system is understood to be overly complex, with vision and objectives hidden or not given effect in planning decisions.	<u>Yes</u> The legislation requires whole of government requirements to be included in the strategic plans.	<u>Yes</u>	<u>Yes</u>
Consistent hierarchy of plans (strategic, city, regional, local) that are consistently updated	<u>Partly</u> While there is a hierarchy, it is not clear that the plans are linked in a meaningful way	<u>Yes</u> Responsibility for each of the hierarchy levels is clearly allocated to different government levels and an outline of cascading authority is provided for within the hierarchy	<u>Yes</u>	<u>Yes</u>
Provisions for resolving planning conflicts between government agencies	<u>Partly</u> Planning conflicts have been addressed by agencies such as the Growth Centres Commission. However, there has not always been meaningful links between NSW plans for land use, transport and infrastructure. Concurrences and referrals have not been coordinated.	<u>Yes</u> One stop shop aimed at resolving planning conflicts between government agencies. May be conflicts in development of plans (such as transport and land use plans) that would not be resolved through this channel.	<u>Yes</u>	<u>Yes</u>

Leading practice element	Performance of current NSW planning policies	Expected performance of White Paper	Expected performance of Bill presented to Parliament	Addressed in primary legislation
Provisions to facilitate adjustment to changing circumstances and innovation, including effective engagement, transparency and probity	<u>No</u> Timelines for changes to LEPs have been very long and land use has not responded to economic need. Sydney Metro plan is updated regularly (5 yearly).	<u>Yes</u> Requirements for 4 yearly reviews of regional, sub-regional and local plans and GIPs. Consultation requirements should also assist in transparency.	<u>Yes</u>	<u>Partly</u>
Effective implementation and support arrangements for all plans	<u>No</u> There are issues with coordination, monitoring and linking of development progress to land use plans. Budget support for infrastructure has not been linked to land use planning.	<u>Partly</u> The use of ex-ante performance measures has been indicated, such as urban feasibility model. The White Paper also indicates a focus on performance monitoring of plans. It is scored 'partly' as it is difficult to comment on implementation at this stage.	<u>Partly</u>	<u>Partly</u>

Source: The CIE.

Engaging the community early and in proportion to the likely impacts

Community consultation is currently not proportionate to the impacts of decisions. There is extensive community involvement in the development assessment process, where half of development assessments are for a value of less than \$50 000. There is community involvement at the strategic level. However, there are not strategic plans for all regions. Nor are all spatial strategic plans subject to a broad and effective community engagement platform, such as taking options to the community. Further, State Environmental Planning Policies are not always subject to community involvement.

The community is currently involved in Metropolitan Planning and regional planning. Because there is not a strong link between Metropolitan planning and local plans, this consultation has less value than it could. The level of consultation for State Environmental Planning Policies is not clear. There is no statutory basis for community consultation in strategic planning currently.

The White Paper system seeks to shift community consultation to where it is most important — at the strategic planning level — and to remove consultation for lower value developments, with notification only for code assessable development. Legislative effect is given to requirements for community consultation in the Community Participation Charter and requirement for Community Participation Plans.

Effective community consultation will require:

- engaging a broad spectrum of the community; and
- giving the community meaningful options.

The Bill presented to Parliament similarly seeks to shift to effective community engagement; however the extent of public consultation may not reflect the proportionality of the potential impact on businesses or neighbourhoods. In particular, notification periods for complying development will be extended under this option, despite these developments having low impact.

The extent to which this will occur under the White Paper system or the Bill presented to Parliament will depend on implementation. The risk of consultation being focused on minority views can be reduced through the use of tools such as surveys (choice modelling) and citizens juries.

8.3 Assessment of community engagement

Leading practice element	Performance of current NSW planning policies	Expected performance of White Paper	Expected performance of Bill presented to Parliament	Addressed in primary legislation
Effective community engagement required through legislation	<u>No</u> Community involvement is required for development assessment and LEPs, but not at higher level. Community engagement has not been effective in focusing on priority planning matters.	<u>Yes</u> The White Paper system includes provisions and requirements for a Community Participation Charter and Community Consultation Plans . Seeks to have 80 per cent of development in code or complying development tracks.	<u>Yes</u>	<u>Yes</u>
Collection of information on community values and trade-offs that have been incorporated in to strategic plans	<u>No</u> Particularly at local level, this has not been met and consultation has not reflected broad spectrum of community.	<u>Yes</u> The White Paper intends to meet this aim. The Planning Bill sets out a principle for evidence based strategic planning. The specific type of information collected is not part of the primary legislation.	<u>Yes</u>	<u>Partly</u>
The greater the potential impact on businesses or neighbourhoods, the more attention paid to public consultation and notification periods	<u>No</u> In 2011/12 more than three quarters of development went through merit based systems with consultation requirements. The time for determinations is constant across the lowest 90 per cent of development, rather than higher value developments receiving greater attention. For very high value developments, timeframes are longer.	<u>Yes</u> Principles of the Community Participation Charter states "Community participation in development decisions is to be proportionate to the significance and impact of the proposed development".	<u>No</u> Notification periods extended for complying development Less use of code development for low impact developments	<u>Yes</u>

Source: CIE.

Broad and simplified development control instruments

The current system does not meet the Productivity Commission’s principle of broad and simplified development control instruments. There are currently 35 zones in local environment plans, which is a relatively small set and has been reduced and standardised since 2006. However, development controls used by local councils can be extensive, with controls over many different aspects of a building.

The White Paper system has suggested that there will be fewer zones (13) and that development controls will be focused on the use of building envelopes, which is less prescriptive than current arrangements. These changes will be set out in regulations and planning policies and are not established in the primary legislation.

The option reflected in the Bills presented to Parliament would continue with the current 35 zones. This would be less well aligned to leading practice than the White Paper option.

8.4 Assessment of broad and simplified development controls

Leading practice element	Performance of current NSW planning policies	Expected performance of White Paper	Expected performance of Bill presented to Parliament	Addressed in primary legislation
Broad zoning definitions	<u>Partly</u> <ul style="list-style-type: none"> 35 zones used in LEPs 	<u>Yes</u> <ul style="list-style-type: none"> 13 zones proposed 	<u>Partly</u> <ul style="list-style-type: none"> 35 zones used in LEPs 	<u>No</u>
Zones and development control instruments defined in terms of broad uses rather than prescriptive definitions	<u>No</u> <ul style="list-style-type: none"> Zones are not overly broad (for instance 8 business zones) Development controls complex and wide ranging. Can include heights, FSR, shading, roof pitch, colour 	<u>Yes</u> <ul style="list-style-type: none"> Proposed move to building envelope controls 	<u>No</u> <ul style="list-style-type: none"> Zones are not overly broad Development controls likely to be more extensive than just building controls 	<u>No</u>

Source: The CIE.

Rational and transparent allocation rules for infrastructure costs

Rational and transparent allocation rules for infrastructure costs are essential to ensure the level of investment in housing and construction reflects its opportunity cost and that efficient locational choices are made.⁹¹ Possible negative outcomes from inefficient infrastructure charging include:

- to excessive infrastructure provision or ‘gold plating’;

⁹¹ Productivity Commission, 2004, First Home Ownership.

- double charging of residents through upfront charges and rates/ongoing charges;
- development in high cost locations; and
- unfair or unequitable charging if the allocation of costs is not reflective of beneficiaries.

The Productivity Commission define three broad types of infrastructure.

- Basic economic infrastructure — services the immediate development area, in most cases involves provision of infrastructure directly to development lot (e.g. roads and connections to utilities such as water and electricity)
- Major (shared) economic infrastructure — area serviced is broader than immediate development area (e.g. water, sewerage, drainage, other utilities, major roads)
- Social (community) infrastructure — can service residents within a specific area or across multiples areas (e.g. parks, library, sports ground).

The current approach to charging for infrastructure is not founded on rational and transparent rules, both at the State level and the local level. This has been reflected in numerous changes made to arrangements over the past decade.

- Section 94 and 94A contribution charges levied by councils are not necessarily well linked to impacts of new development. In some cases where they are, charges have been capped and the NSW Government has paid the difference.
- Special Infrastructure Contributions (SICs) have been applied only to specific areas. They have been frequently changed in terms of their coverage and the share paid by the NSW Government. No charges have been levied for most of NSW.
- No developer contributions are paid for water and sewerage treatment currently, despite there being cost differences between different developments.

The current system has a mixed performance against the Productivity Commission's leading practice principles, which largely reflects its implementation (table 8.5).

The White Paper system legislates five principles for infrastructure contributions requiring provision of infrastructure for which contributions have been collected within a reasonable time, consider of contributions on housing affordability, reasonable apportionment between existing demand and new demand, reasonable estimate of the cost of the proposed infrastructure and reasonable estimate of demand for each infrastructure item.

The three tiers of infrastructure contributions that can be levied under the White Paper system and the basis of charging for each are:

- Local Infrastructure Contributions (LICs)
 - Direct — requires establishment of a nexus
 - Indirect — does not require establishment of a nexus
- Regional Infrastructure Contributions (RICs) for state and regional roads, transport land and works, education land or works and embellishment of regional open space — calculated and charged on a subregional basis. Under s.7.15 of the Planning Bill Exposure Draft 2013 three options are available:
 - percentage of the capital investment value
 - reference to the area of the proposed development

- as authorised by the regulations.
- A part of Regional Infrastructure Contributions (RICs) for land for drainage and regional open space is allocated to a Planning Growth Fund and is intended to be charged on a regional basis.

The White Paper system and the Bills presented to Parliament both align relatively well to the leading principles. The scope of infrastructure included may be broader than considered leading practice by the Productivity Commission (including education and regional open space for example). To a large extent, the success of the either system will depend on implementation, including the benchmarking of costs and the apportionment of costs.

8.5 Assessment of infrastructure charging rules

Leading practice element	Performance of current NSW planning policies	Expected performance of White Paper	Expected performance of Bill presented to Parliament	Addressed in primary legislation
Leading practice principles outlined in 'Planning, zoning and assessments'				
Major shared infrastructure - Use of upfront charging for new developments where incremental costs associated with each development can be established and likely to vary across developments.	<u>Partly</u> Upfront charging but only charged to specific areas through Special Infrastructure Contributions. No charging for water and sewerage	<u>Yes</u> Upfront charging for major shared infrastructure through regional infrastructure contributions.	<u>Yes</u>	<u>Partly</u>
System-wide upgrade or augmentation of infill development that provide comparable benefits to incumbents - Use of borrowings recovered through rates or taxes	<u>Yes</u>	<u>Yes</u> Principle #3 requires a reasonable apportionment between existing demand and new demand should be determined.	<u>Yes</u>	<u>Partly</u>
Local roads, paving and drainage - Developer construction costs recovered through land purchase prices	<u>Partly</u> Upfront charging for local infrastructure through s94/94A contributions. Caps have been imposed on this and not clear if costs are accurately measured.	<u>Yes</u> Upfront charging for local infrastructure through Local Infrastructure Contributions. IPART is to benchmark costs.	<u>Yes</u>	<u>Partly</u>
Social infrastructure with identifiable demand - Use of developer charges (example) to allocate costs to the development	<u>Yes</u> Upfront charging for local infrastructure through s94/94A contributions	<u>Yes</u> Contributions for community facilities and open space levied through Local Infrastructure Contributions Education establishments and regional open space levied through Regional Infrastructure Contributions	<u>Yes</u>	<u>Yes</u>

Leading practice element	Performance of current NSW planning policies	Expected performance of White Paper	Expected performance of Bill presented to Parliament	Addressed in primary legislation
Broader social infrastructure - Use of general revenue unless direct user charges are possible	<u>No</u> Current system allows for charges for broader social infrastructure in Special Infrastructure Contributions and Section 94 charges.	<u>Partly</u> White Paper option allows for infrastructure contributions for education, basic community facilities and regional open space, which are broader social infrastructure types. The principles of the White Paper option require reasonable estimate of incremental demand, cost and apportionment between existing and new uses may limit the infrastructure contributions towards broader social infrastructure.	<u>Partly</u>	<u>Yes</u>
Additional Productivity Commission principles relating to charging for infrastructure				
Necessary - with the need for the services concerned clearly demonstrated	<u>Yes</u> Infrastructure charging for local infrastructure and special area infrastructure requires demonstration of relationship between the development and demand for additional infrastructure.	<u>Yes</u> Principles for Legislated Contributions - #5 requires contributions to be based on reasonable estimates of demand. However not clear how reasonable estimates of demand will be determined for RICs and RGF.	<u>Yes</u>	<u>Yes</u>
Efficient - justified on whole-of-life cost basis, and preclude over-recovery of costs	<u>No</u>	<u>Yes</u> Principles for Legislated Contributions - #3 requires infrastructure contributions to be based on a reasonable cost of proposed infrastructure. Infrastructure costs also to be benchmarked.	<u>Yes</u>	<u>Partly</u>

Leading practice element	Performance of current NSW planning policies	Expected performance of White Paper	Expected performance of Bill presented to Parliament	Addressed in primary legislation
Equitable - with a clear nexus between benefits and costs, and only implemented after industry and public input	<u>Yes</u> As required in section 27 of the EP&A Regulation 2000. The level of SICs are set to ensure the contribution reflects a reasonable apportionment between the demand for infrastructure generated by existing development and the demand for that infrastructure that is likely to be generated by new development. ⁹²	<u>Yes</u> Principles for Legislated Contributions #3 requires infrastructure contributions to be based on a reasonable apportionment between existing demand and new demand for infrastructure created by the development. Legislated requirement for a clear nexus is apparent for direct LICs, but not for indirect LICs, RICs, and RGF.	<u>Yes</u>	<u>Partly</u>

Improving development assessment and rezoning criteria and processes

The current planning system does not meet leading practice in development assessment and rezoning criteria and processes (table 8.6). This partly reflects the delivery of planning, as well as the underlying legislation and regulations.

- The current system is not risk-based — development assessment covers substantial amounts of low value development activity and development approval times are similar for all but the highest value activity (chart 8.7).
- Referral arrangements are complicated.
- The planning provisions are often difficult to understand as they are located in many State Environmental Planning Policies and different local documents (including Local Environment Plans).

The White Paper system moves the NSW planning system to leading practice in development assessment and rezoning criteria and processes. This is partly through legislative changes that establish the local plan as containing all land provisions, introduce Code based assessment and partly through other aspects of the reforms such as training of practitioners and policies that will guide how Code assessment is implemented.

The Bills presented to Parliament move the planning system closer to leading practice in development assessment and rezoning. This option would not go as far towards leading practice as the White Paper option, because there would be less of a risk based approach to development. There would likely be substantial numbers of low value and minimal

⁹² As specified in the *Environmental Planning and Assessment (Special Infrastructure Contribution – Western Sydney Growth Areas) Determination 2011*.

<http://www.gcc.nsw.gov.au/media/Pdf/Infrastructure/SIC%20Ministerial%20Determination%20Jan%202011.pdf>

risk developments moving through the merit based assessment track under this option. There would also be less alignment with risk for residential complying development, which would be subject to additional notification requirements under this option.

8.6 Assessment of development assessment and rezoning

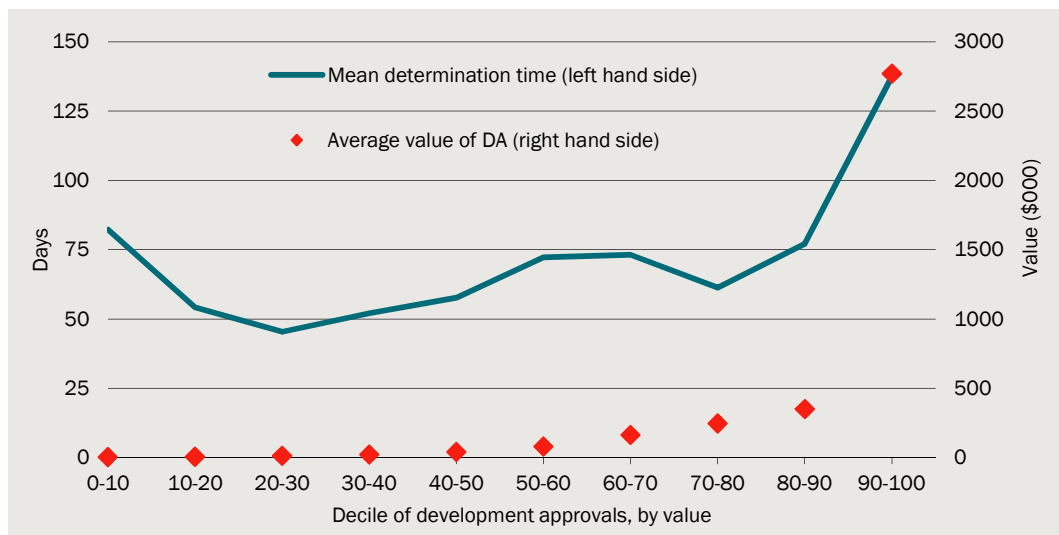
Leading practice element	Performance of current NSW planning policies	Expected performance of White Paper	Expected performance of Bill presented to Parliament	Addressed in primary legislation
Link development assessment requirements to their objectives				
Clearly link development assessment requirements to stated policy intentions that can be assessed against rules and tests or decision criteria	<u>No</u> DA requirements over-reach objectives of policy	<u>Yes</u> DA requirements appear to support policy intent	<u>Yes</u>	<u>Yes</u>
Eliminate "impacts on the viability of existing businesses" as a consideration for development and rezoning approval	<u>Yes</u> in draft SEPP - Competition (2010)	<u>Yes</u> (anticipated draft SEPP will be transitioned to White Paper system)	<u>Yes</u>	<u>Yes</u>
Use a risk based approach				
Stream development and rezoning applications into assessment 'tracks' (exempt, prohibited, self assess, code assess, merit assess and impact assess)	<u>Partly</u> Exempt and development tracks available but small share of development	<u>Yes</u> Establishment of code assessment, clarity of exempt and complying development in local plans and target for 80 per cent of DAs to be complying or code assessed	<u>Partly</u>	<u>Partly</u>
Facilitate more 'as-of-right' development processes	<u>Partly</u>	<u>Yes</u> As above	<u>Partly</u>	<u>Partly</u>
Timely completion of referrals				
Facilitate timely completion of referrals	<u>No</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>
Referral requirements collectively detailed and located in one place	<u>No</u> Currently in 111 SEPP clauses, 100 LEP clauses and 21 State Acts	<u>Yes</u> Through establishment of one stop shop and review of referrals	<u>Yes</u>	<u>Yes</u>
As far as technically possible, resolve all referrals simultaneously rather than sequentially	<u>No</u> Currently no ability to know when multiple concurrences are required	<u>Yes</u> Through one stop shop	<u>Yes</u>	<u>Yes</u>

Leading practice element	Performance of current NSW planning policies	Expected performance of White Paper	Expected performance of Bill presented to Parliament	Addressed in primary legislation
Adopt practices to facilitate the timely assessment of applications				
Use of electronic development assessment systems	<u>No</u> Used to show DAs but not to process DAs	<u>Yes</u> E-Planning requirement	<u>Yes</u>	<u>Yes</u>
Limit the range of reports that must accompany an application to those essential for planning assessment, leaving the remainder (such as engineering) until after planning approval obtained	<u>Yes</u> Reports part of consent conditions	<u>Yes</u> Reports part of consent conditions	<u>Yes</u>	<u>No</u>
Ensure the skill base of local council staff includes understanding of commercial implications the capacity to assess whether proposals comply with functional descriptions of zones	<u>No</u> Culture change noted as being required for planning delivery	<u>Yes</u> Training of practitioners part of reforms. Strategic planning principle no. 10 that strategic plans should allow for financial feasibility	<u>Yes</u>	<u>No</u>
Adopt practices to facilitate access to relevant information				
Publicly publish accessible definitions and locations of prohibited, allowable and restricted land uses for different zones	<u>Partly</u> Provisions often contained across multiple sources (SEPPs, LEPs)	<u>Yes</u> All provisions to be part of local plan	<u>Yes</u>	<u>Yes</u>
Notify the community of proposed planning scheme amendments	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>
Provide transparent and independent alternative assessment mechanisms				
Have clear criteria on what triggers approval by alternatives to councils	<u>Yes</u> <ul style="list-style-type: none"> ▪ State significant development 	<u>Yes</u> <ul style="list-style-type: none"> ▪ State significant development 	<u>Yes</u>	<u>Partly</u>
Recognition that expert and independent panels or commissions appear to be less contentious and more transparent than ministerial discretion unaided by open and independent assessment	<u>Partly</u> <ul style="list-style-type: none"> ▪ Planning Assessment Commission 	<u>Yes</u> <ul style="list-style-type: none"> ▪ Planning Assessment Commission, Regional Planning panels and Independent Hearing and Assessment panels 	<u>Yes</u>	<u>No</u>

Leading practice element	Performance of current NSW planning policies	Expected performance of White Paper	Expected performance of Bill presented to Parliament	Addressed in primary legislation
Panels or commissions to take input from all interested parties, including local interests, and publish the basis for the decision	<p><u>Yes</u></p> <ul style="list-style-type: none"> ■ Planning Assessment Commission ■ Independent Hearing and Assessment Panels 	<p><u>Yes</u></p> <ul style="list-style-type: none"> ■ Planning Assessment Commission, Regional Planning Panels ■ Independent Hearing and Assessment Panels 	<u>Yes</u>	<u>No</u>

Source: The CIE.

