

Submissions report – Changes to support Transport Oriented Development Accelerated Precincts

Introduction

This report summarises key themes raised by submissions to the Explanation of Intended Effect (EIE) for changes to support the Transport Oriented Development (TOD) Accelerated Precincts.

The proposed changes aimed to:

- simplify planning controls within the TOD Accelerated Precincts
- encourage lodgement of applications for residential development in the TOD Accelerated Precincts
- streamline the development application process so that applicants can lodge development applications sooner and consent authorities can determine them rapidly
- ensure that developments within the TOD Accelerated Precincts achieve high-quality design outcomes.

Exhibited framework

The EIE was publicly exhibited from 9 July to 23 August 2024. In summary, the exhibited amendments proposed to support the TOD rezoning process and streamline residential development in the TOD Accelerated Precincts by:

- introducing a state significant development (SSD) pathway for residential development over \$60 million until 30 November 2027
- exempting the precincts from in-fill affordable housing provisions in the Housing SEPP
- exempting the precincts from the low- and mid-rise housing reforms
- exempting residential development from certain concurrence and referral requirements until 30 November 2027
- introducing an alternative design excellence pathway for residential development until 30 November 2027.

Public exhibition

A total of 34 submissions were received in response to the exhibition. Submissions were received from industry (developers and peak bodies), councils (and other local government bodies), state agencies, the general public and other organisations and interest groups. Of the submissions:

- 7 objected to the changes
- 8 supported the changes
- 19 were partially supportive or neutral.

The submissions broadly supported the government taking action to deliver more housing.

Summary of key issues

SSD pathway

A number of councils objected to the introduction of an SSD pathway for residential development in the TOD Accelerated Precincts, arguing that councils are better placed to undertake the assessments.

The development industry was generally supportive of the change, provided the department was adequately resourced to undertake prompt assessment of TOD SSDs. The industry objected to the pathway operating for only 3 years, and objected to consent periods being limited to 2 years.

Department response

The Department has introduced an SSD pathway for major residential development over \$60m in the TOD accelerated precincts so that it can be directly involved in the assessment of these types of developments. This is crucial to help the Government deliver 377,000 new homes by 2029 under the National Housing Accord. The temporary nature of this pathway and the time-limited consents are also necessary for housing to be delivered in the Accord timeframe.

Exemption from in-fill affordable housing bonuses

Councils supported the exclusion of the in-fill affordable housing provisions in State Environmental Planning Policy (Housing) 2021 (Housing SEPP) from the TOD Accelerated Precincts because master planning for these sites has already determined the acceptable maximum heights and floor space ratios (FSRs) for the precincts. They also

suggested non-TOD precincts that have detailed master plans should be exempted from the in-fill affordable housing provisions.

Some industry stakeholders objected to the in-fill affordable housing provisions being switched off for the TOD Accelerated Precincts because this reduced development viability and affordable housing capacity for some sites.

Department response

The Department has excluded the Housing SEPP in-fill affordable housing provisions for the TOD Accelerated Precincts. TOD Accelerated Precincts have been carefully planned to allow the appropriate maximum heights and FSRs. Allowing developments to exceed these limits through the in-fill affordable housing provisions could affect neighbouring sites and public amenity. The TOD Accelerated Precincts also have their own affordable housing targets.

These changes will not apply to the Cherrybrook Precinct at this stage as the precinct is yet to be rezoned.

Exemption from low- and mid-rise housing reforms

Councils encouraged the review of how the low- and mid-rise housing reforms interact with TOD precinct changes. They were keen to ensure there is consistency and no unintended consequences.

Two industry groups recommended that low- and mid-rise housing provisions should only be switched off if development potential was not affected.

Department response

The Department proposes to exclude the TOD Accelerated Precincts from the low- and mid-rise housing policy when that policy is finalised. The TOD Accelerated Precincts have been master-planned to allow the maximum appropriate level of development. The low- and mid-rise housing policy could lead to undesirable outcomes if applied in these precincts.

