

From: Planning Portal - Department of Planning and Environment <noreply@feedback.planningportal.nsw.gov.au>
Sent: Sunday, 28 July 2024 2:56 PM
To: DPE PS ePlanning Exhibitions Mailbox <eplanning.exhibitions@planning.nsw.gov.au>
Cc: DPIE PA Systems Productivity Policy Mailbox <SystemsProductivity.Policy@planning.nsw.gov.au>
Subject: Webform submission from: Proposed pathway changes to support Transport Oriented Development

Submitted on Sun, 28/07/2024 - 14:55

Submitted by: Anonymous

Submitted values are:

Submission Type

I am making a personal submission

Name

First name

Withheld

Last name

Withheld

I would like my name and personal contact details to remain confidential

Yes

Info

Email

Withheld

Suburb/Town & Postcode

2127

Please provide your view on the project

I support it

Submission

My view is that of a renter who has been affected by recent rent rises, who subsequently familiarised themselves some what with the planning process.

Seeing as the extent of the harm from the housing crisis will only grow the longer it goes on, it makes sense to expedite these high impact kinds of developments. They'll provide well located supply, and why wouldn't you want that to streamline the planning pipeline for them.

If there's an avenue to address the housing crisis sooner it would be negligent not to make the most of it.

For that reason I see the categorising these developments as SSD as appropriate. I also don't have a lot of faith in local planning authorities to strike the balance as their incentives really don't factor in the needs of the wider population.

The affordable housing FSR incentives seem like reasonable considerations as well, admittedly the optimal balance is not an area I'm as familiar with.

I agree to the above statement

Yes

From: Planning Portal - Department of Planning and Environment <noreply@feedback.planningportal.nsw.gov.au>

Sent: Wednesday, 24 July 2024 3:15 PM

To: DPE PS ePlanning Exhibitions Mailbox <eplanning.exhibitions@planning.nsw.gov.au>

Cc: DPIE PA Systems Productivity Policy Mailbox <SystemsProductivity.Policy@planning.nsw.gov.au>

Subject: Webform submission from: Proposed pathway changes to support Transport Oriented Development

Submitted on Wed, 24/07/2024 - 15:15

Submitted by: Anonymous

Submitted values are:

Submission Type

I am making a personal submission

Name

First name

Withheld

Last name

Withheld

I would like my name and personal contact details to remain confidential

Yes

Info

Email

Withheld

Suburb/Town & Postcode

Homebush

Please provide your view on the project

I support it

Submission

I would like all medium to large projects to have a minimum 15% but preferably higher affordable housing component as well as more 3 bedroom apartments in complexes.

I agree to the above statement

Yes

From: Planning Portal - Department of Planning and Environment <noreply@feedback.planningportal.nsw.gov.au>

Sent: Sunday, 21 July 2024 6:38 PM

To: DPE PS ePlanning Exhibitions Mailbox <eplanning.exhibitions@planning.nsw.gov.au>

Cc: DPIE PA Systems Productivity Policy Mailbox <SystemsProductivity.Policy@planning.nsw.gov.au>

Subject: Webform submission from: Proposed pathway changes to support Transport Oriented Development

Submitted on Sun, 21/07/2024 - 18:38

Submitted by: Anonymous

Submitted values are:

Submission Type

I am making a personal submission

Name

First name

Withheld

Last name

Withheld

I would like my name and personal contact details to remain confidential

Yes

Info

Email

Withheld

Suburb/Town & Postcode

Georges Hall 2198

Please provide your view on the project

I support it

Submission

Make sure these buildings are not built by dodgy developers

I agree to the above statement

Yes

File number: F24/1671

21 August 2024

André Szczepanski
A/Director - Assessment and Systems Policy
Department of Planning, Housing and Infrastructure
4 Parramatta Square
12 Darcy Street
Parramatta NSW 2150
By email: Andre.Szczepanski@planning.nsw.gov.au

Dear Mr Szczepanski

Submission in response to the exhibition of the Explanation of Intended Effect: Pathway changes to support Transport Oriented Development

We are writing in response to the exhibition of the Explanation of Intended Effect: Pathway changes to support Transport Oriented Development (TOD), released on 9 July 2024.