8.7 Approval times for different value development



Data source: NSW Planning.

Disciplines on timeframes

The current system, White Paper system and the Bills presented to Parliament all have statutory provision for timeframes that are (or will be) part of subordinate legislation. The White Paper system seeks to limit the stop-the-clock provisions to being used once only.

The extent of discipline on timeframes under the current system, the White Paper system and the Bills presented to Parliament is limited by the application being deemed to be refused once the time period elapses (table 8.8). This means that at this point an applicant is able to lodge an appeal. Because appeals processes are typically costly and time consuming and an applicant is likely to wait for approval rather than appealing.

8.8 Assessment of disciplines on timeframes

Leading practice element	Performance of current NSW planning policies	Expected performance of White Paper	Expected performance of Bill presented to Parliament	Addressed in primary legislation
Statutory timeframes with limited "stop the clock" provisions	<p><u>Partly</u></p> <ul style="list-style-type: none"> ▪ 40 days for standard DAs ▪ 60 days for DAs requiring concurrences ▪ 90 days for state significant development ▪ Deemed refused 	<p><u>Partly</u></p> <ul style="list-style-type: none"> ▪ 10-25 days for complying ▪ 25 days for Code ▪ 50 days for merit ▪ 90 days for state significant development ▪ Stop the clock allowed once ▪ Deemed refused 	<u>Partly</u>	<u>No</u>
Deemed-to-comply provisions, adjustments to statutory timeframes for major projects	<p><u>No</u></p> <ul style="list-style-type: none"> ▪ Deemed refused 	<p><u>No</u></p> <ul style="list-style-type: none"> ▪ Deemed refused 	<u>No</u>	<u>No</u>

Source: The CIE.

Transparency and accountability

Transparency and accountability of regulators provides clarity around the way particular laws are enforced and ensures that businesses and the community understand the rationale for decisions. Appeal mechanisms ensure a greater level of accountability for decisions and increase the likelihood of good outcomes.

The existing planning system already includes a range of elements that provide transparency and accountability of decisions. It is not clear that these have worked in practice with the NSW Government seeing the need to establish a goal of improving the integrity of and public confidence in the NSW planning system.

Both the White Paper system and the Bills presented to Parliament align more closely to the principles proposed by the Productivity Commission (table 8.9). This is because the changes:

- increase the community involvement (and hence transparency and accountability) of strategic planning;
- aim to introduce low cost appeal mechanisms; and
- make rules and regulations more accessible through E-Planning and putting all land use provisions into a local plan.

8.9 Assessment of transparency and accountability

Leading practice element	Performance of current NSW planning policies	Expected performance of White Paper	Expected performance of Bill presented to Parliament	Addressed in primary legislation
Scrutiny of planning scheme amendments	<p><u>Partly</u></p> <p>There are requirements for community interaction at a range of levels (eg DA assessments, LEPs). Consultation for state planning instruments is at the discretion of the Minister. Minister has generally released a draft for comment.</p>	<p><u>Yes</u></p> <p>The White Paper requirements place a significant emphasis on community consultation at the strategic planning phase which will include any amendments to planning schemes. All planning policies will be required under the legislation to be publicly released.</p>	<u>Yes</u>	<u>Yes</u>
Availability of appeals mechanisms for DAs and planning scheme amendments	<p><u>Partly</u></p> <p>Applicant can appeal merits of DA decision and conditions imposed in DAs. But many planning decisions are not appealable. Rezoning decisions cannot be appealed. But rejected rezoning applications can proceed to the Minister if the project capital value is more than \$100m – the Minister's decision is final.</p> <p>Appeals too costly and often not sought by those whose developments are refused or where there is excessive intervention by councils</p>	<p><u>Yes</u></p> <p>Low cost appeal rights achieved through expanding mandatory conciliation-arbitration, including for appeal of code based assessment. Additional fast-track appeal relating to single residential dwellings and dual occupancies – the planning legislation will amend the <i>Land and Environment Court Act 1979</i> to enact this.</p>	<u>Yes</u>	<u>No</u>
Publishing information on council outcomes	<p><u>Yes</u></p> <p>Data published on development assessment times. Data also available on the number of new dwellings by local government area (from ABS) but this has not been used in performance assessment.</p>	<p><u>Yes</u></p> <p>A Performance Monitoring Guide will provide a methodology for reporting of planning performance indicators. Additional reporting of performance of Regional Growth Plans and Subregional Delivery Plans.</p>	<u>Yes</u>	<u>No</u>
Accessibility of rules and regulations that impact on development	<p><u>No</u></p> <p>A range of information made available but it is complex to navigate current planning system and requirements spread across many different (sometimes contradictory) documents.</p>	<p><u>Yes</u></p> <p>E-planning and local plans containing all provisions should assist with this</p>	<u>Yes</u>	<u>Yes</u>

Leading practice element	Performance of current NSW planning policies	Expected performance of White Paper	Expected performance of Bill presented to Parliament	Addressed in primary legislation
Thorough/effective notification of development and planning scheme amendment applications	<u>Yes</u> Public notification for SEPPs, LEPs, Planning agreements, Major projects, DA for designated development, examination of EISs.	<u>Yes</u> All planning policies will be required under the legislation to be publicly released with a minimum 28 day exhibition period.	<u>Yes</u>	<u>No</u>
Measures to promote probity	<u>Yes</u> Separate 'whistle blower' protection legislation and dedicated anti-corruption commission. The Planning Act (S147) prevents decisions being made by persons with private interest. There are bans on political donations by property developers. Dept of Planning Codes of Conduct relating to conflict of interest, acceptance of gifts, reporting corrupt conduct. PAC has authority to assess Major Projects in Minister's electorate or where Minister has pecuniary interest. Despite this there remains a lack of public confidence in planning system.	<u>Yes</u> Focus on use of external experts. No additional changes to existing requirements in other areas.	<u>Yes</u>	<u>Partly</u>

Source: The CIE.

Performance of other alternative options against leading practice

The performance of alternative options against leading practice compared to the White Paper system is detailed in table 8.10. These changes would generally lead to a poorer performance against leading practice principles, with the exception of changing the timeframes to deemed-to-comply provisions.

8.10 Performance of variation in reforms against leading practice

Option	Change in performance against leading practice
Community consultation	
<ul style="list-style-type: none"> ▪ Community consultation on code assessed development (4a) 	<p><u>Reduces fit with components of leading practice principles in 3 cases</u></p> <ul style="list-style-type: none"> ▪ The greater the potential impact on businesses or neighbourhoods, the more attention paid to public consultation and notification periods – this change would allow consultation for developments whose average value would be in the order of \$100,000 and that would have limited impacts. ▪ Stream development and rezoning applications into assessment 'tracks (exempt, prohibited, self-assess, code assess, merit assess and impact assess) – consultation would make code stream similar to merit stream. ▪ Facilitate more 'as-of-right' development processes – would reduce the as-of-right development by allowing community input on a greater share of development

Option	Change in performance against leading practice
<ul style="list-style-type: none"> ▪ Not requiring community consultation on State Planning Policies (4b) 	<p><u>Reduces fit with components of leading practice principles in 3 cases</u></p> <ul style="list-style-type: none"> ▪ Provisions to facilitate adjustment to changing circumstances and innovation, including effective engagement, transparency and probity – would reduce effective engagement ▪ Effective community engagement required through legislation ▪ Collection of information on community values and trade-offs that have been incorporated in to strategic plans – would reduce fit with this for State Planning Policies ▪ The greater the potential impact on businesses or neighbourhoods, the more attention paid to public consultation and notification periods – State Planning Policies can have substantial impacts so should require consultation
Strategic planning	
<ul style="list-style-type: none"> ▪ Reducing level and breadth of strategic planning (4c) 	<p><u>Reduces fit with components of leading practice principles in 7 cases</u></p> <ul style="list-style-type: none"> ▪ Strategic land use plans that practically outline decisions on future urban growth, alternative land use options, timing, infrastructure and services – for large regions (i.e. Sydney), sub-regional delivery plans link high level regional considerations to practical decisions. ▪ Strategic land use plans that are integrated across different levels of government and government departments to ensure consistency in infrastructure, environment, housing and human services ▪ Consistent hierarchy of plans (strategic, city, regional, local) that are consistently updated ▪ Effective community engagement required through legislation – would reduce community engagement in state level strategic planning ▪ Collection of information on community values and trade-offs that have been incorporated in to strategic plans ▪ The greater the potential impact on businesses or neighbourhoods, the more attention paid to public consultation and notification periods ▪ Infrastructure for contributions necessary - with the need for the services concerned clearly demonstrated – sub-regional delivery plans are an important component of identifying infrastructure for Regional Infrastructure Contributions
<ul style="list-style-type: none"> ▪ Non-statutory strategic planning (4d) 	<p><u>Reduces fit with components of leading practice principles in 4 cases</u></p> <ul style="list-style-type: none"> ▪ Provisions to facilitate adjustment to changing circumstances and innovation, including effective engagement, transparency and probity – not clear that strategic planning would have a strong enough basis to be undertaken in this way ▪ Effective community engagement required through legislation ▪ Collection of information on community values and trade-offs that have been incorporated in to strategic plans ▪ The greater the potential impact on businesses or neighbourhoods, the more attention paid to public consultation and notification periods
Development assessment system	
<ul style="list-style-type: none"> ▪ Lower target for code and complying development (4e) 	<p><u>Reduces fit with components of leading practice principles in 3 cases</u></p> <ul style="list-style-type: none"> ▪ The greater the potential impact on businesses or neighbourhoods, the more attention paid to public consultation and notification periods – this change would allow consultation for a larger set of developments whose average value and impact would be low. ▪ Stream development and rezoning applications into assessment 'tracks (exempt, prohibited, self-assess, code assess, merit assess and impact assess) – merit would be a dominant stream. ▪ Facilitate more 'as-of-right' development processes – would reduce the as-of-right

Option	Change in performance against leading practice
	development by allowing community input on a greater share of development
<ul style="list-style-type: none"> ▪ No code assessable development track (4f) 	<p data-bbox="576 409 1203 432"><u>Reduces fit with components of leading practice principles in 3 cases</u></p> <ul style="list-style-type: none"> ▪ The greater the potential impact on businesses or neighbourhoods, the more attention paid to public consultation and notification periods – this change would require merit assessment for developments whose average value is low and that would have limited impacts. ▪ Stream development and rezoning applications into assessment 'tracks (exempt, prohibited, self-assess, code assess, merit assess and impact assess) – merit would be a dominant stream. ▪ Facilitate more 'as-of-right' development processes – would reduce the as-of-right development by allowing community input and merit assessment on a greater share of development
<ul style="list-style-type: none"> ▪ Changes to implementation of timeframes (4g) 	<p data-bbox="576 770 1203 792"><u>Improves fit with components of leading practice principles in 2 cases</u></p> <ul style="list-style-type: none"> ▪ Statutory timeframes with limited "stop the clock" provisions – the timelines would be more effective with deemed-to-comply ▪ Deemed-to-comply provisions, adjustments to statutory timeframes for major projects
Infrastructure contributions	
<ul style="list-style-type: none"> ▪ Deferring infrastructure contributions (4h) 	<p data-bbox="576 1010 1190 1032"><u>Reduces fit with components of leading practice principles in 1 case</u></p> <ul style="list-style-type: none"> ▪ Local roads, paving and drainage - Developer construction costs recovered through land purchase prices – these costs would not be treated in the same way as standard developer construction costs under a deferred payment scheme

Source: The CIE.

9 *Do options address problems identified in the existing system?*

There are widely acknowledged problems of the existing NSW planning system detailed in chapter 2. The root causes of these were also identified in chapter 2 and are repeated in table 6.11. We consider the extent to which each of the options considered addresses the problems evident with the current planning system.

The White Paper option meets the root causes of the problems arising from the current NSW planning system (table 9.1). This is not surprising as the reforms move the planning system very close to what the Productivity Commission and others have identified as leading practice.

9.1 Do the changes proposed in the White Paper address current problems?

Problem	How does primary legislation address problem?	How do other planning reforms address problem?
Overly prescriptive and complex land use controls	<ul style="list-style-type: none"> ▪ All planning provisions contained within a local plan ▪ E-planning 	<ul style="list-style-type: none"> ▪ Fewer and broader zones ▪ Movement to building envelope as main form of control
Lack of resourcing of local councils	<ul style="list-style-type: none"> ▪ Focus council effort on strategic planning and larger developments 	<ul style="list-style-type: none"> ▪ Training of practitioners
Infrastructure not aligned to growth	<ul style="list-style-type: none"> ▪ Growth Infrastructure Plans with committed funding ▪ Infrastructure contributions arrangements 	
Community involved at the wrong level of planning	<ul style="list-style-type: none"> ▪ Community consultation charter for strategic planning ▪ Introduction of Code based assessment that does not have community involvement 	<ul style="list-style-type: none"> ▪ Additional guides to be developed, which should focus on ensuring broad spectrum of community and options given to community, such as through choice modelling
Governance doesn't reflect balance of local costs and wider benefits	<ul style="list-style-type: none"> ▪ Hierarchy of strategic plans from NSW planning policies to regional plans to sub-regional delivery plans to local plans ▪ Balance of NSW and local interests represented on sub-regional boards ▪ Allowance for Strategic Compatibility Certificates 	

Problem	How does primary legislation address problem?	How do other planning reforms address problem?
Lack of transparency and accountability	<ul style="list-style-type: none"> E-planning to increase transparency about rules 	<ul style="list-style-type: none"> Greater use of expert panels/delegated decision-making Performance monitoring of strategic plans

Source: The CIE.

The Bills presented to Parliament address or partly address the current problems. Our view is that this option would fully address four of the problems and partly address “overly prescriptive and complex land use controls” and “the community involved at the wrong level of planning”. Depending on how widespread is the use of codes and how these are structured, the community may be involved at the wrong level in planning, with too much focus at the development assessment stage, rather than the strategic planning stage. The increased notification for complying development is also not addressing current problems with the system and could lead to an increase in red tape at the development stage.

9.2 Do the changes proposed in the Bills presented to Parliament address current problems?

Problem	How does primary legislation address problem?	How do other planning reforms address problem?
Overly prescriptive and complex land use controls	<ul style="list-style-type: none"> All planning provisions contained within a local plan E-planning 	<ul style="list-style-type: none"> Potential movement to building envelope as main form of control, although likely to be retention of more complex development controls
Lack of resourcing of local councils	<ul style="list-style-type: none"> Greater focus of council effort on strategic planning and larger developments, but still likely to be considerable resourcing for DAs 	<ul style="list-style-type: none"> Training of practitioners, Planning Advisory Service and Implementation Plan
Infrastructure not aligned to growth	<ul style="list-style-type: none"> Growth Infrastructure Plans with committed funding Infrastructure contributions arrangements 	<ul style="list-style-type: none"> There may be a need to put in place additional funding mechanisms to reward councils where growth occurs
Community involved at the wrong level of planning	<ul style="list-style-type: none"> Community consultation charter for strategic planning Introduction of Code based assessment that has less community involvement But also increased community involvement for complying development, which will exacerbate problem 	<ul style="list-style-type: none"> Additional guides to be developed, which should focus on ensuring broad spectrum of community and options given to community, such as through choice modelling
Governance doesn't reflect balance of local costs and wider benefits	<ul style="list-style-type: none"> Hierarchy of strategic plans from NSW planning policies to regional plans to sub-regional delivery plans to local plans Balance of NSW and local interests represented on sub-regional boards 	

Problem	How does primary legislation address problem?	How do other planning reforms address problem?
	<ul style="list-style-type: none"> Allowance for Strategic Compatibility Certificates 	
Lack of transparency and accountability	<ul style="list-style-type: none"> E-planning to increase transparency about rules 	<ul style="list-style-type: none"> Greater use of expert panels/delegated decision-making Performance monitoring of strategic plans

Source: The CIE.