Exemptions from certain concurrence and referral requirements

Industry recommended concurrences and referrals be limited, while councils raised concerns about switching them off. Both groups suggested strict timeframes apply to state agencies for concurrences and referrals.

State agencies highlighted legislative requirements for concurrences and referrals. They also objected to some concurrences and referrals being switched off.

Department response

The Department has temporarily removed 9 concurrence and referral requirements in TOD accelerated precincts. These include special notifications for boarding houses and seniors housing, and certain referrals to the Rural Fire Service, Heritage NSW, and Transport for NSW. These exclusions apply until 30 November 2027. DAs lodged before 30 November 2027 and still being determined after that date will also be exempt.

Only concurrences and referrals that were not classified as high-risk were removed.

The concurrences and referrals that have been switched off are:

- SEPP (Transport and Infrastructure) 2021, s2.122 Traffic-generating development
- SEPP (Biodiversity and Conservation) 2021, s6.54 Aboriginal Places of Heritage Significance
- SEPP (Biodiversity and Conservation) 2021, s6.55 Archaeological Sites
- SEPP (Biodiversity and Conservation) 2021, s6.56 Demolition of Nominated State Heritage Items
- SEPP (Housing) 2021, s30 Notification Before Carrying Out Development
- SEPP (Housing) 2021, s39 Site Compatibility Certificates
- SEPP (Housing) 2021, s43 Residential Development Permitted Without Consent and 43A Notification Before Carrying Out Development
- SEPP (Housing) 2021, s96 Bush Fire Prone Land
- SEPP (Housing) 2021, s108C Notification before carrying out development

The Department has consulted the relevant agencies to confirm the removal of these concurrence and referral provisions.

State agencies are already required to respond on concurrences and referrals in a timely manner.

Alternative design excellence pathway

Submissions on the proposed design excellence approach show a mix of support and opposition. Councils generally objected to the removal of design competitions and emphasised the need to maintain high-quality design. They argued that design competitions are a well-tested model to evaluate different design approaches, leading to better solutions. They argued any alternative pathway should still ensure rigorous design standards and involve meaningful input from local stakeholders.

Industry supported the removal of mandatory design competitions, citing high costs and delays. They advocated for a simpler and more consistent pathway that could be applied at scale, and suggested the existing state significant development provisions should suffice.

Department response

The Department has introduced an alternative design excellence pathway that seeks to achieve design excellence while streamlining development assessment.

Applicants can request an exemption from design competitions from the Department. If certain criteria are met, the Department will confirm in writing that a competition is not required. These criteria are set out in the *Transport Oriented Development: Design Competition Exemption Pathway Advisory Note*. The criteria include the use of award-winning architects and promotion of architectural diversity.

Exempt projects will be required to undertake design review through the State Design Review Panel pre-lodgement, with a maximum of 2 review sessions required.

General public submissions

Submissions from private individuals showed a mix of support and opposition across a range of issues. Five submissions expressed strong support, emphasising the urgent need for more housing in Sydney, particularly affordable options. Supporters highlighted personal benefits, such as maintaining employment and social connections due to TOD locations on existing train lines. They also advocated for a variety of apartment sizes and prices to accommodate different family sizes and income levels.

Submissions also called for a minimum percentage of affordable housing in new developments, with some suggesting at least 15%.

Two submissions strongly opposed the project, raising concerns about heritage conservation and the impact on existing neighbourhoods. Opponents argued for heritage buildings to be restored rather than demolished. They also criticised the height and design of new buildings, which they believe clashes with the existing aesthetic and cultural heritage of areas like Homebush, Croydon, and Marrickville. They also raised issues related to the existing infrastructure, such as sewerage, water supply, and electricity grids, as well as the environmental impact of new developments.

Changes to exhibited proposals

Bays West TOD Accelerated Precinct

Apart from the exemption from the low- and mid-rise housing policy, none of the above changes apply to the Bays West TOD precinct. These amendments will be exhibited as part of the Bays West TOD rezoning package.

More information

For more information about the TOD program, please see our [website](#) or email information@planning.nsw.gov.au