

Local Government as a Regulator

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National General Assembly of Local Government

Canberra

19 June 2012

About the Commission

- The Productivity Commission, an independent Commonwealth agency, is the Government's principal review and advisory body on microeconomic policy reform and regulation
- Assists governments by:
 - *undertaking objective analysis on policy options*
 - *testing policy ideas*
 - *educating the community about the need for reform*
- Consultation with the public is an important part of the Commission's research

Recent projects that have involved LG consultation

- The Commission's Business Regulation Benchmarking stream
 - *'Local Government as a Regulator' (2012)*
 - *'Planning, Zoning and Development Assessments' (2011)*
 - *'Food Safety' (2010)*
- *'Barriers to Effective Climate Change Adaptation' (2012)*
- *'Assessing Local Government Revenue Raising Capacity' (2008)*
- *'Disability Care and Support' (2011)*
- *'Caring for Older Australians' (2011)*

How the Commission consults with local government

- Commission may consult with local governments (LG) individually or through LG associations
- Consultation may occur through:
 - *Meetings*
 - *Submissions*
 - *Surveys*
 - *Roundtables*
 - *Public hearings*

About the current benchmarking study

- COAG initiated study
 - *Seventh benchmarking study of the Commission*
- Four main purposes
 - *Identify LG regulatory responsibilities by state*
 - *Clarify extent LGs implement state policies*
 - *Assess business costs from different LG regulatory practices*
 - *Identify leading practices, including from overseas*