Specific variations in the reforms proposed in the White Paper are less effective at addressing the problems identified with the current NSW planning system, with the exception of option 4g and option 4h (table 9.3).

- Allowing for time disciplines to be specified as deemed-to-comply and retaining other aspects of the reforms proposed in the White Paper would address all problems identified with the current system.
- Deferring infrastructure contributions while retaining other aspects other aspects of the White Paper reforms would also address all problems identified with the current system.

9.3 Do variations in proposed changes address current problems?

Problem	White Paper	4a	4b	4c	4d	4e	4f	4g	4h
Overly prescriptive and complex land use controls	√	X	√	√	√	X	X	√	√
Lack of resourcing of local councils	√	√	√	√	√	X	X	√	√
Infrastructure not aligned to growth	√	√	√	X	√	√	√	√	√
Community involved at the wrong level of planning	√	X	X	X	?	√	√	√	√
Governance doesn't reflect balance of local costs and wider benefits	√	√	√	X	?	√	√	√	√
Lack of transparency and accountability	√	√	√	√	X	√	√	√	√

Source: The CIE.

10 *Types of benefits and costs from NSW planning reforms*

The types of benefits and costs from changes to the NSW planning system are identified in table 10.1.

10.1 Benefits and costs from changes to the NSW planning system

Private	Government and community
Changes in time and financial costs of obtaining development approval	Changes in the administration costs of the system
Changes in the costs of development	Changes in the costs of development approval systems, where this is not fully recovered from users
Changes in the risk associated with development	Changes in the amenity of an area, including transport access and congestion, aesthetic impacts, availability of services
Changes in the value of the use of land, reflecting: <ul style="list-style-type: none"> ▪ change in the value for residential use ▪ changes in the value for business use 	Changes in the amount or value of environmental services Changes in the impacts of development on neighbours Changes in expenditure on infrastructure (both by governments and private providers), not borne by developers

Source: The CIE.

These benefits and costs are those directly impacted by the planning reforms. As a result of these, there would be broader economic changes, such as increasing levels of housing activity, for example.

In quantifying the benefits and costs of planning reform options we:

- first estimate the potential economic gains available from improving the planning system. We do this through a ‘top-down’ approach which seeks to track development outcomes in NSW relative to the rest of Australia and through a ‘bottom-up’ approach which identifies specific areas of economic gain;
- estimate the extent to which the proposed reforms will achieve identified gains; and
- estimate the changes in environmental, social and government costs likely to accompany the reforms.

11 *Economic gains from improving the NSW planning system*

There are various ways to attempt to estimate the potential benefits of options for the planning system. There are both bottom-up and top-down approaches. Bottom-up approaches try to identify the costs of each element of the existing planning system and then assess the scope for improvement in each element. Top-down approaches use macroeconomic indicators and benchmarks to identify current costs and potential for improvement. Below we consider the size of potential gains from both of these approaches.

A top-down approach comparing NSW to the rest of Australia

Performance of the residential sector in the Australia as a whole is reasonably easy to explain.

- From 1996 to 2011, housing completions have increased by 22 per cent.⁹³
- Population growth has been 22 per cent over that period.⁹⁴
- ABS data indicates that productivity growth in the construction sector has been strong at around 25 per cent over the period.⁹⁵
- Interest rates have been relatively low.
- Income and wage growth has been historically strong.
- The Australian dollar has appreciated on the back of strong terms of trade.
- In general, economic conditions have been favourable for housing growth.
- CIE Model results suggest that productivity growth may account for at least 13 of the 21 per cent housing growth.⁹⁶

By comparison, the performance of the residential housing sector in NSW is more difficult to explain.

- Since 1996, population growth has been 17 per cent.⁹⁷

⁹³ ABS, Building Activity Australia, Catalogue No. 8752.0.

⁹⁴ ABS, Historical Population Statistics, Catalogue No. 3105.0; ABS, Regional Population Growth Australia, Catalogue No 3218.0.

⁹⁵ ABS, Estimates of industry multi-factor productivity, Australia, Catalogue No. 5260.0.

⁹⁶ The CIE Model used is a 58 sector computable general equilibrium model of the state and territory economies and shows that a one per cent increase in residential construction productivity leads to a 0.53 per cent increase in residential activity. The model is set out in detail in Attachment A.

- As in the rest of Australia:
 - interest rates have been relatively low
 - income and wage growth has been historically strong
 - the Australian dollar has appreciated on the back of strong terms of trade
 - in short, economic conditions have been favourable for housing growth.
- However, between 1996 and 2011, housing completions decreased by 29 per cent.⁹⁸
- Conducting the analysis over a longer period, from 1985 to 2012 using trend data (chart 11.1):⁹⁹
 - housing completions have increased by around 23 per cent in the non-NSW part of Australia while
 - in NSW they have declined by 23 per cent (a relative difference in performance of minus 46 per cent).
- Looking at outcomes over the past five years, NSW has completed 40 per cent less dwellings than Victoria despite comparable population growth.
- No specific, separate ABS productivity data exists for the NSW construction sector, but the implications are that factors in NSW have conspired to restrict housing activity growth in such a way that is equivalent to a very large productivity decline.
 - Although it is difficult to be precise about the size of the decline given the interplay of other factors, indicators point to an equivalent decline in productivity relative to other states of around 50 per cent.¹⁰⁰

Put another way, to force the rest of Australia's residential housing sector to perform as badly as NSW's would require imposing a 50 per cent productivity decline on the sector.

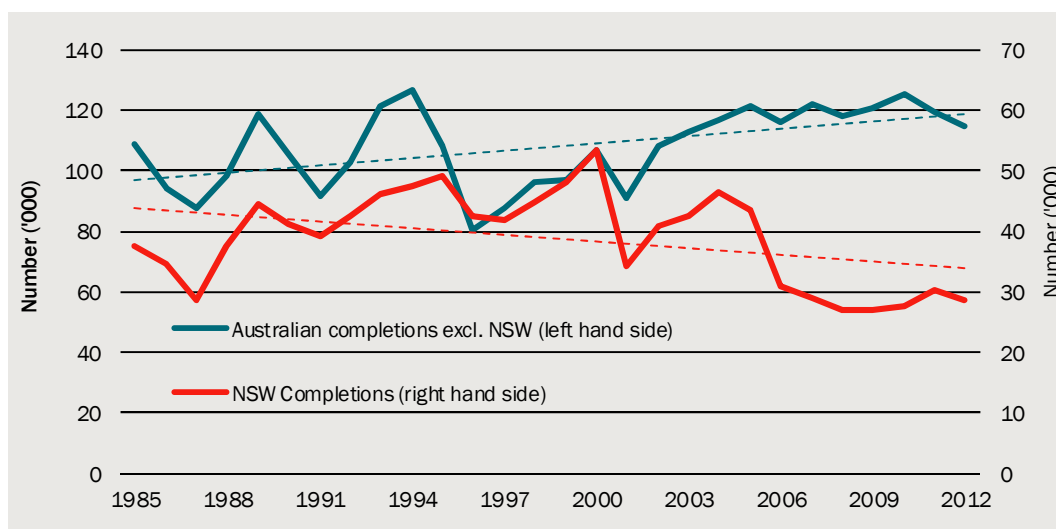
⁹⁷ ABS, Historical Population Statistics, Catalogue No. 3105.0; ABS, Regional Population Growth Australia, Catalogue No 3218.0.

⁹⁸ ABS, Building Activity Australia, Catalogue No. 8752.0.

⁹⁹ CIE analysis based on ABS, Building Activity Australia, Catalogue No. 8752.0.

¹⁰⁰ This is derived as follows: the 13.25 per cent productivity based expansion experienced by the rest of Australia was not captured by NSW and CIE model results showing a 0.53 per cent decline in housing activity from a 1.0 per cent decline in construction productivity. On this basis a direct productivity decline of 42 per cent ($23 \text{ per cent} / 0.53$) in NSW plus a 13 per cent opportunity loss of productivity by not keeping up with the rest of Australia, equals 55 per cent relative decline in productivity.

11.1 Housing completions in NSW and the rest of Australia



Data source: ABS Building Activity Australia, Catalogue Number 8752.0; The CIE calculations.

The stark difference in performance between NSW and the rest of Australia point to some specific constraints limiting growth. On the demand side, many factors such as population, income and credit growth are arguably similar to the rest of Australia. Moreover, it is unlikely that demographic or taste preferences are so different from the rest of Australia to explain the difference in performance. More likely, the explanation lies on the supply-side.

Supply side constraints include:

- the geographically determined supply of suitable land and water
- the access to this land and water and restrictions on how it can be used
- the expansion of infrastructure
- the availability of building resources: labour, capital, materials.

It is difficult to mount a credible economic argument that the supply-side constraint is a lack of land. Sydney and other NSW cities and towns do not face severe land availability constraints.

- Sydney has considerable amounts of vacant land on the periphery.
- Sydney is not densely populated by international standards and has a huge geographic footprint in comparison with many other large cities of the world. Few sprawl as much as Sydney does. The Sydney basin alone is bigger than Netherlands, which is home for nearly 17 million people and a large agricultural industry.
- The opportunities for infill are large as are the opportunities for rezoning of relatively low valued industrial land.

A previous study by Applied Economics for NSW Treasury identified 9 reasons for the slow rate of development in Sydney.¹⁰¹ Of these, 6 are related to the planning system, 2

¹⁰¹ Applied Economics 2010, *Residential building activity in Sydney: an overview and seven case studies*, prepared for NSW Treasury.

are partly related to the planning system and 1 is not related to the planning system (box 11.2).

11.2 Causes of slow development in Sydney

- Natural geographic constraints
- Local government agencies tend to favour and produce restrictive land use plans
- A planning process full of vague and ill-defined statements
- A lack of commitment from state agencies to development
- A lack of public infrastructure
- High land prices for potential urban land on Sydney's fringe
- Fractured land ownership
- Government policy that discourages development of consolidated land areas that are separate from existing developed areas.

Source: Applied Economics 2010, *Residential building activity in Sydney: an overview and seven case studies*, prepared for NSW Treasury.

It is equally difficult to mount a credible economic argument that there is a lack of building resources in NSW. Even though the mining boom has been drawing resources away from some sectors, economic modelling indicates mining expansion generally favours residential building but penalises other sectors. Moreover, the mining boom does not appear to have impaired the performance of other states in terms of residential construction.

The remaining two potentially restrictive supply-side constraints such as access to land and infrastructure are the domain of the state government and planning.

- The Reserve Bank argues that the length and complexity of the planning process, issues relating to the provision and funding of infrastructure and rezoning and promotion of infill development are major supply-side constraints in Sydney. It shows that development costs and margins are 52 per cent higher in Sydney than the average in Melbourne, Brisbane or Perth for Greenfield development and 10 per cent higher for infill development.¹⁰² This could go some way to explaining the 50 per cent productivity disadvantaged apparently being faced by NSW.
- The CIE also shows that while building costs per square metre are not relatively high in Sydney, various direct taxes, charges and hidden costs are over 70 per cent higher in Sydney than in Melbourne for instance, making the median price of a new house in Sydney 25 per cent more expensive than in Melbourne.¹⁰³

Although the top-down approach used here cannot explicitly define the causality between planning and poor performance, combined with a process of elimination of major possible factors, it certainly points to planning as a problem in itself and relative to other

¹⁰² Reserve Bank of Australia, "Supply-side issues in the housing sector", *Bulletin*, September.

¹⁰³ The CIE 2011, *Taxation of the housing sector*, prepared for the Housing Industry Association.

states. By implication it therefore also points to potentially large benefits from changing the planning system.

- Each one per cent increase in residential construction sector productivity is worth around \$450 million a year in gross state product and around \$150 million in NSW household consumption.¹⁰⁴
- Although it is difficult to be precise about the equivalent productivity increase that the proposed new planning system could bring forth, were it able to avoid half NSW's apparent productivity disadvantage of around 50 per cent, this could be worth \$5.6 billion a year in state product and \$1.8 billion in NSW household consumption¹⁰⁵.

Bottom-up approach to estimating potential economic gains

We can estimate the potential economic gains from NSW planning reforms by considering the magnitude of costs imposed on NSW by the current planning system. This comprises three key direct components:

- additional costs of construction, associated with:
 - additional financial and time costs for development approval
 - costs of conditions imposed on development
- reduced value of the use of land reflecting:
 - a zoning system that is not responsive to market conditions
 - overly prescriptive controls by councils
- higher risks of development, which developers then seek to pass on through higher margins.

Additional costs of construction and development approval

The additional costs of construction and development assessment include:

- additional holding costs (financial and non-financial) because of the time taken to obtain development approval;
- documentation costs associated with providing development applications; and
- costs of meeting conditions of development consent or other development requirements.

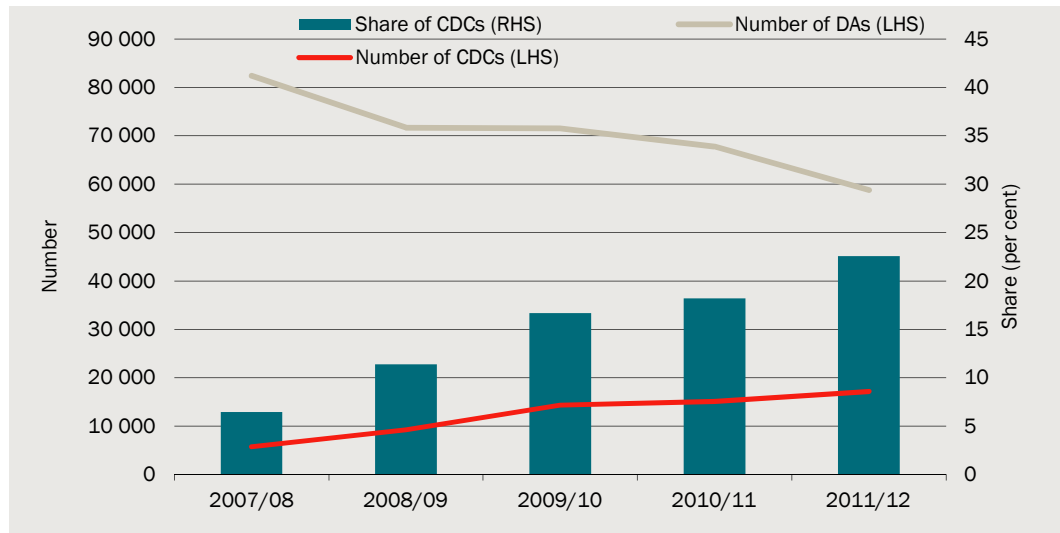
The NSW planning system currently moves most development through the development assessment track, although the use of complying development certificates (CDCs) has been rising (chart 11.3). In 2011/12, the share of development going through the complying development track was 23 per cent, accounting for 2 per cent of development

¹⁰⁴ CIE Regions economic model results as set out in Attachment A.

¹⁰⁵ Note that this accounts for the opportunity cost of resources as it uses a computable general equilibrium model. Results are calculated by applying a change in productivity to the residential construction sector. These results are not a simple 25 times linear combination of a one per cent productivity change. For big changes (such as a 25 per cent change), changes are non-linear and tend to roughly half the linear combination.

value. This contrasts with other states where streamlined development processes typically account for around 80 per cent of developments.¹⁰⁶

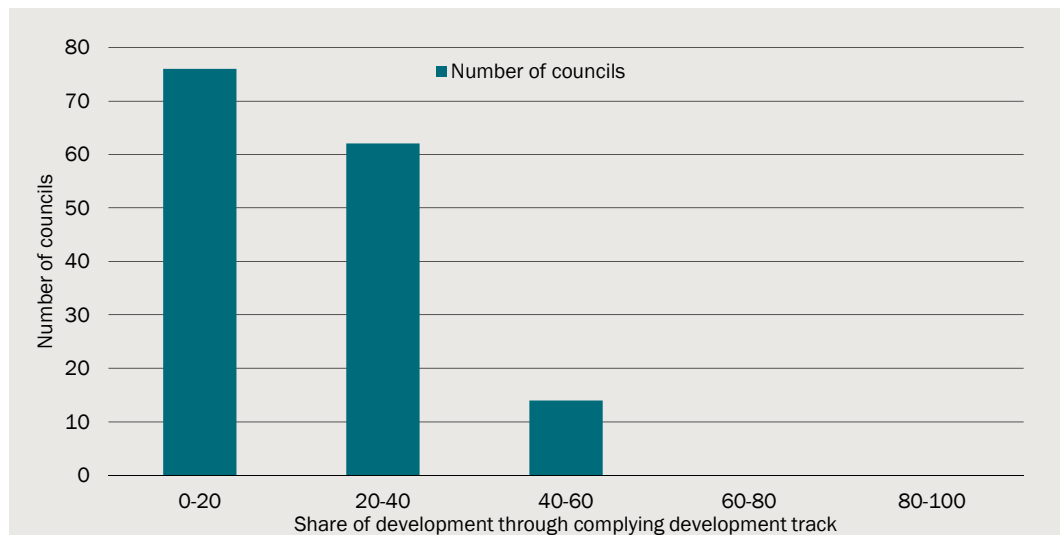
11.3 Development approval tracks in NSW



Data source: NSW Planning, Local development performance monitoring reports 2007/08 to 2011/12; The CIE analysis.

Most councils have between 0 and 40 per cent of development going through the complying development track (chart 11.4). No council in 2011/12 had more than 60 per cent of developments going through this track.

11.4 Use of complying development across council areas



Data source: NSW Planning, Local development performance monitoring report 2011/12; The CIE analysis.

The current DA assessment process takes longer than more streamlined assessment processes. The time taken for development assessment in NSW averaged 71 days across all councils in 2011/12. The average weighted by the value of development is

¹⁰⁶ NSW Planning, 2013, A new planning system for NSW, White Paper, Figure 31.

substantially higher as very high value developments face much longer approval times. These times compare to 18 days for complying development.

The development assessment process also leads to costs related to documentation, development consent conditions and changes to the proposed development.

There are a number of studies that have sought to estimate the costs imposed by the current NSW planning system in higher development assessment costs and higher construction costs (table 11.5). These studies suggest excessive costs of between \$174 million and \$312 million per year from the development approval system in NSW. These studies vary in the coverage of the costs included and whether they are measuring total costs, excessive costs or a combination of these.

None of the figures in table 11.5 factor in costs of undertaking a development differently or of development conditions (such as requiring solar panels, BASIX requirements, waste requirements).