Blacktown City Council supports TOD principles and recognises their potential to deliver a diverse range of housing opportunities around centres and stations with access to amenities and services. We are supportive of measures that assist in streamlining processes without jeopardising the long term living standards of the residents, workers and visitors of TOD centres and communities that are established.

Our key concerns with the proposed amendments are the:

- adequacy of the information provided in the EIE, which has impacted on the adequacy of the consultation process itself
- implications of the proposed expansion of the State Significant (SSD) assessment pathway
- implications of the proposed exemption from concurrence and referral requirements.

The details of our draft submission are provided in Attachment 1 to this letter.

This submission is made in draft form to assist the NSW Government in providing timely feedback. However, this draft submission has not been formally endorsed by the Council. The draft submission will be reported to Council for consideration at its first meeting following the NSW Local Government elections.

If you would like to discuss this matter further, please contact our Director City Planning and Development, Peter Conroy on 9839 6201; Peter.Conroy@blacktown.nsw.gov.au or our Manager Strategic Planning and Economic Development, Jaime Hogan on 9839 6229; Jaime.Hogan@blacktown.nsw.gov.au

Yours faithfully

A handwritten signature in blue ink, appearing to read 'Kerry Robinson', with a long vertical line extending downwards from the end of the signature.

Kerry Robinson OAM
Chief Executive Officer

Blacktown City Council
Submission in response to the exhibition of:
Explanation of Intended Effect: Pathway changes to support Transport
Oriented Development

Adequacy of the consultation process

The information provided in the EIE is inadequate for some of the proposed changes, specifically the proposed exemption from concurrence requirements, and the alternative design excellence pathway. Councils and the affected local communities are asked to comment on amendments that are described at a high level only with the details still under development. There is no opportunity for scrutiny of any detail of the proposed amendments or of the proposed legislation prior to finalisation.

This is poor community consultation practice which does not result in meaningful community engagement on important changes in how land is used and developed across NSW. This is inconsistent with the objectives of the NSW Community Participation Plan.

While the current proposal is intended to result in temporary amendments to support the specific TOD precincts for a limited period, the EIE also indicates that some aspects of the proposal are part of broader planning framework reforms. This indicates that some amendments may result in more permanent changes.

Blacktown City is supportive of process improvements. However, it is important that reform measures are fully informed of the potential consequences of the changes. The current EIE does not allow stakeholders to fully understand the proposed amendments to be able to provide relevant feedback to ensure that changes do result in improvements both to processes and to the built form outcomes.

Proposed SSD category for TOD Accelerated Precincts

The proposal to introduce a new temporary State Significant Development (SSD) category for residential development valued over \$60 million for the 8 TOD Accelerated Precincts is intended to streamline and accelerate development assessment pathways in the TOD precincts to achieve the National Housing Accord targets.

We are concerned at the implicit assumption that state assessment of development applications (DAs) is necessarily a more efficient process compared to assessment by Councils.

Councils are effective in understanding the implications of a proposed development on local issues and management of these. A preferred process would be to improve state support for Council assessment teams, particularly in access to state agencies, to improve assessment processes while achieving excellent outcomes for local communities.

We have further concerns in relation to the SSD process, which will apply to a greater number of applications in the TOD Accelerated Precincts under the proposed amendment. These are as follows:

- **Funding implications**

Councils need to complete an assessment of an SSD to provide feedback and engage in ongoing discussions with applicants to manage detailed design matters. This work is unfunded as Council does not receive DA fees for an SSD application and has a significant impact on resourcing.

- **Timeframes for feedback**

The SSD process only allows for formal feedback during the notification period. This provides for an extremely short time frame for councils to assess and prepare feedback on significant and complex applications.

- **Errors arising due to the SSD process**

As a consequence, the compressed timeframe can lead to matters being overlooked and the implications of a development not fully understood. This in turn risks inadequate mitigation or management measures being approved.

- **Reduced involvement in the detailed design of Council assets**

Councils are no longer directly involved in the detailed design of assets that they will ultimately own and manage, such as roads and drainage. This can also lead to inefficiencies where the design of assets is sub-optimal.