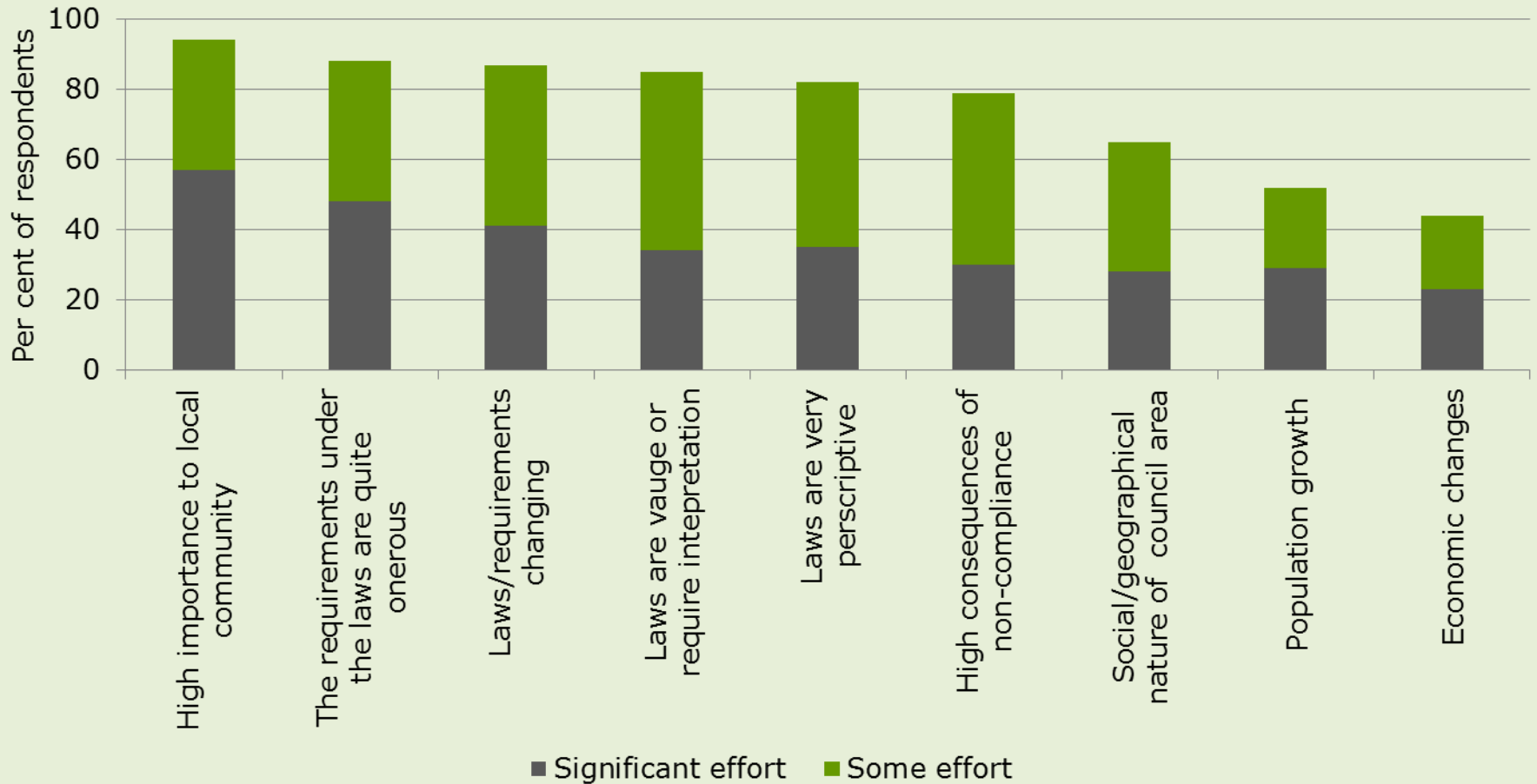
About the current benchmarking study

- As well as examining the general capacity of LGs to act as regulators, the study examines:
 - *Planning and zoning*
 - *Building and construction*
 - *Food safety*
 - *Public health and safety*
 - *Environment*
 - *Parking and transport*
- First study to examine LG regulatory roles on a national level

Some core findings

- The role of LGs has been expanding, often without commensurate support
 - *38 per cent of LGs say they cannot administer all regulations*
 - *Limited guidance on how to administer and enforce regulation*
 - *Limited guidance on what regulatory priorities should be*
- Unaligned costs and benefits so LGs may not take account of wider impacts
- Fees and charges are highly variable and appears often do not collect the full cost of administering regulations – though not always
- There is a lack of transparency in many LG regulatory actions

Factors contributing to regulatory burdens



The nature of planning and zoning

- Fully understanding the problem greatly improves the likelihood that better policies will be devised
- However, planning is the classic 'wicked' problem for a number of reasons:
 - *discretion*
 - *asymmetric access to information*
 - *long-term effects of decisions*
 - *different opinions about priorities*
 - *different levels of effectiveness*
 - *many objectives, many trade-offs*
 - *misfit between those who benefit and those who bear the costs*

Business perceptions in planning and zoning

- Over one third of 'in scope' businesses had a dealing with a local government in the area of planning and land use in the last 3 years
 - *Planning and land use constituted over half of interactions for businesses in the construction and communication, finance and business services industries*
- Main concerns for businesses in these industries included:
 - *Uncertain approval times*
 - *Time and effort to comply with requirements too long*
 - *Duplication with state government regulations*
 - *Unreasonable fees*

Key findings – planning and zoning

- In the vast majority of cases, consultations with businesses prior to the lodgement of a DA have a moderate or major impact on expediting the assessment process
- There are benefits in assessing some aspects of DAs simultaneously, rather than consecutively where possible
- Many LGs do not have planning schemes that align with regional or city strategic plans
- Workload pressures, incomplete applications and delays from referrals are constraining the ability of LGs to undertake their planning and zoning functions effectively