11.5 Cost impacts associated with parts of the NSW planning system

Study	Findings of study
The CIE 2013 ^a	Excessive holding costs during DAs of \$56 to \$100 million per year Costs associated with fees of \$164 million per year Costs of documentation of \$187 to \$374 million per year
Deloitte 2012 ^b	Excessive holding costs during development process of \$193 million per year Excessive documentation costs of \$26 million per year Excessive fees and charges of \$11 million per year Of the \$233 million total, part is related to planning changes already made, with \$174 million expected from the reforms proposed in the White Paper
The CIE 2011 ^c	Excessive planning delays (including DA and entire development process) – \$312 million per year Excessive developer charges – \$231 million per year

^a Holding costs based on improving DA processes but not broader development processes. Estimate of total fees and total documentation costs rather than excessive fees and excessive documentation costs. ^b Based on case studies of three types of development now compared to under the new planning system. Planning delays are longer than those just within the development application period. ^c Planning delays are longer than just those within the development application period. Applied to dwellings in Greater Sydney area only.

Note: Figures do not include developer contributions.

Source: The CIE 2013, Local government compliance and enforcement: quantifying the impacts of IPART's recommendations, prepared for IPART; Deloitte 2012, Time and cost benchmarking project: a new planning system for NSW, prepared for NSW Department of Planning and Infrastructure; The CIE 2011, Taxation of the housing sector, prepared for the Housing Industry Association.

We have not included developer contributions in the costs of the NSW planning system, as these are largely a transfer between developers and governments. Where developer charges are excessive (or are too low), as noted in the CIE 2011, there are efficiency implications. The economic cost of this will generally be several orders of magnitude lower than the amount of the excessive developer contributions.

The delays considered in the CIE 2013 (table 11.5) only capture the delays arising through the DA process, which are substantially shorter than delays in total arising from the planning system. The Productivity Commission has considered timeframes for development approval for Greenfield projects in detail. It considered completion times

for a sample of 29 major projects across Australia. They found that development times for Sydney projects were up to 10 years, which was similar to other Australian capital cities.¹⁰⁷ The time taken for land rezoning was the largest part of the total time, for Sydney, which reflects the planning system.

The Productivity Commission also assessed reasons for the long times taken to complete Greenfield developments. Planning featured highly — of the 29 projects:

- 10 noted rezoning/amending planning scheme as important for delays;
- 6 noted overcoming community concerns/ addressing objections as important for delays; and
- 5 noted addressing unclear or inconsistent planning instruments as important for delays.¹⁰⁸

Developers also noted a number of other planning matters such as infrastructure coordination and additional studies sought by councils.

The costs associated with delays are largely holding costs of land, as the largest part of financial costs (infrastructure and housing) occur late in the process. If each 600 square metres of land costs \$30 000 then the holding costs (measured at the start of the development in present value terms) of holding for 10 years are more than \$6000 higher than holding for five years.¹⁰⁹ Where land is more expensive, holding costs can be many multiples of this, though in some cases land is still used for a purpose while awaiting development.

If the above holding cost was applied to lot production of 8,000 lots per year, which was Sydney's Greenfield lot production in 2000-01, then delaying Greenfield production by five years has an economic cost of \$50 million per year, which is additional to the delays reported in The CIE 2013.

Higher risks of development

A complex and confusing planning system increases costs but also increases the risks for people and businesses undertaking development. Planning risks or uncertainty can take a number of forms.

- Uncertainty about whether approval will be gained for a particular development.
- Uncertainty about what charges or work-in-kind will be required by local councils.
- Uncertainty about what conditions will be placed on development in order to gain approval.
- Uncertainty about how planning will influence the timelines for a development.

¹⁰⁷ Productivity Commission 2011, Performance benchmarking of Australian business regulation: Planning, zoning and development assessment, Research Report, p. 145.

¹⁰⁸ Productivity Commission 2011, Performance benchmarking of Australian business regulation: Planning, zoning and development assessment, Research Report, Table 5.3.

¹⁰⁹ This is based on a real discount rate of 7 per cent.

There are also other forms of uncertainty unrelated to planning, which builders and developers will always have to deal with, such as uncertainty about future market prices and costs.

Builders and developers have suggested that they are most apprehensive about changes to the rules once development has begun. In this case, costs are already sunk and developers cannot decide not to go ahead with the project without significant losses.

When risks are higher developers will either require higher average margins in order to compensate them for risks or will not develop.¹¹⁰

In 2010, we conducted a number of interviews with major NSW developers. Each developer noted that the planning environment in Sydney created risk for their developments. One developer noted that they would not undertake projects in NSW because of this risk — the Grattan Institute also notes that some developers will not operate in NSW.¹¹¹ One other developer put a quantum on the extra return that they required for developing in NSW relative to other states — an additional 1 percentage point on top of costs.¹¹² Developers require significant margins in all states, in the order of 15 to 20 per cent, partly attributable to their planning systems.¹¹³ The excessive risk created from the NSW planning system is therefore *at least* 1 per cent.

For smaller developments, risks may be even more important, because there are economies of scale in dealing with the planning system.

Applying risk premiums to the value of activity determined by councils through development approval processes, the total costs of excessive risk generated by the NSW planning system are therefore likely to be in the order of \$216 to \$432 million per year (table 11.6). We do not include value from complying development as this activity should not incur a risk premium.

11.6 The costs of excessive risk

Item	Low	High
Risk premium (%)	1.0	2.0
Value of activity determined through DAs (\$m, 2011-12)	21 590	21 590
Costs of excessive risk (\$,/year)	216	432

Source: The CIE; NSW Planning, Local development performance monitoring report 2011-12.

¹¹⁰ Productivity Commission 2011, Performance benchmarking of Australian business regulation: Planning, zoning and development assessment, Research Report, p. 151.

¹¹¹ Grattan Institute 2011, The housing we'd choose, June, p. 36.

¹¹² The CIE 2010, Costs and benefits of alternative growth paths for Sydney, prepared for NSW Planning. This has also been noted by the Urban Taskforce as reported in Productivity Commission 2011, p. 335.

¹¹³ The CIE 2011, *Taxation of the housing sector*, prepared for the Housing Industry Association.

Reduced value of the use of land

The current planning system has restricted the use of land in a way that has reduced the value of activities for which land is used. Restrictions on the way that land is used show up in higher land values for restricted land, such as higher land values for land zoned for higher density or where smaller blocks are allowed, compared to lower land values for other types of land. In Sydney, evidence has been collected on the differences between the values of land when different uses are allowed.

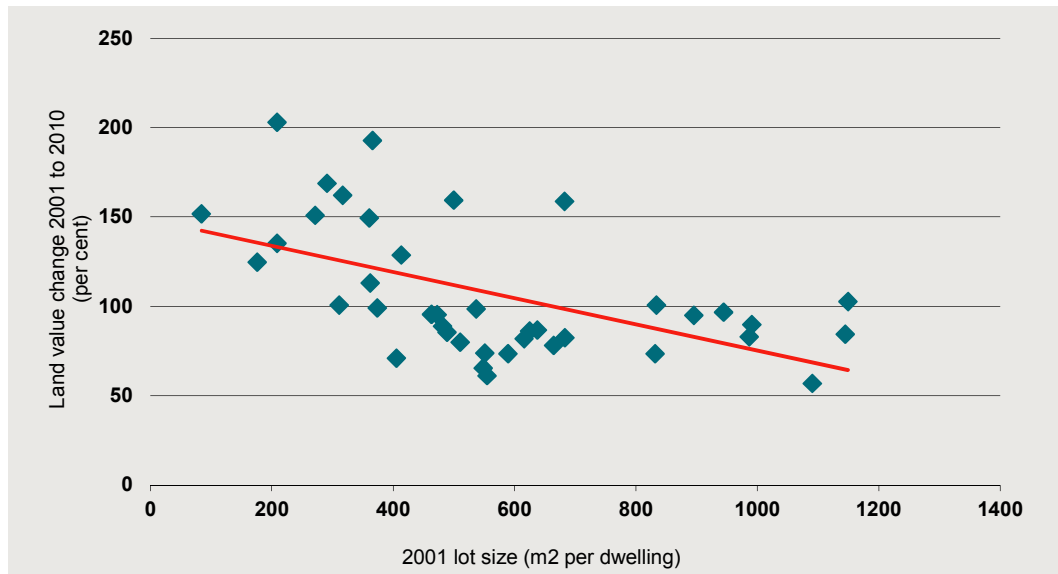
- Land zoned for higher density residential development is generally valued at between 10 and 25 per cent more than land valued for low density residential development.
- Smaller block sizes have a higher value per square metre than larger block sizes. For example, people value a block that is 20 per cent smaller by about 10 per cent more per square metre than the larger block. This means that the additional 20 per cent of land has a very low marginal value. Councils across NSW impose restrictions on block size and street frontage.
- Land zoned for industrial uses in Sydney has values around 50 per cent of the value of similar residentially zoned land. In many cases, industrial activity has moved to the city's fringe and industrial land is gradually being used for different purposes. Examples of sites fitting into this category include the Summer Hill Mill, Carlton United Brewers, Harold Park (a former Paceway and tram depot) and Barangaroo.

In large part, these issues reflect that the planning system has not accommodated changing economic conditions and preferences. As the Grattan Institute notes, the type of housing available does not match what people want and are willing to pay, and the supply of new dwelling is also not well matched to people's preferences (or for Sydney is not producing enough housing).¹¹⁴

It is possible to trace the changes in preferences and the extent to which these have been met by supply. The CIE, in 2012, found that land values are rising much more quickly in locations that have smaller lots (chart 11.7). This reflects that changes in preferences have not been matched by changes in supply. The increasing preference for smaller lot sizes potentially reflects the greater range of services available in denser locations. It is not related to closeness to the CBD with higher initial density continuing to be associated with greater land value increases after accounting for this.

114 Grattan Institute 2011, *The housing we'd choose*, June.

11.7 Average lot size and land value change 2001 to 2011

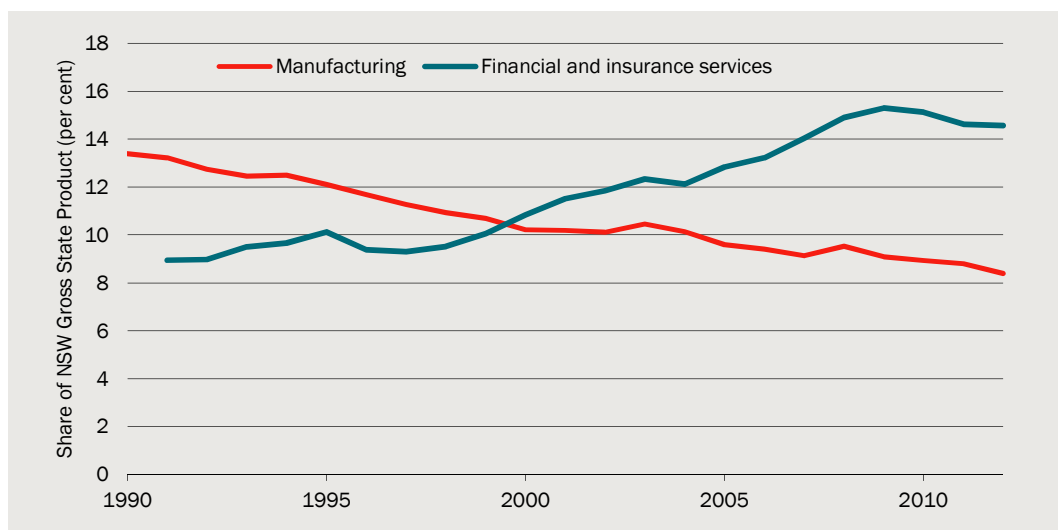


Data source: CIE analysis based on land and zoning database

Similarly, there have been significant changes in the aggregate structure of the NSW economy. Manufacturing activity has grown in real terms, but at a slower rate than the rest of the NSW economy. This has led to a decline in the manufacturing share of the NSW economy from over 13 per cent to around 8 per cent from 1990 to today (chart 11.8). This decline in the manufacturing sector has been matched by an increased importance of services sectors such as financial and insurance services, healthcare and professional and scientific services.

Probably even more important than the changes in the composition of the economy are the changes in where activity has occurred. Manufacturing activity has tended to shift towards the edges of Sydney to access cheaper sites. This has led to either vacant or low priced industrial land in inner areas, whose use has gradually shifted.

11.8 Relative importance of manufacturing and financial services



Note: Measures are chain volume measures.

Data source: ABS National Account: State Accounts, Catalogue Number 5202.0; CIE analysis.

Along with changes in preferences and economic structure, there has been population and employment growth across NSW. Not only has the planning system failed to match structural shifts in the economy, it has also failed to match the magnitude of development required. This has been reflected in:

- low levels of new housing being developed, particularly since 2005 and high house prices. That National Housing Supply Council estimates that NSW has the largest demand-supply gap of all states and territories and the least affordable housing;¹¹⁵ and
- NSW having the second highest commercial rents of any state or territory.¹¹⁶

The costs imposed on the NSW economy as a result of these impacts are widespread. One measure of these costs has been set out in the top-down analysis previously in this chapter. An alternative measure is to estimate the economic efficiency implications if land was allocated to its highest value use. Based on land value premiums estimated by the CIE in 2012, and assumptions about how quickly land values would close as land is rezoned, this suggests that the economic value being inhibited by land use restrictions could be in the order of \$8 to \$16 billion (table 11.9). In annualised terms, this is equivalent to \$665 million per year to \$1289 million per year.¹¹⁷

11.9 Economic value from alternative land use patterns in Sydney

Item	Low	High
Assumptions about when value uplift disappears (per cent)		
Industrial to residential	10	20
Low to high density residential	10	20
Larger to smaller blocks	10	20
Economic value (\$m)		
Industrial to residential	2 482	4 965
Low to high density residential	3 500	7 000
Larger to smaller blocks	2 270	4 036
<i>Total</i>	8 252	16 001
Annualised (\$m/year)	665	1 289

Note: Industrial land value of 65 per cent of non-industrial applied to 14000 hectares of industrial land. Low density to high density premium of 10 per cent applied to 50 000 hectares of residential land. Smaller block size premium of 10 per cent for 20 per cent reduction in block size applied to land excluding that rezoned to higher density; all calculations use residential land value of 1000 per square metre. Rule of half applied so that half of the average premium is applied across the assumed land rezoned.

Source: All assumptions sourced from The CIE and ARUP 2012, Costs and benefits of alternative infill growth scenarios for Sydney, prepared for NSW Planning.

These figures are of course subject to substantial uncertainty. However, it is clear from any measure that the potential economic gains from a more efficient allocation of land are substantial. It is even possible that these gains understate the possible gains because:

¹¹⁵ National Housing Supply Council 2012, Housing supply and affordability — key indicators.

¹¹⁶ NSW Treasury 2011, Submission to NSW planning system review

¹¹⁷ Annualised for a period of 30 years at a real discount rate of 7 per cent.

- they do not account for the considerable restrictions imposed outside of broad zoning requirements and block sizes, such as building heights and other development requirements that may inhibit the value of the development; and
- they do not factor in gains for improved allocation of commercial and retail space.

NSW Treasury noted one prominent example of the cost of a restriction not covered in the above estimates. They noted that the height of the ‘City One’ development proposed for Wynyard station was reduced by around a third below the site height restrictions because it would overshadow the GPO building in Martin Place for an hour a day for 8 weeks during winter.¹¹⁸

Work by others also points to significant implications from planning restrictions on economic welfare, city shape and house prices.

- A Reserve Bank of Australia research paper set out how zoning limits on housing built close to the CBD push population growth into middle and outer suburbs, increase the footprint of a city and result in higher housing prices.¹¹⁹ They also find: ...significant variation in density in inner- and middle-ring suburbs, with some suburbs close to the CBD with very low density: development plans on council websites for these suburbs typically show relatively little land zoned for medium- and high-density use.¹²⁰
- Anecdotal evidence suggests that there will be particular areas where zoning will restrict land values by far more than the figures used in our estimates. For example, rezoning of an area in St Leonards in Sydney led to properties worth an estimated \$3 million being sold for redevelopment for \$14.5 million.¹²¹
- The Grattan Institute has noted the influence of planning in restricting Sydney housing development, noting:¹²²

The vast majority of what has been built in Sydney has been infill development in already established areas. The lack of greenfield development in Sydney reflects the land supply, land price, and infrastructure charge issues discussed above.

In established areas, planning complexity and delays along with higher construction costs for buildings over four storeys have resulted in a low volume of construction. Established area development has longer timeframes, and time is money. Given the difficulties with greenfield development, and the risk and low volumes in established areas, some larger developers have exited the NSW market altogether.

The latent demand for new dwellings can also be seen from outcomes from relatively small changes in policies.

- The NSW Government introduced standards to allow some secondary dwellings (such as granny flats) to be able to be approved as complying development. This

¹¹⁸ NSW Treasury 2011, Submission to NSW planning system review, April, p. 11.

¹¹⁹ Kulish, M., A. Richards and C. Gillitzer 2011, Urban structure and housing prices: some evidence from Australian cities, Reserve Bank of Australia discussion papers 2011-03.

¹²⁰ Kulish, M., A. Richards and C. Gillitzer 2011, Urban structure and housing prices: some evidence from Australian cities, Reserve Bank of Australia discussion papers 2011-03, p. 24-25.

¹²¹ Australian Financial Review, ‘Smart Owners reap windfall’, Wednesday 9 March 2011, p. 3

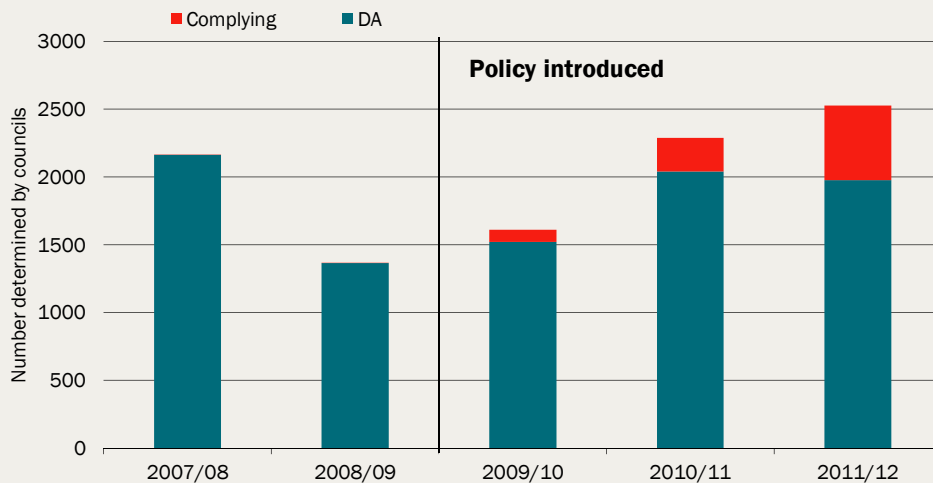
¹²² Grattan Institute 2011, The housing we’d choose, June, p. 36

appears to have led to a substantial response in dwelling approvals, as much as 20 per cent, suggesting latent demand for additional residential dwellings (box 11.10).