- **Reduced obligation for compliance with development controls, leading to a diminishment of consideration for holistic planning across a precinct**

The Planning Systems SEPP provides that development control plans and certain authorisations do not apply to SSD applications. This removes the direct requirement for SSDs to comply with local development controls that have been prepared holistically and in consultation with the community to achieve high quality outcomes across a precinct.

- **Erosion of the relationship between Council and local communities, and of their trust in the planning system.**

Council's role is to represent and plan for our local communities. Given this, we recommend that such processes should be better structured, with a high level of communication between all levels of government and the community and create better transparency. This will ensure that the Council is fully included and aware of proposals to better inform the local community. It strengthens the community's trust in their Council and their understanding of the planning system.

Proposed exemption from in-fill affordable housing provisions

We support the proposal to exempt the TOD Accelerated Precincts from the in-fill affordable housing bonus provisions introduced this year through changes to the State Environmental Planning Policy (Housing) 2021 Chapter 2.

Blacktown City supports affordable housing that is held in perpetuity, and managed by a registered Community Housing Provider, as a better outcome for our vulnerable local residents compared to the in-fill provisions under the Housing SEPP which result in temporary affordable housing that reverts to full market price after a period of 15 years.

We note that the *Explanation of Intended Effect: Kellyville and Bella Vista Transport Oriented Development Precincts* proposes a mandatory affordable housing contribution for all new residential development within the TOD precinct, to be held in perpetuity and managed by a registered Community Housing Provider. This is strongly supported, albeit further clarity is sought on the proposed mechanism.

Proposed exemption from low-and mid-rise housing reforms

The EIE suggests that some TOD Accelerated Precincts may be exempted from the application of the low-and mid-rise housing reforms.

We support the proposed exemption. The application of the low-and mid-rise housing reforms in addition to the proposed rezoning of the TOD Accelerated Precincts is counter-productive in encouraging comprehensive, well-considered masterplanning, supported by funded infrastructure plans, for the redevelopment of the precinct.

In our submission to the exhibition of the *Explanation of Intended Effect: Changes to create low-and mid-rise housing* we requested that we be exempted from the proposed reforms, in recognition of the role that we play in creating a significant stream of new housing.

We have identified 12 urban development precincts around major rail stations across our City and continue to advocate to the NSW Government for support to redevelop these areas to deliver well-located homes with an appropriate range of supporting infrastructure and amenities. We are concerned that the blanket roll-out of the low-and mid-rise housing reforms will encourage ad-hoc and opportunistic development that will:

- effectively sterilise land from realising a potentially higher development yield in appropriate, well-serviced locations
- increase dwelling density without providing for sufficient supporting infrastructure.

Proposed exemptions from certain concurrence and referral requirements

The proposal to exempt “local and regionally significant development” within the TOD Accelerated Precincts from concurrence and referral requirements “that are not considered high risk” requires detailed clarification.

Given the significant uplift proposed for the Kellyville and Bella Vista TOD Precinct in particular and the current poor performance levels of the road network, we would not support making a concurrence requirement from Transport for NSW exempt.

Further detail is required in relation to:

- the types of development it is envisioned the exemption would apply to
- the relationship between the exempted development and the proposed new SSD category for the TOD Accelerated Precincts
- the types of concurrence or referral under consideration for exemption

- the circumstances under which concurrence or referral could be considered for exemption
- the extent to which relevant agencies assess different matters for rezoning compared to DA applications, and consideration of whether concurrence is appropriate at both stages
- how cumulative developmental impact is considered in assessing risk criteria. The impact of development on, for example, the road network, can differ between the first and the last land developed in a precinct. Concurrence allows for ongoing monitoring by relevant agencies of how mitigation measures are performing over time.

No information is provided on how the Department of Planning, Housing and Infrastructure (DPHI) is developing the risk criteria to determine which concurrence and referral provisions will be exempted.


We are concerned that the perception of what is 'high risk' can differ according to perspective. What may not be considered as 'high risk' at state level may be 'high risk' at local government level which bears the brunt of the impacts of development. We would welcome the opportunity to be involved in more targeted consultation on this matter.