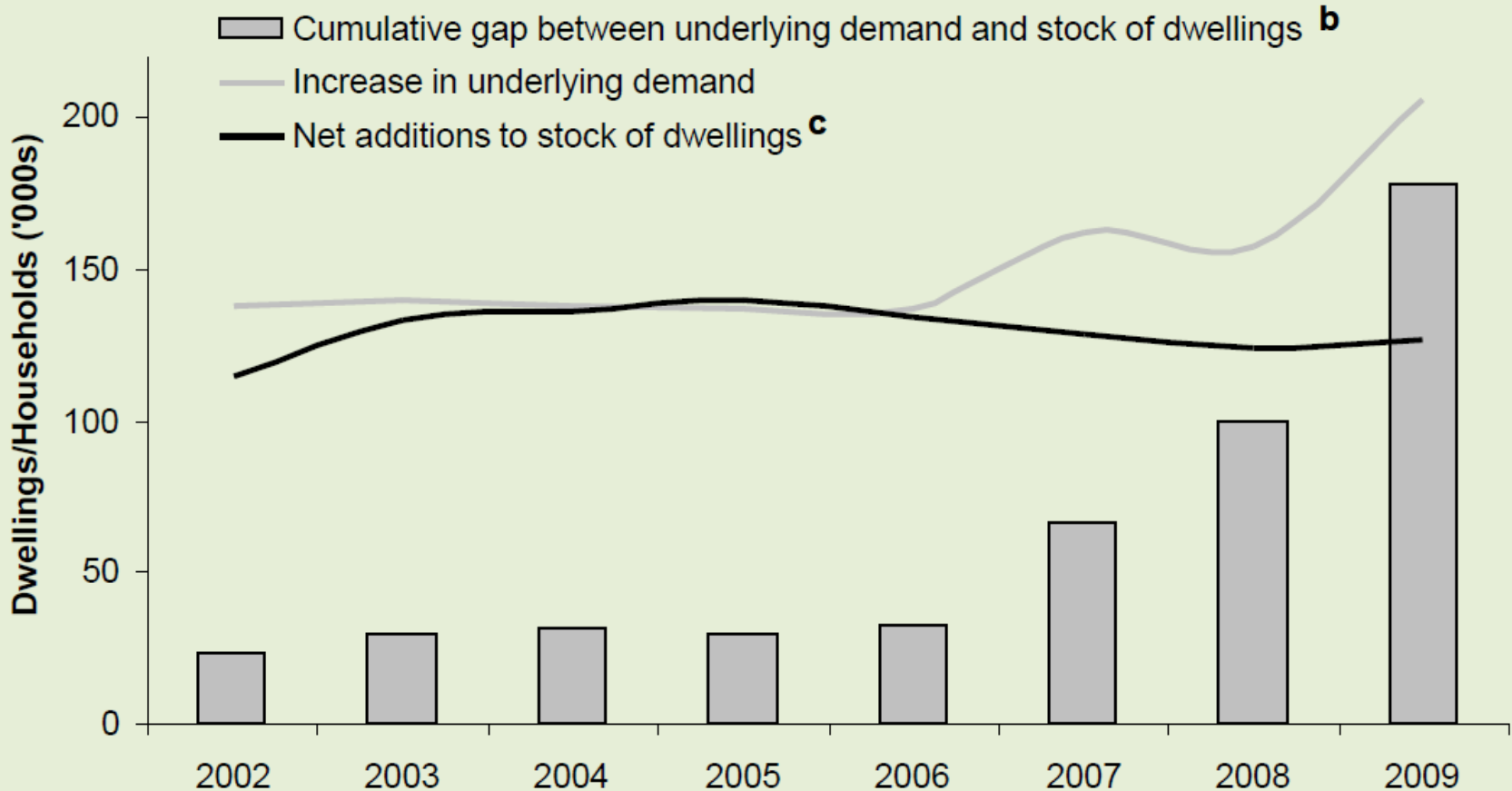
Key findings – the functioning of cities

- Avoidable costs of congestion in capital cities, unless addressed, are forecast to increase to \$20 billion in 2020
- In Sydney, a median of 13 minutes are added to trip to work in peak hour (more than 2 hours per week). Almost 4 million hours of extra travel costs in Sydney per week
- Australian homes are among the least affordable in the world
- Australian cities usually do well in international comparisons of liveability

Key findings – the functioning of cities

- Across Australia 62% of residents feel safe walking alone at night in their street
 - *across capital cities the proportion ranged from 44% to 78%*
 - *Within Sydney, the proportion across LGs ranged from 92% to 37%*
- 60% feel they are part of their local community

Key findings – there is an increasing gap between underlying demand for dwellings and supply