- There has been significant amounts of development on airport lands which can operate under their own planning arrangements. In many ways, planning approval for retail and business activities at airports is similar to code assessment processes proposed in the planning reforms. For example approval against the airport masterplan for many developments without requiring public consultation. The Productivity Commission also notes other planning advantages as no infrastructure levies, no state taxes on land and exemption from state retail trading hours.¹²³

11.10 Secondary dwellings

In 2009 the NSW Government made it easier for approval of secondary dwellings (such as granny flats) by moving these into a complying development stream rather than a development assessment process if they met particular requirements. Since the policy was introduced there has been an increase in secondary dwelling approvals in total and a shift towards approval through complying development. It appears that the policy has induced new secondary dwellings, with secondary dwelling approvals growing from 2009/10 to 2011/12 compared to single dwelling DAs which declined over this period. If all the secondary dwelling approved through complying development were additional, this would represent more than a 25 per cent expansion in supply.



123 Productivity Commission 2011, p. 330-331

Summary of bottom-up estimates

The bottom-up estimates suggest that the overall (annualised) potential gains from moving to a better land use system could be in the order of \$1.0 to 2.0 billion per year (table 11.11).

11.11 Bottom-up estimates of potential gains from improved planning

Item	Low	High
	\$m/year	\$m/year
Costs associated with excessive delay and cost	174	312
Excessive risk	216	432
Inefficient land allocation	665	1 289
Total	1 055	2 034

Source: The CIE.

These potential gains reflect a theoretical maximum benefit that can be achieved from the reforms. In practice, however, there are a range of implementation and transitional costs that limit all the potential gains to be captured.

These estimates may well be conservative. In particular, the gains from more efficient use of land only account for improvements related to residential land in Sydney.

Key points

Both a top-down and bottom-up approach suggest that there are substantial economic gains available from improving the NSW planning system.

- A top-down approach suggests that the reduction in housing supply in NSW could be costing the NSW economy \$5.6 billion per year in lost Gross State Product.
- Bottom-up estimates suggest that the potential gains available from a planning system that is lower cost, lower risk and leads to a more efficient allocation of land is in the order of \$1.0 billion to \$2.0 billion per year. Planning reforms would achieve some part of these gains.

12 *Benefits and costs of White Paper option*

How far will the White Paper reforms go to achieving the potential economic gains?

There is good reason to believe that, if fully implemented, the reforms to the NSW planning system put forward in the White Paper would achieve a large part of the potential economic gains. In particular, the White Paper reforms align very closely with leading practice for planning systems (see chapter 5). Given this, it is a reasonable proposition that, from a top-down perspective, the reforms would be able to move NSW to a planning system that could at least deliver outcomes achieved in other states. This would mean an expansion of the NSW economy of \$5.6 billion per year.

Other measures of the White Paper reforms also support our assessment that the reforms would achieve a substantial improvement. The Property Council undertakes a rating system for state government development assessment systems, based on their current system and the reforms proposed to their systems.¹²⁴ The Property Council:

- gave the NSW system a score of 5.2 (out of 10) in 2010, which was the equal lowest of all states alongside Tasmania
- gave the NSW system a score of 5.9 in 2012, which was the third worst (after Tasmania and Queensland);
- gave the proposed reforms a score of 7.3 in 2012, which is higher than all current systems except the Northern Territory. The Property Council rated some other states as having higher potential scores with their reforms.

This suggests that the view that NSW planning reforms set out in the White Paper would achieve benefits at least in line with those delivered by other Australian states is conservative.

For the bottom-up analysis we consider the implications of the White Paper reforms in detail as set out below.

Costs of construction and development approval

The White Paper reforms have cited a target of 80 per cent of development approvals sought going through either complying development or code assessable development tracks. This compares to 23 per cent through the complying development track in 2011-12, as set out in the previous chapter.

Deloitte have undertaken an assessment of the potential reduction in costs from moving to the planning system set out in the White Paper (see table 11.5). They estimate that, if

¹²⁴ Property Council of Australia 2012, Development Assessment Report Card.

the policy achieves its intent, then this could reduce development assessment costs by \$174 million per year. Another study has suggested potentially higher gains of \$312 million per year.¹²⁵

The improved speed of the system partly reflects the addition of a code development assessment track, but also an expansion of complying development and a reduction in times for rezoning processes.

There may also be time savings from improved infrastructure coordination. Anecdotal evidence suggests that this is a problem for some developments (box 12.1)

12.1 Thornton North development area case study

Thornton North was identified as one of few remaining urban release areas with urban development potential in the east of Maitland Council's area. Maitland City Council engaged Parsons Brinckerhoff (PB) to prepare a Master Plan for Thornton North.¹²⁶ The Master Plan identified that the current railway bridge at Thornton Station constrained the potential for development at Thornton North. It noted that the bridge needed to be duplicated, either adjacent to the existing bridge or by providing a new crossing to Haussman Drive.

As an interim measure, the Government placed a cap (of 1400) on the number of lots that could be developed in the Thornton North urban release area due to concerns that the capacity of the existing bridge. It considered that construction of an additional two lane bridge would be necessary to allow the full release of 5000 lots at Thornton North.

Other infrastructure providers such as Hunter Water invested in Thornton North on the basis of expected demand. Given delays in development due to the road infrastructure constraints, these investments could have been delayed.

Risks of development

The White Paper option could reduce the risks of development through:

- providing greater certainty about allowable development types through improved strategic planning and clarity about allowable development in local plans;
- providing greater certainty about allowable development through the code assessment track. This would also flow through to greater certainty for merit assessment as a development could not be rejected on an aspect that met the code;
- lead to less onerous approaches to development controls, such as building envelopes; and

¹²⁵ The CIE 2011, Taxation of the housing sector, prepared for the Housing Industry Association

¹²⁶ Parsons Brinckerhoff, 2003 p. 8.

- provide greater certainty about infrastructure availability and infrastructure contributions.

For development that is code assessed, it could be expected that there would be a substantial reduction in the risks and likely towards the upper end of the 2 per cent premium set out in the previous chapter.

For development that continues to be merit assessed, and given that the White Paper option would move the system pretty much in line with leading practice, it is reasonable to expect that the risk would at least fall to the level of other states (i.e. a 1 per cent reduction) and could fall by further (by 1.5 per cent).

The target for complying and code assessable development under the White Paper option is that 80 per cent of development will be code assessed. Based on NSW Planning data on the application of codes across development types, then \$13.1 billion of development would be shifted into the code assessable track. The benefits from the reductions in risk for this development would amount to \$197 million to \$263 million per year (table 12.2).

The benefits from the reduction in risk for development that continues to go through the merit assessment process would be smaller because the value of development that would go through merit assessment would be lower at \$8.5 billion and the reduction in risk would be lower at 1.0 to 1.5 per cent.

The total economic gain from lower development risk is therefore estimated at \$282 million per year to \$390 million per year.

12.2 Changes in risk from White Paper reforms

	Development becoming code assessable	Development remaining in DA system	Total
Number of DAs	43 754	15 221	58 975
Value of development (\$m/year)	13 137	8 453	21 590
Low			
Reduction in risk applied (per cent)	1.5	1.0	
Benefit (\$m/year)	197	85	282
High			
Reduction in risk applied (per cent)	2.0	1.5	
Benefit (\$m/year)	263	127	390

Source: The CIE.

Value of the use of land

The White Paper option is likely to impact on the value of the use of land in the following ways:

- 1 Aligning infrastructure expenditure to growth should assist in overturning community concerns over the impacts of development.
- 2 Moving the focus of planning to strategic planning rather than development assessment should bring a better understanding of the costs and benefits of plans.

- 3 Robust community engagement should ensure that strategic planning accounts for community preferences.
- 4 A hierarchy of strategic plans should manage issues of local costs as against broader benefits.
- 5 A broader system of zoning should allow for some market direction in terms of what development occurs and how land is used.
- 6 A less wide ranging set of development controls (such as the use of building envelopes) should ensure that development value is not destroyed by regulatory intervention.

As set out in chapter 8, the White Paper option moves the NSW planning system almost entirely in line with leading practice. If fully implemented then, we would see that this option could achieve most if not all of the potential gains from improving the value of land use.

International examples also suggest that the White Paper option is likely to lead to improved use of land. The Vancouver strategic planning processes are widely acknowledged as successful, and helped to achieve community acceptance of higher density development (box 12.3).

12.3 Impacts of Vancouver's strategic planning focus

Vancouver's land use planning system has often been referred to as one of the most successful examples of ongoing planning systems internationally, having been able to promote:

- a high level of residential density with Vancouver maintaining the highest population density of any Canadian city¹²⁷
- mixed-use and mixed form development with the Vancouver skyline interspersed with high rise and low rise buildings, and apartment towers built on multiuse bases; and
- extensive public transport options within the city through joint actions of no freeways constructed and additional investment in rail transport across the city.¹²⁸

Of the many reviews and studies of Vancouver's planning system, there is a mix of results claiming success due to the planning framework¹²⁹, and others considering a stronger role of history, geography and culture.¹³⁰

Irrespective of the level of attribution of the effect of the planning system to these outcomes, there are three main elements of the Vancouver planning system that have been identified as contributing to the strengths of the planning outcomes observed.

These are:

- strong community consultation;
- effective regional governance across local councils; and,
- continuity of planning focus on liveability within the given land base.¹³¹

Each of these three elements are recognised to have assisted in achieving Vancouver's planning goals, with community consultation, and the requirement to meet community expectations placed on developers having arguably the greatest influence.

However, this successful achievement of density, mixed-use development and transport usage patterns did not come without costs. The extensive consultation process was lengthy and costly,¹³² Vancouver is often reported as having one of the most overpriced real estate markets in the world¹³³ and overtime, as with all growing cities, there are increasing pressures on infrastructure to expand beyond the planning ideals to contain vehicle use.¹³⁴

¹²⁷ Statistics Canada: Population and dwelling counts, for Canada and census subdivisions (municipalities) with 5,000-plus population, 2011 and 2006 censuses

¹²⁸ Boddy, T. (2005) Insight: Vancouverism vs. Lower Manhattanism: Shaping the High Density City. Retrieved from <http://www.archnewsnow.com/features/Feature177.htm> on 23/07/13

¹²⁹ Kelly, J. (2010) Cities: Who decides? Grattan Institute, Melbourne

¹³⁰ Boddy, T. (2005) Insight: Vancouverism vs. Lower Manhattanism: Shaping the High Density City. Retrieved from <http://www.archnewsnow.com/features/Feature177.htm> on 23/07/13

¹³¹ Kelly, J. (2010) Cities: Who decides? Grattan Institute, Melbourne

¹³² Grant, J. (2009) Experiential Planning: A practitioners account of Vancouver's success. *Journal of the American Planning Association*, 75(3): 378

¹³³ Woolsey, M. (2007) World's most overpriced real estate markets, *Forbes Magazine* http://www.forbes.com/2007/08/24/housing-overpriced-world-forbeslife-cx_mw_0824realestate.html

A key risk in achieving additional development through the White Paper option (and other options) is credibly linking state government infrastructure, particularly transport, with growth. The Productivity Commission's survey of the community identified a strong pattern of sentiment that views development as negative, which appears to reflect state infrastructure concerns.

- Sydney residents were the least positive about population growth of any cities covered. 64 per cent of respondents in Sydney indicated that they would not like population growth compared to 52 per cent for all capital cities. 9 per cent would like population growth compared to 11 per cent for all capital cities.
- Sydney residents who were concerned about population increases cited transport issues more than any other city. 89 per cent of respondents that did not want a population increase cited increased traffic congestion and 46 per cent cited more crowded public transport.
- NSW residents had the lowest agreement with the view that the state government was effective in planning of any of the cities covered.

If the NSW Government is not effective in establishing that development will be supported by transport infrastructure then the strategic planning process may fail to deliver higher density development and community acceptance of development. Ensuring that GIPs are based on a robust and well informed economic prioritisation process will assist in managing this risk. This would mean that cost-benefit analysis would take explicit account of demand growth in prioritising infrastructure expenditure.

The timelines for achieving the changes in land use that have been used to estimate the economic value are likely to be relatively long. This reflects the time required to engage the community in strategic planning and to change development outcomes that require long lead times. If the system took 10 years to achieve the changes in value estimated in the previous chapter, then this would mean that the gains in present value terms are about half of what has been estimated, at between \$4 and \$8 billion today in net present value terms over a period of 30 years (table 12.4).

Alternatively, if changes were achieved gradually over a period of 20 years then this would imply *annual* benefits of between \$413 and \$800 million in additional economic value from a more efficient use of land.

12.4 Value of land use change under alternative timelines

	Low	High
	\$m	\$m
Potential gains (over 30 years)	8 252	16 001
If achieved in 10 years (over 30 years)	4 195	8 134
If achieved in 20 years (over 30 years)	2 133	4 135
Annual gain if achieved gradually over 20 years (per year)	413	800

Note: Real discount rate of 7 per cent has been used.

Source: The CIE.

Environmental and amenity impacts from reforms

Environmental impacts include changes in:

- the amount or impacts of noise pollution, air pollution, GHG emissions, biodiversity impacts and other environmental impacts;
- transport congestion and crowding;
- health impacts arising from alternative urban forms; and
- aesthetic values associated with particular areas.

The governance arrangements surrounding strategic planning processes proposed by the White Paper option aim to choose options that (a) reflect community preferences, and (b) have the highest net public benefit, considering environmental, social and economic factors. If these governance processes are successful, and given that they align to leading practice principles then they are given every chance of this, then this should ensure that any environmental and social costs occur only where they are outweighed by other benefits.

The greatest environmental impacts are likely to occur through major project approvals processes. For major projects, the assessment of the public interest should also guard against unnecessary environmental impacts.

In urban areas, the evidence suggests that environmental impacts are of lesser importance than other impacts, such as infrastructure costs and transport. In 2010, the CIE found that environmental impacts differed by less than \$300 million over 25 years of development (net present value) for different development paths for Sydney, equivalent to \$26 million per year.¹³⁵ This compared to differences of over \$2 billion (net present value) for transport congestion and transport connection costs between scenarios.

Government costs from reforms

There will be government costs arising from proposed changes to the planning system in the White Paper option. These costs include:

- transition costs of developing a new planning system;
- additional costs for the NSW Government of more detailed strategic planning for planning policies, regional growth plans and subregional delivery plans. Additional community consultation and more sophisticated means of engaging the community are likely to be a substantive part of the cost increase;
- costs for local governments of developing local plans (and replacing current local environment plans);
- potentially reduced costs for local government associated with development approvals;
- changes in infrastructure costs including:

¹³⁵ The CIE 2010, Benefits and costs of alternative growth paths for Sydney, prepared for NSW planning.

- a likely increase in infrastructure costs to support development as part of Growth Infrastructure Plans;
- reduced infrastructure costs arising from better planning and coordination of growth areas and protection of corridors (see box 12.5);
- reduced infrastructure costs related to improving contestability of infrastructure;
- reduced infrastructure costs through benchmarking of local council infrastructure by the Independent Pricing and Regulatory Tribunal of NSW; and
- reduced infrastructure costs related to payment of local contributions that exceed current caps — this is a transfer from the NSW Government to developers and is not considered further.

12.5 Costs arising from poor planning for infrastructure

Poor planning for infrastructure can lead to higher costs. A key example of this is corridor protection, where planning for future infrastructure such as roads or rail lines, can ensure that costs are not borne from having to building underground. A good example of this is the North West Rail Link. This project is a 36 kilometre (23 new and 13 upgraded) rail line into the North West growth centre of Sydney. It involves 15 kilometres of tunnels and 4 kilometres of elevated track (skytrain).

The requirement for tunnelling and elevated tracks is a result of a lack of corridor protection for the project. This has likely increased the costs of the project substantially compared to an above-ground line. For example, the cost of tunnelling has been estimated at \$1.15 billion, of the \$8.3 billion cost.

The importance of corridor protection has been noted by the NSW Government in its Long Term Transport Masterplan.

Source: North West Rail Link website: www.northwestrail.com.au; NSW Transport, Long Term Transport Masterplan, p. 192.

We focus on changes in the administration costs of government and transition costs from moving to the White Paper option.

- NSW Planning has indicated that its own costs of transition have been budgeted at \$24 million or 2013/14. Transition costs will continue over subsequent years and we allow for a total of \$50 million in transition costs.
- There will likely be increased ongoing costs related to strategic planning (table 12.6). These costs are difficult to predict and will depend on the resources that are allocated to strategic planning. We allow for an estimated \$80.5 million in additional strategic planning costs under this option over a full strategic planning cycle. If plans are undertaken every four years then this would amount to \$20 million more per year.
- Development assessment costs for councils are likely to be lower under the White Paper option. Some part of this is passed on to lower costs for applicants. Because councils do not currently recover the full amount of costs associated with town

planning, they are also likely to obtain cost reductions.¹³⁶ We do not include these cost savings in the estimates. These may also be passed on in reduced development application fees.

12.6 Changes to the costs of strategic planning for White Paper option

Item	Now	Under proposed reforms
Regional plans/regional growth plans		
Number	11	9
Cost per plan	0.5	1.0
<i>Total cost</i>	5.5	9.0
Subregional plans/subregional delivery plans		
Number	10	6
Cost per plan	0.5	1.0
<i>Total cost</i>	5.0	6.0
Local environment plans/local plans		
Number	152	152
Cost per plan	0.5	1.0
<i>Total cost</i>	76.0	152.0
Total cost for all plans	86.5	167.0
<i>Cost difference for four year cycle</i>		80.5

Source: NSW Planning; The CIE.

For infrastructure costs, they will be associated with other benefits to the community. We do not consider either of these in detail, as it would be expected that infrastructure projects would occur where they have net public benefits (i.e. benefits exceed costs).

Infrastructure may be undertaken more cheaply than otherwise because of contestability requirements and benchmarking of local council infrastructure.

Private sector provision of public infrastructure can increase value for money, improve whole-of-life cost and quality, achieve cost effectiveness and innovation and enable effective management of risk. The private sector can also enable infrastructure provision that would otherwise be restricted due to fiscal policy constraints.¹³⁷

Contestable infrastructure provision involves exposing monopoly providers of infrastructure to a credible threat of competition which includes alternative or innovative approaches to infrastructure delivery and operations.¹³⁸

International examples of the potential cost savings from private sector provision include the following.

¹³⁶ On average over the past four years, costs for town planning as reported by local councils have been \$150 million more than revenue collected from town planning activities.