Proposed alternative design excellence pathway

Further information is required on the proposed alternative design excellence pathway. It is unclear whether 1 or 2 matters are being proposed under this heading.

In general terms, we are supportive of the concept of an alternative design excellence pathway where there is suitable rigour in the process. The Blacktown Design Excellence Guidelines were updated in 2023 to provide for an alternative pathway to a design excellence competition, in recognition that there can be circumstances where an alternative pathway may be more appropriate.

However, we are unable to comment on the proposal as there is no detail provided. We would welcome the opportunity to be involved in more targeted consultation on this matter.



Attachment A

Submission to Bankstown TOD Rezoning Proposal and Proposed Pathway changes to support TOD

DRAFT Canterbury-Bankstown Council Submission
August 2024



CANTERBURY
BANKSTOWN



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1. Introduction: Planning for a Great Place

Canterbury-Bankstown Council is committed to responsible and quality growth in housing and jobs, and building great places for our current and future populations. In 2021, Council adopted the Bankstown City Centre Master Plan, which laid the foundations for a vibrant, jobs and housing focused City Centre. We welcome the opportunity to continue to build on this vision through the Bankstown TOD Rezoning process.

This submission has been prepared by the City of Canterbury Bankstown in relation to:

- The draft Bankstown Accelerated Precinct Rezoning Package; and
- Proposed State Significant Development assessment pathway for major development within the Bankstown Accelerated Precinct.

These two policies represent significant change to planning controls and approval pathways for development within the Bankstown City Centre (BCC).

Overall, the Bankstown Accelerated Precinct Rezoning Package generally aligns with the intensification strategy established for the BCC, as established by the adopted Bankstown City Centre Master Plan (BCCMP). The BCCMP was adopted by Council in October 2021, and subsequently submitted as a planning proposal in February 2022, and has been pending a Gateway Determination since. The BCCMP is Council's adopted vision for the BCC, and whilst the exhibited Rezoning Package generally aligns with the

Master Plan direction, it lacks clarity on fundamental aspects of the BCCMP that seek to ensure Bankstown is a great and beautiful city centre, with high quality, sustainable development that balances long term employment focused outcomes with short term housing delivery. This submission makes a series of recommendations to ensure better alignment and a more balanced outcome for the BCC.

The submission is structured to align with the structure of the Rezoning Package Explanation of Intended Effects (EIE), exhibited by the Department of Planning, Housing and Industry (DPHI) from 16 July to 30 August 2024. Other matters and the proposed State Significant Development Pathway for TOD Precincts are addressed following. It also includes an upfront summary of key issues.

Council looks forward to working constructively and genuinely with the DPHI on implementation of draft controls, subject to addressing the matters raised in this submission.

Three key issues

1. Employment-generating development

Bankstown City Centre is the primary centre for employment and institutional infrastructure and investment in Canterbury Bankstown. As supported by State level strategic plans, and Council's long term vision for the City, Bankstown will be a primary centre for jobs, and a centre that connects the three cities – Sydney, Liverpool and Parramatta. This requires a level of long term planning to safeguard capacity for employment growth and institutional investment. The extension of the M1 Metro Line to Bankstown, delivery of the new Bankstown Hospital and TAFE campus will be key drivers for further institutional development such as research, education and private health. Council strongly advocates for the retention of key employment-focused planning measures to be implemented, as per the BCCMP, including

- Mandating no-net loss of employment-generating floor space where site's already provide employment-generating floor space;
- Maintaining the minimum ground and first floor requirement for non-residential development in the mixed use zone, and broadening this across the zone; and
- Ensuring a focus of non-residential uses around the Metro Station, including the Compass Centre site, Bankstown Central and Restwell Street.

2. Infrastructure funding and delivery

The EIE does not provide sufficient detail regarding the funding and delivery of infrastructure. Council raises the following significant concerns in relation to infrastructure funding and delivery:

- An appropriate solution to the DPHI identified need for more publicly accessible open space in the northern part of the Bankstown City Centre, particularly with respect to opportunities around large landholdings such as the LaSalle Catholic College/Sydney Catholic Archdiocese playing fields adjacent to the proposed hospital;
- Clarity is required around the distribution of the proposed \$520 million allocated to the eight accelerated precincts. . It is imperative that Council receives a commensurate share of the allocated \$520 million for accelerated precincts in Bankstown – specifically, \$105 million based on its proportional

contribution of 12,500 dwellings to the total 61,855 dwellings planned across Greater Sydney.