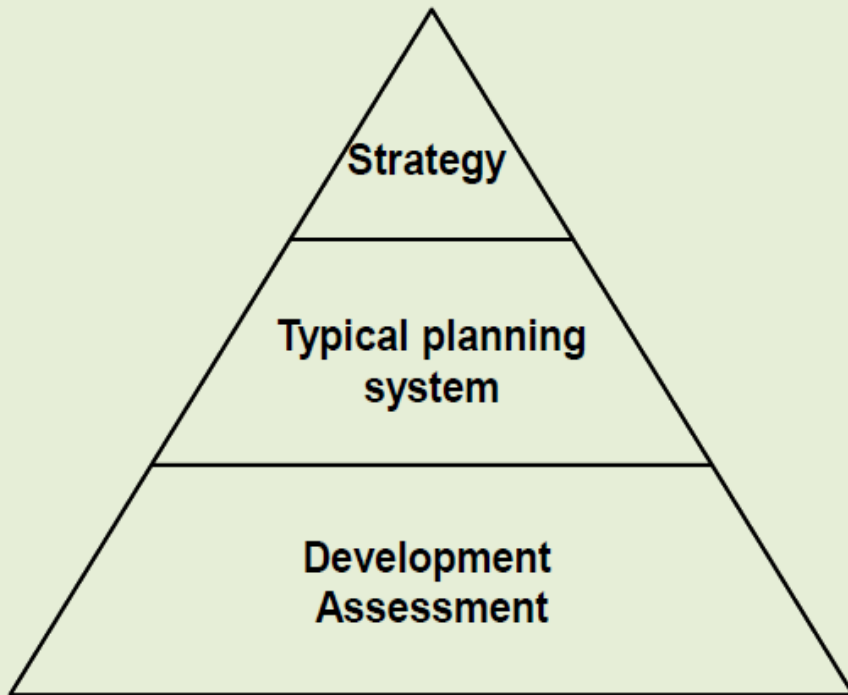


Key findings – ways to address gap

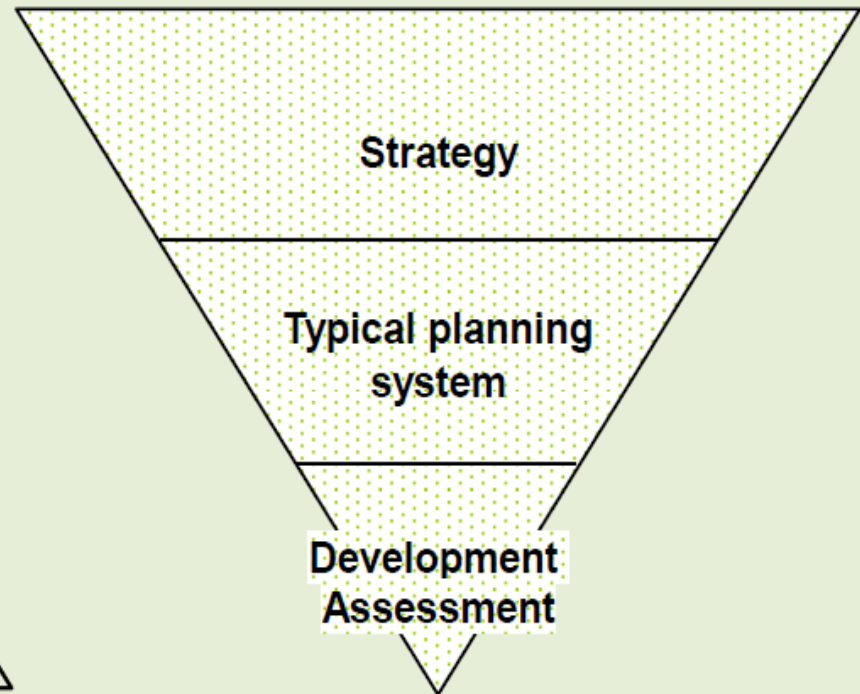
- Fundamentally a land supply issue
 - *If population growth continues as expected and land supply remains constrained, there will be implications for housing affordability*
- Actions that may go some way to addressing the issue include:
 - *Facilitating faster approval processes*
 - ... Limiting vexatious third party appeals
 - ... Using electronic DA where possible
 - *Broadly framing zonings to allow for flexibility*
 - *Developing strategic land use plans*
 - *Completing structure plans in advance of development occurring*

Key findings – need for a shift in focus

CURRENT PLANNING EFFORT



GOAL FOR PLANNING EFFORT



Leading Practices – Planning and zoning

- Using independent bodies to make planning decisions if impacts extend beyond a single LG area
- The wider adoption of more objective assessment processes that reflect the relative risks of the proposal
- Making lodgement and decision information publically available online
- Use of graduated both internal and external review and appeal processes with provisions limiting frivolous appeals
- Engagement of independent consultants when DAs are submitted on land that LG owned land

www.pc.gov.au

Leading practices: Building and construction

- Examples include:
 - *Introducing efficient cost recovery charging regimes*
 - *Implementing consistent guidelines or enforceable standards across areas not covered by the National Construction Code*
 - *Moving to risk-based inspections*

Leading practices: Parking and road access

- Parking examples include:
 - *Clarity and consistency in parking and cash-in-lieu requirements for developments*
 - *Ensure parking contributions are used to provide additional parking*
- Road access examples include:
 - *State government assistance to LGs to speed up local road assessments for heavy vehicles*
 - *Target outcomes of heavy vehicle access through by-laws instead of using restrictive conditions on dimensions and operating hours*

Leading practices: Public health

- Food safety examples include:
 - *Removing the need for multiple registrations*
 - *Develop tools to automatically generate food safety programs*
- Brothel examples include:
 - *Remove LGs as lead agencies for investigating brothels*
 - *Target illegal brothel operators instead of building owners*
- Water systems examples include:
 - *Inspection frequency according to risk and compliance history*
 - *Ensure EHO training to implement risk management and responsive enforcement approach*

Leading practices: Environment

- Examples include:
 - *Better targeting of environmental information requests with development applications*
 - *Greater adoption of risk management approaches in environmental regulation*
 - *Use of various cooperative arrangements to share skilled staff resources*