¹³⁷ Productivity Commission 2011, Performance benchmarking of Australian business regulation: Planning, zoning and development assessment, Research Report, p. 188

¹³⁸ NSW Government, 2013, *A new planning system for NSW: White Paper*, p. 160.

- The United Kingdom experience has been the subject of extensive review and projects there have been found to deliver average savings of 17 per cent compared to traditional public sector delivery.¹³⁹
- PFI schemes in Scotland had reported estimated cost savings of 20 per cent from the provision of water infrastructure and 20 to 30 per cent in Ireland
- The first four design, build, finance and operate (DBFO) road projects in England were quoted as experiencing overall savings estimated at 12 per cent.¹⁴⁰

In Victoria, Coliban Water saved an estimated 20 per cent of cost on both a new drinking water treatment plant and a wastewater project through partnerships with the private sector. Similarly, in NSW, private sector involvement in the Illawarra and Woronora filtration plant saved millions of dollars and brought forward works to deliver the projects with minimal impact on Sydney Water's cash flow.¹⁴¹

However there still remain barriers to increased private sector provision. Private sector interest in Greenfield infrastructure has declined (at least where this is linked to revenue risk) following a number of poorly performing toll roads, for example.

While noting that infrastructure contestability and benchmarking may bring significant cost savings, we do not include these in our estimates of benefits.

Net benefits and economic impacts of reforms

The net benefits of each planning options is equal to the benefits of the reforms less the costs of the reforms. These occur over a number of years. A standard measure of net benefits is to calculate the value today of the benefits achieved over the next, say, 30 years. We use a period of 30 years as changes to the planning system are likely to have an enduring impact — for example the current planning legislation was enacted in 1979. In calculating benefits today we use a real discount rate of 7 per cent, as recommended in NSW Treasury guidelines.

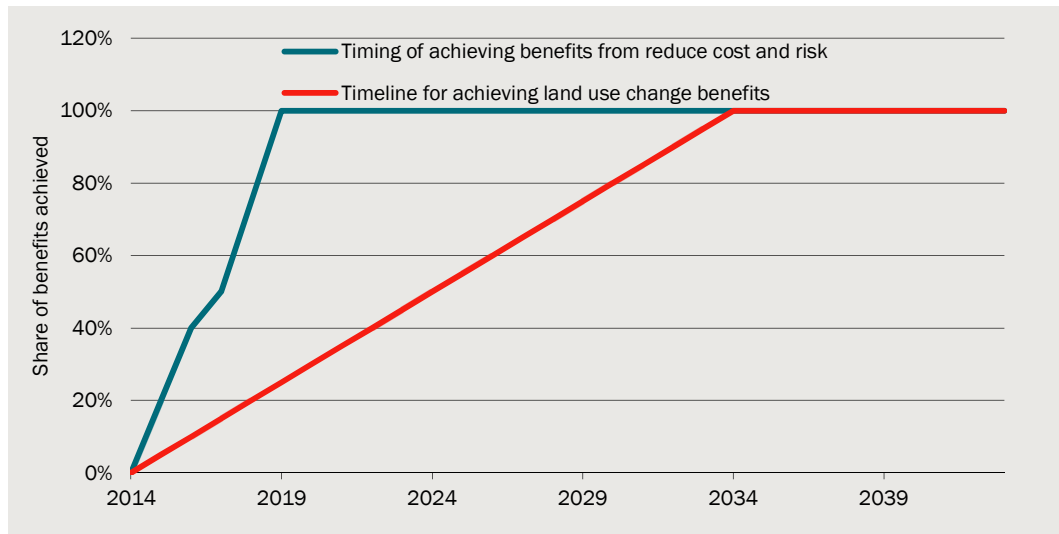
An important component of the value today is the timelines over which the changes to the system flow through to changes in land use and changes in the costs of using the planning system. The timelines that we have used are set out in chart 12.7. The timeline for achieving reduced cost and risk reflects White Paper targets for achieving 50 per cent of development through the complying and code tracks within 3 years and 80 per cent within 5 years. The much slower timeframe for achieving the benefits of land use change reflects that development will take a relatively long time to respond to changes in the planning system.

¹³⁹ Department of Treasury and Finance, 2001, *Partnerships Victoria guidance Material, Practitioners' Guide*, June 2001, p. 6.

¹⁴⁰ Numerous sources in Parliament of Victoria, 2006, *Public accounts and estimates committee: report on private investment in public infrastructure*.

¹⁴¹ Applied Economics, *Preparing Business Plans and Economic Feasibility Studies for Private Sector Infrastructure Provision*.
http://www.regional.org.au/home/infrastructure/reports/workshop_iis.htm

12.7 Timelines for achieving benefits



Data source: The CIE.

Once fully implemented, the White Paper option will have net benefits of \$848 million to \$1482 million per year (table 12.8). After accounting for implementation times and costs of transition, the net benefits would average \$663 million to \$1165 million per year over a period of 30 years. Substantial benefits accrue from reducing costs, reducing risk and increasing development value and any of these elements alone would more than justify the reforms.

12.8 Benefits and costs of White Paper option

Item	Average over 30 years		Once fully implemented	
	Low	High	Low	High
	\$m/year	\$m/year	\$m/year	\$m/year
Reduction in risk	221	305	282	390
Avoided cost of delay and documentation	137	245	174	312
Increase in value	329	638	413	800
<i>Less</i>				
Transition costs	-4	-4	na	na
Higher cost strategic planning	-20	-20	-20	-20
Net benefits	663	1 165	848	1482

Note: Discount rate of 7 per cent used to amortise benefits and costs over a period of 30 years. Numbers may not add due to rounding.

Source: The CIE.

Risks to implementation

These estimates of net benefits err on the side of being conservative in the value of impacts achieved. In particular, these estimates are at the lower end of what would be achieved from a top-down approach.

The estimates are not conservative in that we estimate impacts on the basis that each option will be implemented as expected. As the Productivity Commission notes:

The state and territory planning systems have also been subject to rolling reforms which are often not fully implemented or evaluated before being replaced with further reforms. City planning systems are characterised by ‘objectives overload’ including unresolved conflicting objectives, long time lags and difficult-to-correct planning mistakes. There is a significant risk that the systems’ capacity to deliver on their objectives will deteriorate.¹⁴²

The implementation risk for planning reforms for NSW has also been noted by the Grattan Institute.

The white paper will not be easy to implement. The NSW government has set itself a monumental challenge. It is proposing a process of community engagement on a scale not yet seen in Australia.¹⁴³

The risks to implementation can be broadly broken into risks to:

- the timeline for changes to the system — reforms across state and local governments can be slow to implement. For example, standard LEPS were introduced in NSW in 2006 but by June 2010 only 16 of the 152 councils had LEPs effective under the standard instrument¹⁴⁴;
- the level of and effectiveness of community engagement in strategic planning;
- achieving targets for development tracks, including the level of complexity for code and complying development; and
- cooperation and participation of local councils — NSW Planning has considered this as an important factor for successful implementation of capital city strategic and spatial plans¹⁴⁵. There have been a number of major policy changes reliant on local government that have failed to achieve their full benefits (box 12.9 and box 12.10).

12.9 Reforms to building standards

The CIE found that the Building Code of Australia and related performance-based standards had provided net benefits to industry, designers, regulators and consumers of over \$1 billion a year.¹⁴⁶ However, a large majority of stakeholders interviewed, expressed the view that the full potential of the national code and the performance-based standards had not yet been fully realised. Ongoing jurisdictional variations, variations in interpretation, application and enforcement, interference by councils, utilities and land developers and a lack of objectivity in standards are some of the main factors considered to be limiting the full potential of the reforms being realised.

¹⁴² Productivity Commission 2011, Performance benchmarking of Australian business regulation: Planning, zoning and development assessment, Research Report, p. XXII.

¹⁴³ Kelly, J. 2013, “Vision splendid for Sydney needs community input”, Sydney Morning Herald, 17 April.

¹⁴⁴ Productivity Commission 2011, Performance benchmarking of Australian business regulation: Planning, zoning and development assessment, Research Report, p. 128.

¹⁴⁵ Productivity Commission 2011, Performance benchmarking of Australian business regulation: Planning, zoning and development assessment, Research Report, p. 361.

¹⁴⁶

<http://www.abcb.gov.au/~media/Files/Download%20Documents/About%20the%20NC%20CIE%20-%20Benefits%20of%20building%20regulation%20reform%20-%20Final%20Report.pdf>

12.10 Reforms to road access

The National Transport Commission reported potentially large economic gains (\$5.37 billion in present value terms over 20 years) from reforming standards regulating heavy vehicle road access from a prescriptive-based regime to one based on performance (performance-based standards PBS).¹⁴⁷ However, registering Authorities and allied bodies such as Road Agencies (where they are separate) and local councils are required to make important decisions about access to the road network — from granting registration, allowing concessions, specifying routes and vehicle conditions and issuing permits or notices. These decisions have a significant impact on freight productivity (as well as flow-on effects throughout the economy), road safety, infrastructure maintenance, public amenity and costs of compliance.

The intent of PBS is that if a vehicle design is considered by the Review Panel to be consistent with the policy articulated then it should be granted access to the road network. In practice, vehicles built entirely consistent with PBS guidelines have no guarantee of access to the road network once those vehicles are operational due to the actions of Road Agencies and local councils. Of the 75 PBS Review Panel approved vehicles, access was initially denied or additional operating conditions were applied to 45 per cent of them.

The disconnection between nationally agreed policy and on-the-ground application arises for several reasons, some fiscal, some technical and others cultural. Final access decisions are often made by local councils who may lack expertise in highly technical matters. In the absence of such expertise there is an inclination towards conservative decision making.

¹⁴⁷ National Transport Council 2010, *Performance Based Standards, Draft Regulatory Impact Statement*, March. The document reports gains with and without flow-on impacts. The \$5.3 billion includes flow-on benefits as reported in appendix A of the NTC report.

13 Benefits and costs of Bills presented to Parliament

The Bills presented to Parliament option is likely to have substantial benefits relative to the current planning system, but less than estimated for the White Paper reforms. In particular:

- less widespread use of Code development will mean reductions in the cost and risk associated with development in NSW will be smaller;
- continuation of existing standard zones less closely aligns to leading practice. The magnitude of these impacts are highly uncertain, but would be expected to lead to smaller benefits than the White Paper option from a more efficient use of land; and
- the notification period for residential complying development will lead to delays to this type of development, imposing a small additional cost on development.

This chapter sets out the basis for our estimates of the impact of the Bill presented to Parliament.

Costs of construction and development approval

The Bill presented to Parliament would lead to a smaller part of development becoming code assessed than the White Paper option. Based on the pattern of application of code development provided by NSW Planning, the amount of residential development that is code assessed would be 51 per cent of the level for the White Paper option and used in Deloitte's calculations of the avoided costs of development (see table 11.5). The resulting impacts are set out in table 13.1.

The Bill presented to Parliament would also result in a small increase in development costs through longer timeframes for notification for residential complying development. Currently, average time for approval of CDCs is 18 days and there is a 2 day notification period prior to construction. This gives 20 days in total. Under the system reflected in the Bill presented to Parliament, there would be a 14 day notification period prior to determination and a 7 day notification period prior to construction. Presumably there would be some overlap between the current determination time and the proposed 14 day notification period, so additional determination time would be lower. Based on this being 2 days, the total time for CDCs would be 37 days, or an increase of 17 days compared to the current system. This may be somewhat overstated if there is a greater overlap between the proposed notification period and current determination times, but this is immaterial in the context of the broader planning changes.

The value of complying development in 2011/12 was \$538 million. Residential CDCs accounted for 66 per cent of applications, which would be equal to a value of \$357 million if all CDCs had equal value. The holding costs of an additional 17 days for

\$357 million is equal to a cost of \$1.1 million per year, using a real interest rate of 7 per cent.

The total low estimated of avoided DA costs from the Bill presented to Parliament is therefore \$107 million per year (table 13.1).

13.1 Avoided development costs from Bills presented to Parliament

	White Paper		Bills presented to Parliament	
	Savings per DA	Number of DAs	Savings per DA	Number of DAs
	\$	No.	\$	No.
New single dwelling – DA to CDC	7 145	3 885	7 145	3 885
Alterations and additions – DA to CDC	1 813	6 358	1 813	6 358
New single dwelling – DA to code	4 039	9 484	4 039	4 863
Alterations and additions – DA to code	275	17 070	275	8 754
New multi-dwelling – DA to code	113 960	807	113 960	414
Cost from additional notification for CDC (\$m)			-1.1	
Total avoided costs (\$m)		174		107

Source: Deloitte 2012, Time and cost benchmarking project: a new planning system for NSW, prepared for NSW Department of Planning and Infrastructure; CIE calculations.

For the high estimate for the cost impacts of the Bill presented to Parliament we scale down the high estimate of the White Paper reforms in the same ratio as the low estimate for each option. This gives a high estimate of avoided costs of \$192 million per year from the Bill presented to Parliament.

Risks of development

The Bills presented to Parliament option is likely to provide a lower risk for developers through:

- providing greater certainty about allowable development types through improved strategic planning and clarity about allowable development in local plans;
- providing greater certainty about allowable development through the code assessment track;
- lead to somewhat less onerous approaches to development controls; and
- provide greater certainty about infrastructure availability and infrastructure contributions.

The Bills presented to Parliament option is likely to have less of an impact on development risk than the White Paper option. This reflects that codes will be applied only to specific areas and to a smaller set of development. This limits the amount of code assessed development. Because a higher risk reduction would occur for this development

type there is hence a lower dollar reduction in risk. It also indirectly limits the reduction in risk for merit assessed development because codes will have less of a role in limiting the factors on which a merit assessed development could be rejected.

Reflecting these considerations, we apply the risk reductions to development values as set out in table 13.2. This gives an estimate of the reduction in risk from development of \$190 to \$298 million per year.

13.2 Changes in risk from Bills presented to Parliament option

	Development becoming code assessable	Development remaining in DA system	Total
Value of development (\$m/year)	8 235	13 355	
Low			
Reduction in risk applied (per cent)	1.5%	0.5%	
Benefit (\$m/year)	124	67	190
High			
Reduction in risk applied (per cent)	2%	1%	
Benefit (\$m/year)	165	134	298

Source: The CIE.

Value of the use of land

The Bill presented to Parliament is likely to impact on the value of the use of land in the following ways.

- 1 Aligning infrastructure expenditure to growth should assist in overturning community concerns over the impacts of development.
- 2 Moving the focus of planning to strategic planning rather than development assessment should bring a better understanding of the costs and benefits of plans.
- 3 Robust community engagement should ensure that strategic planning accounts for community preferences.
- 4 A hierarchy of strategic plans should manage issues of local costs as against broader benefits.
- 5 A somewhat less wide ranging set of development controls (such as the use of building envelopes) should ensure that development value is not destroyed by regulatory intervention.

In these aspects, the Planning Bill presented to Parliament moves about three quarters of the way to leading practice as does the White Paper option.¹⁴⁸ The main differences relate to the meeting broad zoning principles and the extent to which each system meets “the greater

¹⁴⁸ If a move from “No” to “Partly” and “Partly” to “Yes” are captured as half a point and a move from “No” to “Yes” as a full point, the Bill presented to Parliament is 6.5 points better in land use efficiency aspects than the current planning system. The White Paper option is 8.5 points better than the current NSW planning system.

the potential impact on businesses or neighbourhoods, the more attention paid to public consultation and notification periods”.

It is very difficult to pin down specific land use efficiency impacts related to these factors. Reflecting this, we use the proportions implied by a crude scoring against leading practice principles. On this basis, the Bill presented to Parliament would increase land use efficiency by \$291 to \$565 million per year once fully implemented.

Environmental and amenity impacts from Bills presented to Parliament option

The Bills presented to Parliament option might provide greater protection for immediate neighbourhood amenity relative to the White Paper option, depending on how codes are constructed. The estimated impacts of the White Paper reflect a well constructed code and hence we do not include any impacts in this area.

Government costs of Bills presented to Parliament option

We expect the Government costs of the Bill presented to Parliament to be the same as the cost of the White Paper option. This means transition costs of \$50 million (undiscounted) and ongoing additional costs of \$20 million per year for strategic planning.

Net benefit and economic impacts of the Bill presented to Parliament

The net benefits of the Bills presented to Parliament option are estimated for a 30 year period. We expect that the implementation time and time over which benefits will be achieved will be similar for the Bill Presented to Parliament option as for the White Paper option (chart 12.7). On this basis the average impacts over 30 years and once implemented are set out in table 13.3.

13.3 Benefits and costs of Bill presented to Parliament

Item	Average over 30 years		Once fully implemented	
	Low	High	Low	High
	\$m/year	\$m/year	\$m/year	\$m/year
Reduction in risk	149	234	190	298
Avoided cost of delay and documentation	84	151	107	192
Increase in value	232	451	291	565
<i>Less</i>				
Transition costs	-4	-4	na	na
Higher cost strategic planning	-20	-20	-20	-20
Net benefits	442	811	569	1 035

Note: Discount rate of 7 per cent used to amortise benefits and costs over a period of 30 years. Numbers may not add due to rounding.

Source: The CIE.

The implementation risks for the Bill presented to Parliament are similar to those for the White Paper option. The risk that there will be no net benefits is higher. This reflects that the estimated net benefits from this option are lower than for the White Paper option. Further, the areas where benefits accrue are subject to higher levels of implementation risk. For example, ensuring that strategic planning addresses existing problems is subject to high implementation risk, as is the process to move to a simpler planning system for users.

14 Benefits and costs of other options for the NSW planning system

Other options for changing the NSW planning system have lower net benefits than the reforms proposed in the White Paper, with the exception of a change to make timelines specified as deemed-to-comply. This chapter sets out the calculations and basis for estimates of costs and benefits. We report net benefits once the changes are fully implemented and report the low end of the range of net benefits only for simplicity for these options.

Community consultation

Consultation on code assessment (4a)

Consultation on code assessment would (a) increase development assessment timeframes and costs, and (b) increase risks associated with development. These impacts have been quantified in table 14.1. Introducing community consultation into code assessed development would lead to a reduction in benefits of \$309 million per year relative to the White Paper option by:

- reducing DA savings as developments going through code assessment would be unlikely to receive any savings relative to a standard DA; and
- constraining the reduction in risk to 0.5 per cent across all developments from changes to the planning system.

14.1 Costs and benefits of community consultation on code assessment

	White Paper reforms	Consultation for code (4a)
	\$m/year	\$m/year
Avoided cost of delay and documentation	174	39
Avoided cost of risk	282	108
Land use efficiency	413	413
Change in strategic planning cost	-20	-20
Total	848	540
<i>Difference to White Paper reforms</i>	0	-309

Note: Estimates are reported once changes are fully implemented. Estimates are the 'low' end of the range.