- The NSW Government consider the advocacy platform for State infrastructure set by the BCCMP in decision making and prioritisation of new infrastructure, particularly with respect to city-shaping infrastructure such as direct rail connectivity to Parramatta and Liverpool, to delivering the grade separation of the Stacey Street and Hume Highway intersection.
- Clarity is required with the delivery of community infrastructure such as new indoor sports and multi-purpose facilities.

3. Bankstown Central Planning Proposal and Planning Agreement

The EIE includes the Bankstown Central site, which comprises 11 hectares of land within the City Centre, being the largest and the most significant site in terms of housing and jobs delivery. This site was subject of a separate Planning Proposal with a supporting Planning Agreement. The Planning Proposal, a draft DCP and the draft Planning Agreement have all been exhibited and are at the final stages for reporting and implementation.

The EIE states that the DPHI recommend the applicant and Council continue to work towards finalisation of the planning agreement, however rezoning the site through a State-led process means the Planning Agreement is no longer tied to a planning proposal or Development Application, and is therefore no longer valid.

This creates a significant risk that future development on the site is inadequately supported by infrastructure, negotiated through the Planning Agreement, and that significant regional infrastructure, such as a new bus interchange and layover, can no longer be delivered through an option that provides the best outcome for our City.

It is strongly recommended that prior to any rezoning, the negotiated Planning Agreement outcomes are incorporated into the CBLEP or an appropriately designed alternative to ensure there is no shortfall in infrastructure, and to ensure the best city and regional outcome for buses can continue to be realised.

2. Bankstown Rezoning Package EIE

Purpose

The purpose of the EIE seeks to:

- increase housing supply in Bankstown City Centre;
- enable a variety of land uses (residential, commercial, recreational) within walking distance of the Bankstown railway station and future metro station;
- deliver housing that is supported by attractive public spaces, vibrancy, and community amenity;
- increase the amount of affordable housing across Bankstown City Centre; and
- consider the vision and objectives of the Canterbury-Bankstown Council (Council) adopted Bankstown City Centre Master Plan.

Whilst the purpose seeks to ‘consider’ the vision and objectives of the BCCMP, it fails to draw on some critical elements of the BCCMP vision and objectives, which are critical in ensuring the long term success of BCC as a centre and a place for people, including:

- **High quality design and architecture** – this is a key objective of the BCCMP. The EIE does not include this as part of the purpose or objectives, and, as noted below, lacks detail around design quality and design excellence. It is recommended that this be incorporated into the purpose.
- **Environmental sustainability** – environmental sustainability was a cornerstone to the BCCMP, which included tangible measures to support achieving Council’s net zero ambitions, including requiring new development to be all-electric, mandating non-renewable energy generating and dual-reticulation of water, amongst other environmental excellence performance based controls. It is recommended that this be incorporated into the purpose.
- **Innovative jobs** – a foundational aspect of the BCCMP is providing long term capacity for innovative jobs to support Bankstown’s emergence as a health, academic, research and training precinct. This strategic focus is not only a Council ambition, but one supported by all relevant State Government agency stakeholders through the Bankstown and Bankstown Airport Place Strategy. Unlike other metropolitan centres, health and education precincts, Bankstown is at the outset of its emergence as a jobs focused centre. Significant investment in Sydney Metro, the recent completion of the Western Sydney University Bankstown City Campus, and the new Bankstown Hospital and TAFE development, expected to be completed in the early 2030s, will lay the foundations for a thriving health and education precinct. As identified by both DPHI and Council economic analysis, Bankstown’s emergence an

employment centre is a long term transition that requires flexible and appropriate capacity to ensure Bankstown can grow into an innovation precinct. It is critical that this be incorporated into the purpose of this plan to ensure Bankstown can leverage of significant State and private sector investment occurring over the next 5-7 years.