Source: The CIE.

No consultation on state planning policies (4b)

No quantification has been undertaken for this option.

Strategic planning***Reduced scope and breadth of strategic plans (4c)***

Reducing the scope and breadth of strategic planning through limiting regional growth plans to growth areas and not undertaking sub-regional delivery plans would:

- have net costs relative to the White Paper reforms of \$196 million per year, reflecting:
 - achieving only half the identified gains in land use efficiency; and
 - reducing the costs associated with strategic planning also by half.

Non-statutory strategic planning (4d)

Not including strategic plans in statute would:

- have net costs relative to the White Paper reforms of \$98 million per year, reflecting:
 - achieving three quarters of the identified gains in land use efficiency; and
 - reducing the costs associated with strategic planning also by one quarter.

Note that there are a wide range of possible outcomes from non-statutory strategic planning, depending on how it would be pursued.

14.2 Costs and benefits of changes to strategic planning

	White Paper reforms (2)	Reduced scope and breadth of strategic planning (4c)	Non-statutory strategic plans (4d)
	\$m/year	\$m/year	\$m/year
Avoided cost of delay and documentation	174	174	174
Avoided cost of risk	282	282	282
Land use efficiency	413	206	309
Change in strategic planning cost	-20	-10	-15
Total	848	652	750
<i>Difference to White Paper reforms</i>	0	-196	-98

Note: Estimates are reported once changes are fully implemented. Estimates are the 'low' end of the range.

Source: The CIE.

Development assessment

Lower target for code and complying development (4e)

A lower target for code assessment would (a) increase development assessment timeframes and costs, and (b) increase risks associated with development. These impacts have been quantified in table 14.3. The estimated reduction in benefits compared to the White Paper reforms is \$246 million per year comprising:

- reductions in DA savings as a large part of developments would continue to move through the merit assessment system; and
- constraining the reduction in risk to 0.5 per cent for development going through the merit assessment system.

Note that we consider that a lower amount of development going through code and complying development would mean a smaller reduction in risk for merit assessed development. This reflects that merit assessed development cannot be rejected on something for which it meets the code.

No code assessment track (4f)

If there is no code assessment track then this would (a) increase development assessment timeframes and costs, and (b) increase risks associated with development. These impacts have been quantified in table 14.3. The estimated reduction in benefits compared to the White Paper reforms is \$309 million per year comprising:

- reductions in DA savings as a large part of developments would continue to move through the merit assessment system; and
- constraining the reduction in risk to 0.5 per cent for development going through the merit assessment system.

Change in specification of timelines (4g)

If timelines are specified as deemed-to-comply then this would reduce development assessment timeframes. This impact has been quantified in table 14.3. The estimated increase in benefits compared to the White Paper reforms is \$26 million per year comprising a saving of 13 days per development application, based on the success of current deemed-to-be-refused statutory timeframes compared to actual times, applied across all development.

14.3 Costs and benefits of changes to development assessment

	White Paper reforms (2)	40 per cent target for code and complying (4e)	No code assessment (4f)	Deemed-to-comply timelines (4g)
	\$m/year	\$m/year	\$m/year	
Avoided cost of delay and documentation	174	62	39	200
Avoided cost of risk	282	148	108	282
Land use efficiency	413	413	413	413
Change in strategic planning cost	-20	-20	-20	-20
Total	848	602	540	874
<i>Difference to White Paper reforms</i>	0	-246	-309	26

Note: Estimates are reported once changes are fully implemented.

Source: The CIE.

Infrastructure

Deferring infrastructure contributions (4h)

No quantitative assessment of costs and benefits has been undertaken for the deferral of infrastructure.

15 *Detailed assessment of changes to the building system*

The proposed reforms include a number of minor changes to building legislation, followed by more substantive changes to building certification through regulations. The majority of these changes will be assessed in detail through a regulation impact statement that will accompany the development of regulations. For the Better Regulation Statement we consider:

- the size and the nature of problems in the building sector; and
- the types of impacts of the proposed reforms and the issues that will be considered in detail in a subsequent regulation impact statement.

Size and nature of problems with existing building regulation

Problems relating to existing building regulation largely relate to the following issues:

- building defects
- councils imposing standards over and above the requirements in the BCA through conditions to development consents.

Building defects

Non-compliance with the BCA can impose significant costs on the community. Specifically, non-compliance with the BCA can:

- Increase the risks to health and safety — this includes through:
 - compromising the building’s structural integrity
 - reducing fire safety
 - increasing the risk of slips, trips and falls.
- Reduce the amenity provided by a building — the building may be less ‘liveable’ because of a defect.

These factors may be reflected in lower property prices or rental incomes for owners.

A key role of the certification system is to ensure compliance with the BCA. As discussed previously, in many cases the building owner may not have sufficient knowledge to assess whether the builder has complied with the BCA. In some cases compliance can only be assessed during the construction phase. Furthermore, there are potentially externalities associated with buildings. That is, some of the costs of non-compliance may be borne by third parties, such as building users, passers-by, owners of neighbouring buildings and subsequent owners.

Some form of building certification appears to be a feature of the enforcement regime for building regulations in comparable countries throughout the world. However,

certification is not always required by regulation. In France for example, there is no regulatory requirement for technical inspections. However, it is compulsory for all parties involved in building — the owner, vendor and developer — to take out insurance and insurers will often require a technical inspection as a condition for issuing an insurance policy.¹⁴⁹

Prevalence and nature of building defects in NSW

Various investigations into the building industry in NSW have uncovered significant anecdotal evidence of building defects in NSW.¹⁵⁰ However, quantitative information on building defects in NSW is limited. A recent study by the University of New South Wales on the role and effectiveness of strata management in NSW found evidence to suggest that building defects are a significant problem in strata schemes in NSW.¹⁵¹ A survey of owners of lots in strata schemes found that around 72 per cent of respondents reported that one or more building defects had been present at some stage.¹⁵² Similarly, a survey of Executive Committee members found that around 69 per cent had experienced building defects.¹⁵³

The ABS reported there were more than 26 000 dwelling units completed in NSW in 2011/12, including around 15 000 houses and 12 000 other dwelling units (i.e. dwelling other than houses). If around 70 per cent of ‘other’ dwellings had defects — as suggested by the UNSW surveys — there could be more than 8 000 new ‘other dwellings’ with defects completed per year. There is no information available on the extent of building defects in other residential buildings. However, if the defect rate for houses was around half that of strata schemes, this would imply an additional 5000 or so dwellings with defects completed annually, or around 13 500 in total.

Another indicator of the prevalence of building defects is the number of home building complaints made to NSW Fair Trading. Over the past five years, NSW Fair Trading has received an average of more than 7000 home building complaints annually (chart 15.1).

¹⁴⁹ Van der Heijden, J. 2008, *Competitive enforcement: comparative analysis of Australian building regulatory enforcement regimes*, IOS Press, Amsterdam, p. 57.

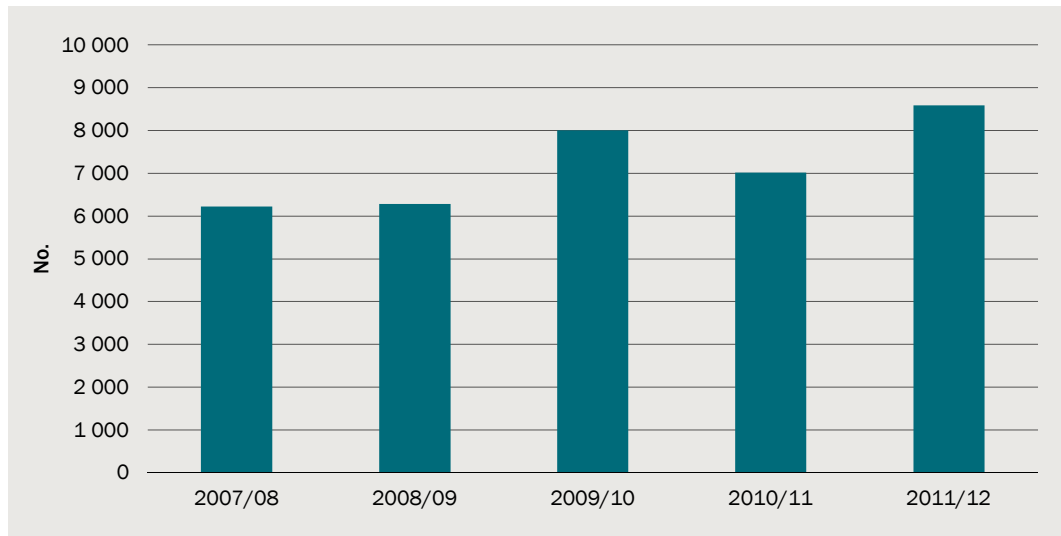
¹⁵⁰ See for example, the Campbell Inquiry (2002) and reports from the NSW Building Regulation Working Party (2012) and the Fire Protection Systems Working Party (2010).

¹⁵¹ Easthope, H. Randolph, B. and Judd, S., 2012, *Governing the Compact City*, City Futures Research Centre, Faculty of the Built Environment, university of New South Wales, May, p. 68.

¹⁵² Easthope, H. Randolph, B. and Judd, S., 2012, *Governing the Compact City*, City Futures Research Centre, Faculty of the Built Environment, university of New South Wales, May, p. 65.

¹⁵³ Easthope, H. Randolph, B. and Judd, S., 2012, *Governing the Compact City*, City Futures Research Centre, Faculty of the Built Environment, university of New South Wales, May, p. 67.

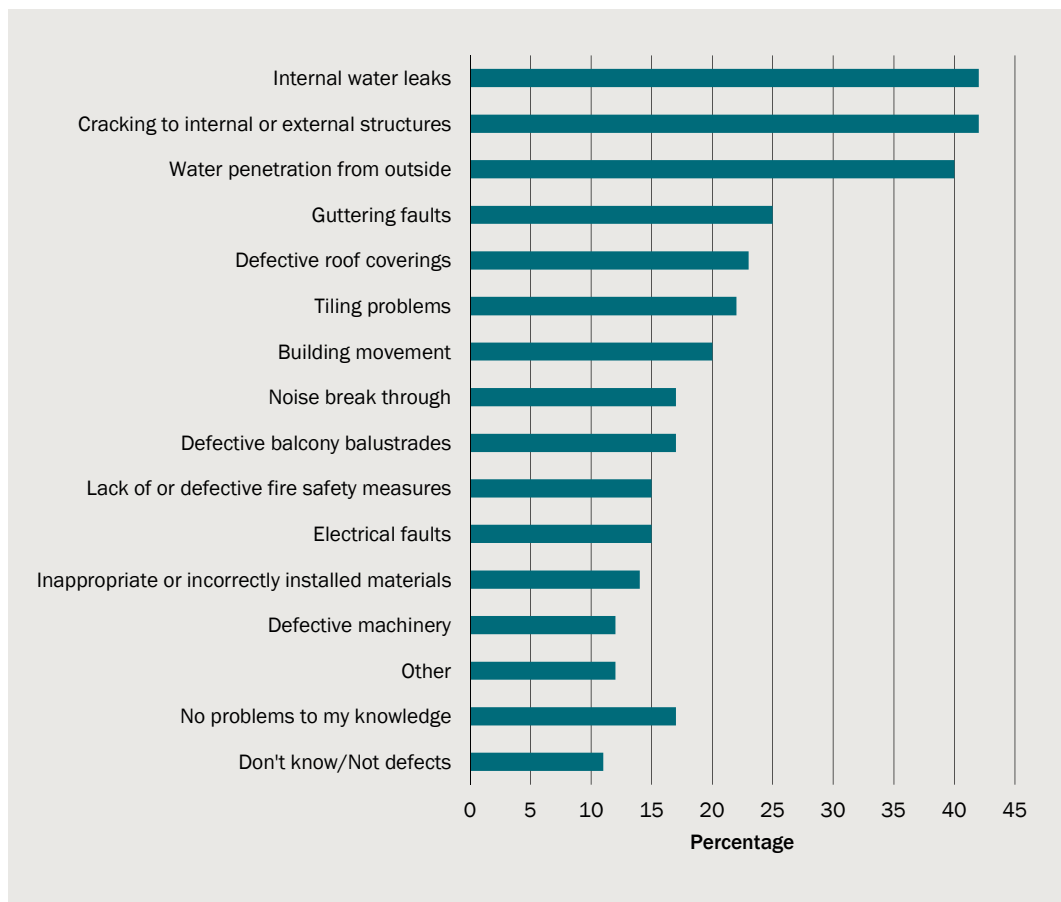
15.1 Home building complaints



Data source: NSW Fair Trading

The most common defects reported in strata schemes were internal water leaks, cracking to internal or external structures and water penetration from outside (chart 15.2).

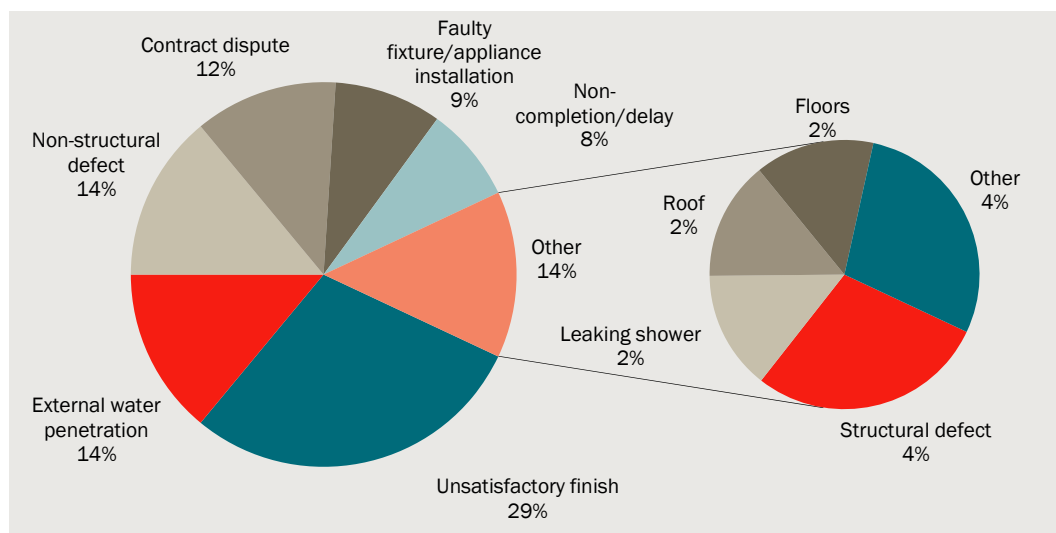
15.2 Defects in strata schemes



Data source: Easthope, H. Randolph, B. and Judd, S., 2012, *Governing the Compact City*, City Futures Research Centre, Faculty of the Built Environment, university of New South Wales, May, p. 66.

The most common defects reported in home building complaints were unsatisfactory finishes, external water penetration and non-structural defects (chart 15.3). The data on home building complaints to NSW Fair Trading will not capture defects to high-rise residential buildings, since these disputes tend to be settled through a court (or out of court) process, rather than through NSW Fair Trading.

15.3 Defects by type



Data source: NSW Fair Trading.

Costs associated with building defects

The cost associated with getting defects rectified can be significant. Estimated rectification costs associated with some common building defects are summarised in table 15.4.

15.4 Estimated costs of rectification in hypothetical situations

Repair type	Age of building	Size of building	Location	Estimated total cost
Replacing a defective roof membrane	Newly built	8 storeys, 50 apartments	Inner Western Sydney	\$150 000
Replacing glass balustrades (due to inappropriate design)	Newly built	10 storeys, 50 apartments	Northern Beaches, Sydney	\$150 000 to \$250 000
Re-tiling all bathrooms due to buckling of original tiles	3 years old	3 storeys, 10 apartments	Eastern Suburbs, Sydney	\$75 000
Fixing a number of cracks to external walls	6 years old	5 storeys, 20 apartments	Northern Suburbs, Sydney	\$100 000

Source: Easthope, H. Randolph, B. and Judd, S., 2009, *Managing Strata Repairs: Managing Major Repairs in Residential Strata Developments in New South Wales*, City Futures Research Centre, Faculty of the Built Environment, university of New South Wales, July, p. 56.

In many cases, the builder rectifies the defects at their own cost. According to the UNSW survey, 49 per cent of respondents whose schemes had defects reported that they had not had any problems getting defects fixed in their schemes.¹⁵⁴

In other cases, the costs to owners of rectifying defects can be significant. The UNSW reports that for a 20 unit strata scheme with 2 or 3 major defects, getting defects rectified could cost between \$200 000 and \$400 000 and take 3 to 5 years (table 15.5). This suggests costs of between \$10 000 and \$20 000 for each apartment. These costs can often mean that owners pay the rectification costs themselves.

15.5 Hypothetical cost breakdown for a 20 unit scheme with 2 or 3 major defects

Stage	Timeframe	Cost
Assessment of the nature and extent of defects	4-6 months	\$30 000-\$50 000
Negotiations regarding settlement	Up to 6 months	\$20 000-\$50 000
Application for rectification	9-12 months	\$10 000-\$50 000
Court case for damages	2-3 years	\$150 000-\$250 000
Total	3-5 years	\$210 000-\$400 000

Source: Easthope, H. Randolph, B. and Judd, S., 2012, *Governing the Compact City*, City Futures Research Centre, Faculty of the Built Environment, university of New South Wales, May, p. 71.

In previous work for IPART, the CIE scaled up some of the information on the prevalence of defects and the costs identified above across all dwelling units completed in NSW to provide an indication of the costs of building defects on the community.¹⁵⁵ The total cost of building defects could be in the order of \$75-175 million per year, with around \$120 million the most likely estimate. This estimate is based on the following information.

- Around 13 500 dwellings with defects completed per year (based on 70 per cent of 'other dwelling' and 35 per cent of houses completed).
- The cost of rectification in the range of \$3000 to \$7500 per dwelling, with around \$4500 per dwelling considered the most likely (see table 15.4)
- In cases where the builder does not willingly rectify the defects (estimated at around 50 per cent of cases), the costs associated with assessment, negotiation and application for rectification in the range of \$3000 to \$7500 per dwelling, with around \$5000 per dwelling considered most likely (see table 15.5).
- Where the dispute ends up going to court (in around 15 per cent of cases), the cost is estimated at around \$7500 to \$12500 per dwelling, with around \$10 000 per dwelling considered most likely (see table 15.5).

¹⁵⁴ Easthope, H. Randolph, B. and Judd, S., 2012, *Governing the Compact City*, City Futures Research Centre, Faculty of the Built Environment, university of New South Wales, p. 68.

¹⁵⁵ The CIE 2013, Local government compliance and enforcement: quantifying the impacts of IPART's recommendations, prepared for IPART.

In many cases it may take significant time to get defects fixed, or they may not get fixed at all. Only 22 per cent of respondents to the UNSW survey indicated that all defects had been fixed. Costs associated with these delays could include:

- an adverse impact on the health and safety of residents
- lower quality and liveability of homes and hence quality of life
- the financial cost of re-housing residents
- lower property values and rental incomes.

The above estimate can be considered indicative only. Since there is no information available on the prevalence of defects in houses, it is possible that our estimate of 35 per cent (based on half the prevalence in strata schemes) overstates the extent of the problem. On the other hand, the cost of defects per dwelling may be higher for houses, compared to strata schemes. Furthermore, the costs associated with delays in having defects rectified (both financial and non-financial) have not been included.

Other costs of building defects could include loss of life, particularly those relating to fire safety.

Excessive conditions on development consents

A nationally consistent building code has been in place since the early 1990s. According to the Productivity Commission, the benefits of a nationally consistent building code include:

- Reduced costs for builders and designers working across state borders — these firms do not have to expend resources understanding and complying with multiple building codes. A nationally consistent BCA may also encourage building practitioners to operate in a number of jurisdictions, promoting economies of scale and more efficient building practices.
- Better compliance with building regulations — a single nationally consistent BCA reduces misunderstanding of and confusion between codes;
- Creation of a larger market for building products — suppliers of building products are able to manufacture the same product in each State and Territory, rather than having to manufacture different products to meet each different code. This promotes cost savings through increased economies of scale in production and through increased competition between manufacturers.
- Transferability of building designs — the same design can be used in different jurisdictions, rather than having to alter designs to meet different requirements in each jurisdiction.
- Transferability of skills — skills should be able to be transferred more easily, with attendant benefits in terms of allocation of resources and reduced retraining costs in the industry.
- Savings in code development costs — since only one code has to be developed, there should be savings in code development costs, notwithstanding additional initial development costs, given the national code has to deal with a wider variety of

buildings and environments and the resources needed to achieve consensus across jurisdictions.¹⁵⁶

Ongoing variations between states, as well as local government areas within states, has prevented the national building code from achieving its full potential.

A Productivity Commission report in 2004 found there was still a significant lack of consistency between State and Territories in some areas. One example is BASIX, which applies only in NSW. Nevertheless, these state-based variations have declined over time.

The Productivity Commission's 2004 report also identified Local Government planning controls and other regulations that affect building regulation and the administration of the BCA as a key source of inconsistency.¹⁵⁷ The Commission was also concerned that Local Governments usually do not conduct an adequate level of impact analysis of their regulations. This means that new regulations may be introduced that contain extra requirements on business, with increased costs, for uncertain benefit.¹⁵⁸

More recently, the Productivity Commission noted that little progress had been made on addressing the problem of local government requirements creating inconsistencies.

A recent (as yet unpublished) study by The CIE found that the nationally consistent building code had delivered annual benefits to the community of between \$152 million and \$607 million, with around \$304 million the most likely estimate, compared with inconsistent state-based codes. Nevertheless, only around half of the potential benefits of the nationally consistent BCA had been realised due mainly to persistent variations between states and local government areas.

This suggests that state and local government variations from the national code could be costing the community around \$304 million. According to ABS data, the value of building work done in NSW is around 24 per cent of the national total. If the national costs are distributed proportionately across states, this suggests the cost to NSW, could be around \$72 million.

State-based variations mainly affect the non-residential segment of the building industry and larger multi-dwelling residential developments. The larger property development and construction companies that work across state borders mainly service these segments of the market. By contrast, local government-based variations affect all segments of the building industry. Large property development and construction companies work across multiple local government areas within NSW, as well as across state borders. Local builders that largely operate in the residential market are less likely to operate across state borders, although they are likely to operate across multiple local government areas.

While state-based variations have declined over time, anecdotal evidence suggests that variations introduced by local governments have increased. A number of stakeholders suggested that local government variations are a greater problem than state-based variations.

¹⁵⁶ Productivity Commission, 2004, Reform of Building Regulation, Research Report

¹⁵⁷ Productivity Commission, 2004, Reform of Building Regulation, Research Report

¹⁵⁸ Productivity Commission, 2004, Reform of Building Regulation, Research Report, p. XXXVII.

As a conservative estimate, local government based variations are likely to account for at least half of the cost of variations from the national code incurred by NSW. This suggests that local government variations from the NCC could be costing NSW at least \$36 million per year.

Potential impact of the proposed building reforms

As discussed in chapter 6, most of the reforms to building regulation outlined in White Paper will be addressed in the regulations or other policies. These specific changes will therefore be assessed through the Regulatory Impact Statement. Some of the key issues to consider are outlined below.

Changes to address building defects

As noted in the UNSW report, much of the debate around the extent of defects in residential buildings in NSW has focused on apparent failures of the building certification system.¹⁵⁹ The building reforms outlined in the White Paper focus on clarifying and in some cases strengthening the building certification system. This includes the following.

- Accreditation of additional occupations involved in building design and construction such as designers, specialist engineers, fire protection systems installers and inspect/test technicians, energy efficiency designers, access consultants and other relevant professions.¹⁶⁰
- Mandatory certification of specified building aspects, including the design, installation and commissioning of critical building systems and elements.¹⁶¹
- Changes to the mandatory building inspection regime.¹⁶²
- Introduction of a building manual.
- Strengthened controls on certifiers through stronger disciplinary guidelines, increased auditing and increased obligations to report non-compliant building work and other controls.¹⁶³

Many of these reforms will impose additional regulatory costs, with the objective of reducing the costs associated with building defects. Whether these reforms will deliver a net benefit to the community depends on the magnitude of the additional regulatory costs and the extent to which the reforms will reduce the cost of defects. Since most of the above changes will be reflected in the regulations, they will be considered in detail as part of the Regulatory Impact Statement.

¹⁵⁹ Easthope, H. Randolph, B. and Judd, S., 2012, *Governing the Compact City*, City Futures Research Centre, Faculty of the Built Environment, university of New South Wales, May, p. 68.

¹⁶⁰ NSW Planning, 2013, A new planning system for NSW, White Paper, p. 180.

¹⁶¹ NSW Planning, 2013, A new planning system for NSW, White Paper, p. 180.

¹⁶² NSW Planning, 2013, A new planning system for NSW, White Paper, p. 194.

¹⁶³ NSW Planning, 2013, A new planning system for NSW, White Paper, p. 180.

When assessing the potential benefits and costs of proposed reforms, one consideration will be the extent to which the building defect problems are caused by failings in the certification system. Not all of the costs associated with defects are a regulatory problem. Where the builder or developer willingly covers the cost of the defect, there is no regulatory problem. According to the UNSW survey, around half of survey respondents indicated that they had not had any problem getting defects fixed.

Furthermore, according to NSW Fair Trading data, a significant share of the complaints made against builders cannot be attributed to failings in the certification system. Over half of the complaints received by NSW Fair Trading in 2011/12 were not related to compliance with the BCA, including unsatisfactory finishes (29 per cent), contract disputes (12 per cent) and non-completion/delay (8 per cent) (see chart 15.3).

There are also relatively few complaints against certifiers, compared to builders. Over the past five years, the Building Professionals Board has received an average of around 120 complaints against certifiers per year. This compares to more than 7000 home building complaints received per year by NSW Fair Trading. Furthermore, around 56 per cent of the complaints determined during this period were either dismissed or withdrawn.

Where the proposed changes result in additional regulation, it will also be important to consider whether the proposed reforms are targeting the key problems. For example, one of the proposed reforms involves an accreditation regime for additional building-related occupations, including building designers and energy efficiency professionals.

- There is some evidence to suggest that building design is not a particularly large problem in NSW. In particular, the UNSW study noted that in NSW, defects typically occur at the construction, rather than design phase.¹⁶⁴ Furthermore, only 7 per cent of home building complaints to NSW Fair Trading related to building design.
- The costs associated with poor quality advice from an energy efficiency consultant may also not be sufficient to warrant a mandatory accreditation scheme.

Changes addressing excessive conditions on development consents

The White Paper proposes to clarify and streamline certification/approval processes, including through:

- developing a NSW-specific technical code to specify standards not covered by the BCA, such as unique and unusual buildings, structures and related developments.
- Establishing a gateway system that would mean that councils could not impose performance criteria on building work in excess of what is specified in the BCA or NSW Technical Code, without the approval of the Director-General of Planning.¹⁶⁵

¹⁶⁴ Easthope, H. Randolph, B. and Judd, S., 2012, *Governing the Compact City*, City Futures Research Centre, Faculty of the Built Environment, university of New South Wales, May, p. 67.

¹⁶⁵ NSW Planning, 2013, A new planning system for NSW, White Paper, p. 188.

It is difficult to envisage many circumstances in which local government deviations from the BCA would be in the best interests of the community. An effective 'gateway' model should therefore mostly eliminate local-government-based variations from the BCA. Based on The CIE's tops down estimates outlined above, the benefits to the community from eliminating local government-based variations from the BCA could be at least \$36 million.

PART III

Attachments



A *The CIE Model*

CIE-REGIONS model is a general equilibrium model of the Australian economy. It was developed by the Centre for International Economics based on the publicly available MMRF-NRA model developed by the Productivity Commission (2006).¹⁶⁶

Some of the key aspects that make this model especially suited for this task are that it:

- uses a 2005/06 input-output table
- provides a detailed account of industry activity, investment, imports, exports, changes in prices, employment, household spending and savings and many other factors;
 - identifies 58 industries and commodities (table A.1)
 - the industries which are particularly relevant to this task are construction and ownership of dwellings
- accounts for Australia's six states and two territories as distinct regions including specific details about the budgetary revenues and expenditures of each of the eight state and territory governments and the Australian Government (the government finances in CIE Regions align as closely as practicable to the ABS government finance data);
 - includes a detailed treatment of the fiscal effects of the Goods and Services Tax (GST);
 - specifically accounts for major taxes including land taxes, payroll taxes, stamp duties and others at the state level, as well as income taxes, tariffs, excise, the GST and other taxes at the federal level (table A.2);
 - traces out the impact of transfers between governments;
- accounts for differing economic fundamentals in the states (for instance, the mining boom in WA and Queensland);
- can produce results on employment and value added at a regional level; and
- can be run in a static or dynamic mode. The dynamic version allows analysis to trace impacts over time as the economy adjusts, being particularly useful over the medium to longer terms.

The CIE has used CIE-REGIONS to analyse the impacts of a range of policy changes, including state tax reform, local infrastructure development, and industrial development strategies.

¹⁶⁶ Productivity Commission 2006, *Potential Benefits of the National Reform Agenda*, Report to the Council of Australian Governments, available at <http://www.pc.gov.au/research/commissionresearch/nationalreformagenda>

A.1 CIE-REGIONS industries/commodities and margin services

Sector	Sector
1 Livestock	31 Electricity generation - other
2 Crops	32 Electricity supply
3 Forestry	33 Gas supply
4 Fishing	34 Water and sewerage services
5 Coal	35 Residential construction
6 Oil	36 Non-residential construction
7 Gas	37 Wholesale trade
8 Iron ore	38 Retail trade
9 Other metal ores	39 Mechanical repairs
10 Other mining	40 Hotels, cafes and accommodation
11 Food, beverage and tobacco	41 Road passenger transport
12 Textiles, clothing and footwear	42 Road freight transport
13 Wood products	43 Rail passenger transport
14 Paper products	44 Rail freight transport
15 Printing	45 Pipeline transport
16 Petroleum products	46 Ports services
17 Chemicals	47 Transport services
18 Rubber and plastic products	48 Water freight transport
19 Other non-metal mineral products	49 Ship charter
20 Cement and lime	50 Air passenger transport
21 Iron and steel	51 Air freight transport
22 Other non-ferrous metals	52 Communication services
23 Metal products	53 Finance
24 Transport equipment	54 Business services
25 Other equipment	55 Ownership of dwellings
26 Other manufacturing	56 Government administration and defence
27 Electricity generation - coal	57 Education
28 Electricity generation - gas	58 Health
29 Electricity generation - oil	59 Other services
30 Electricity generation - oil	
Margin services	
Gas supply (part of commodity 33)	Pipeline transport (part of commodity 44)
Wholesale trade (part of commodity 36)	Ports services (part of commodity 45)
Retail trade (part of commodity 37)	Water freight transport (part of commodity 47)
Hotels, cafes & accommodation (part of commodity 39)	Air freight transport (part of commodity 50)
Road freight transport (part of commodity 41)	Finance (part of commodity 52)
Rail freight transport (part of commodity 43)	

Source: CIE-REGIONS database

A.2 Federal and state taxes

Federal taxes	State, territory and local government taxes
Good and service tax (GST)	Payroll tax
Sales taxes	Land tax
Excises and levies	Municipal rates
Labour income tax	Fire surcharges
Company income tax	Stamp duties on
Non-residents income tax	- insurance
Import duties	- financials
Export taxes	- motor vehicle
	- residential property
	- non-residential property
	- non-residential non-real estate

Source: CIE-REGIONS database

B *Leading practice components*

The 42 components of leading practice are identified below.

B.1 Identified leading practice components

Leading practice components
1. Early resolution of land use and coordination issues
Strategic land use plans that practically outline decisions on future urban growth, alternative land use options, timing, infrastructure and services
Strategic land use plans that are integrated across different levels of government and government departments to ensure consistency in infrastructure, environment, housing and human services
Consistent hierarchy of plans (strategic, city, regional, local) that are consistently updated
Provisions for resolving planning conflicts between government agencies
Provisions to facilitate adjustment to changing circumstances and innovation, including effective engagement, transparency and probity
Effective implementation and support arrangements for all plans <ul style="list-style-type: none"> ▪ Clear accountability and performance measures ▪ Better coordination between all levels of government and linked, streamlined and efficient processes ▪ One clear authority which monitors progress against the strategic plan ▪ Completion of a structure or master plan in major new developments before proceeding to subdivision ▪ Government land organisations being the first developer in new settlement areas to reduce regulatory risk, provide precedent planning decisions to assist other developers and to ensure major 'lead in' infrastructure is in place ▪ A designated body responsible for the coordination of infrastructure in new development areas ▪ Committed budget support (primarily for new infrastructure) to promote certainty and investment
2. Engaging the community early and in proportion to likely impacts
Effective community engagement required through legislation
Collection of information on community values and trade-offs that have been incorporated in to strategic plans
The greater the potential impact on businesses or neighbourhoods, the more attention paid to public consultation and notification periods
3. Broad and simplified development control instruments
Broad zoning definitions
Zones and development control instruments defined in terms of broad uses rather than prescriptive definitions
4. Rational and transparent allocation rules for infrastructure costs
Major shared infrastructure - Use of upfront charging where incremental costs associated with each development can be established and vary across developments

Leading practice components
System-wide upgrade or augmentation of infill development that provide comparable benefits to incumbents - Use of borrowings recovered through rates or taxes
Local roads, paving and drainage - Developer construction costs recovered through land purchase prices
Social infrastructure with identifiable demand - Use of developer charges (example) to allocate costs to the development
Broader social infrastructure - Use of general revenue unless direct user charges are possible
Additional Productivity Commission principles from <i>Public infrastructure pricing: An international perspective</i>
Necessary - with the need for the services concerned clearly demonstrated
Efficient - justified on whole-of-life cost basis, and preclude over-recovery of costs
Equitable - with a clear nexus between benefits and costs, and only implemented after industry and public input
5. Improving development assessment and rezoning criteria and processes
Link development assessment requirements to their objectives <ul style="list-style-type: none"> ▪ Clearly link development assessment requirements to stated policy intentions that can be assessed against rules and tests or decision criteria ▪ Eliminate "impacts on the viability of existing businesses" as a consideration for development and rezoning approval
Use a risk based approach <ul style="list-style-type: none"> ▪ Stream development and rezoning applications into assessment 'tracks (exempt, prohibited, self-assess, code assess, merit assess and impact assess) ▪ Facilitate more 'as-of-right' development processes
Facilitate the timely completion of referrals <ul style="list-style-type: none"> ▪ MOU between referral bodies and planning authorities regarding what advice will be provided by referral bodies and how that advice will be dealt with by planning authorities. Clear and concise pro-forma development approval conditions (model conditions) could assist ▪ Referral requirements collectively detailed and located in one place ▪ As far as technically possible, resolve all referrals simultaneously rather than sequentially
Adopt practices to facilitate the timely assessment of applications <ul style="list-style-type: none"> ▪ Use of electronic development assessment systems ▪ Limit the range of reports that must accompany an application to those essential for planning assessment, leaving the remainder (such as engineering) until after planning approval obtained ▪ Ensure the skill base of local council development assessment staff includes understanding of the commercial implications of requests and decisions and the capacity to assess whether proposals comply with functional descriptions of zones, rather than judging them against detailed prescriptive requirements
Adopt practices to facilitate access to relevant information <ul style="list-style-type: none"> ▪ Publicly publish accessible definitions and locations of prohibited, allowable and restricted land uses for different zones ▪ Notify the community of proposed planning scheme amendments ▪ Hold open meetings for significant rezoning such as conducted by the Tasmanian Planning Commission
Provide transparent and independent alternative assessment mechanisms <ul style="list-style-type: none"> ▪ Have clear criteria on what triggers approval by alternatives to councils ▪ Recognition that expert and independent panels or commissions appear to be less contentious and more transparent than ministerial discretion unaided by open and independent assessment ▪ Panels or commissions to take input from all interested parties, including local interests, and publish the basis for the decision

Leading practice components
6. Disciplines on timeframes
Statutory timeframes with limited "stop the clock" provisions,
Deemed-to-comply provisions, adjustments to statutory timeframes for major projects,
7. Transparency and accountability
Planning scheme amendments provided with at least as much public scrutiny as development assessments
Appropriate availability of appeals for development assessment and planning scheme amendments, including limited third party appeals
Publishing of comparable data on council outcomes and from other development assessors, such as panels, ministers and planning departments
Access to rules and regulations, such as the location and restrictiveness of certain zones and other controls on land use in a consistent and clear format
Measures to promote probity in planning decisions including whistle blowing protection, conflict of interest provision, bans on political donations from developer interests and anti-corruption commissions
Thorough and effective notification of development and planning scheme amendment applications being assessed under the merit and impact assessment tracks or by alternative assessment mechanisms

Source: Productivity Commission 2011, Performance benchmarking of Australian business regulation: Planning, zoning and development assessment, Research Report



THE CENTRE FOR INTERNATIONAL ECONOMICS

www.TheCIE.com.au