In order to respond to the above, it is recommended that the purpose of the EIE be amended as followed (amendments in red):

- *“increase housing supply in Bankstown City Centre;*
- *enable a variety of land uses (residential, commercial, recreational) within walking distance of the Bankstown railway station and future metro station;*
- *deliver housing that is supported by attractive public spaces, vibrancy, and community amenity;*
- *increase the amount of affordable housing across Bankstown City Centre;*
- *facilitate the delivery of buildings that achieve design and sustainability excellence;*
- *deliver jobs that align with Council’s role as a health, academic, research and training precinct as the primary centre for jobs within the local government area and broader district and region; and*
- *implement ~~consider~~ the vision and objectives of the Canterbury-Bankstown Council (Council) adopted Bankstown City Centre Master Plan.*

Precinct boundary

The Precinct boundary is supported, as it aligns with the BCCMP.

Bankstown Central Shopping Centre

The EIE incorporates the Bankstown Central Shopping Centre, and encourages the continuation of discussions regarding the Planning Agreement between the applicant and Council, which commenced due to the lodgement of a Planning Proposal for this site. However, in incorporating this site into the accelerated precinct and undertaking a State-led rezoning process, the planning agreement process is no longer valid as it does not apply to a Planning Proposal or Development Application.

This site is the largest within the BCC, comprising approximately 11 hectares of land with significant housing and employment development potential to be available as a result of the accelerated precinct. Furthermore, the site has been identified as a critical part of the local and regional bus network, which intersects Bankstown and connects large areas of poor public transport coverage to the rail and future Metro network. Discussions have been ongoing and close to finalisation regarding the alignment and design of future critical bus infrastructure including the extension of Jacob Street to accommodate bus stops and interchange, as well as bus layover along North Terrace.

As per the exhibited planning agreement for this site, Council recommends that the DPHI ensure rezoning of the site is conditional on delivery of significant local and regional infrastructure to support increased capacity for jobs and housing on the subject site, that is beyond those planned for under the BCCMP, including:

- Construction of a 5,000sqm park along Rickard Road. *Note: This should be considered as serving the needs of the on-site growth in population, and be dedicated (or suitable alternative) to Council at no-cost;*
- Construction of a separated cycle way along the site's Rickard Road frontage;
- Construction of a shared path zone along The Appian Way;
- Construction of a 200sqm incubator space, or equivalent monetary contribution to Council;
- Dedication of land for the extension of Jacob Street to accommodate regional significant bus routes;
- \$4 million contribution to a multipurpose facility. *Note: this item could be replaced with the provision of an on-site facility comprising 2,500sqm-3,000sqm of area to provide a minimum three indoor sports courts as a single facility (which may assist in the potential change to incentive provisions of the PCYC site discussed below).*

It is recommended that a site specific provision be included to require a planning agreement to be finalised in relation to the above matters prior to the determination of any development application that seeks to realise the provisions of the proposed planning controls for the site.

In addition, and as discussed in further detail later in this submission, further clarity is required over the planned expenditure of the \$520 million allocated to funding of infrastructure within the accelerated precincts, particularly with respect to any funding towards broader regional bus infrastructure located within the Bankstown City Centre.

Bankstown TOD Framework Plan

The Bankstown TOD Framework Plan generally aligns with the principles and intensification strategic established by the BCCMP, particularly with respect to focusing the highest level of intensification around the Metro and Train Stations, and reinforcing the key north-south spine of Chapel Road and Saigon Plaza, however the following departures from the BCCMP are noted, and are recommended for consideration and incorporation into the TOD Framework Plan:

- Reinforce the proposed north-south spine along Appian Way and Restwell Street, as this will become a key pedestrian and activity spine linking major anchors including Western Sydney University, the Compass Centre, Bankstown Central, the Metro and Train Stations, a new urban plaza at West Terrace and Bankstown Sports.
- Include areas envisaged for intensification under the BCCMP into the

Framework Plan, including areas south of Macauley Street and along Chapel Road North to the Hume Highway. These areas were considered appropriate for lower rise, high density development due to their proximity to the centre, and ability to provide landscape/garden type apartment typologies.

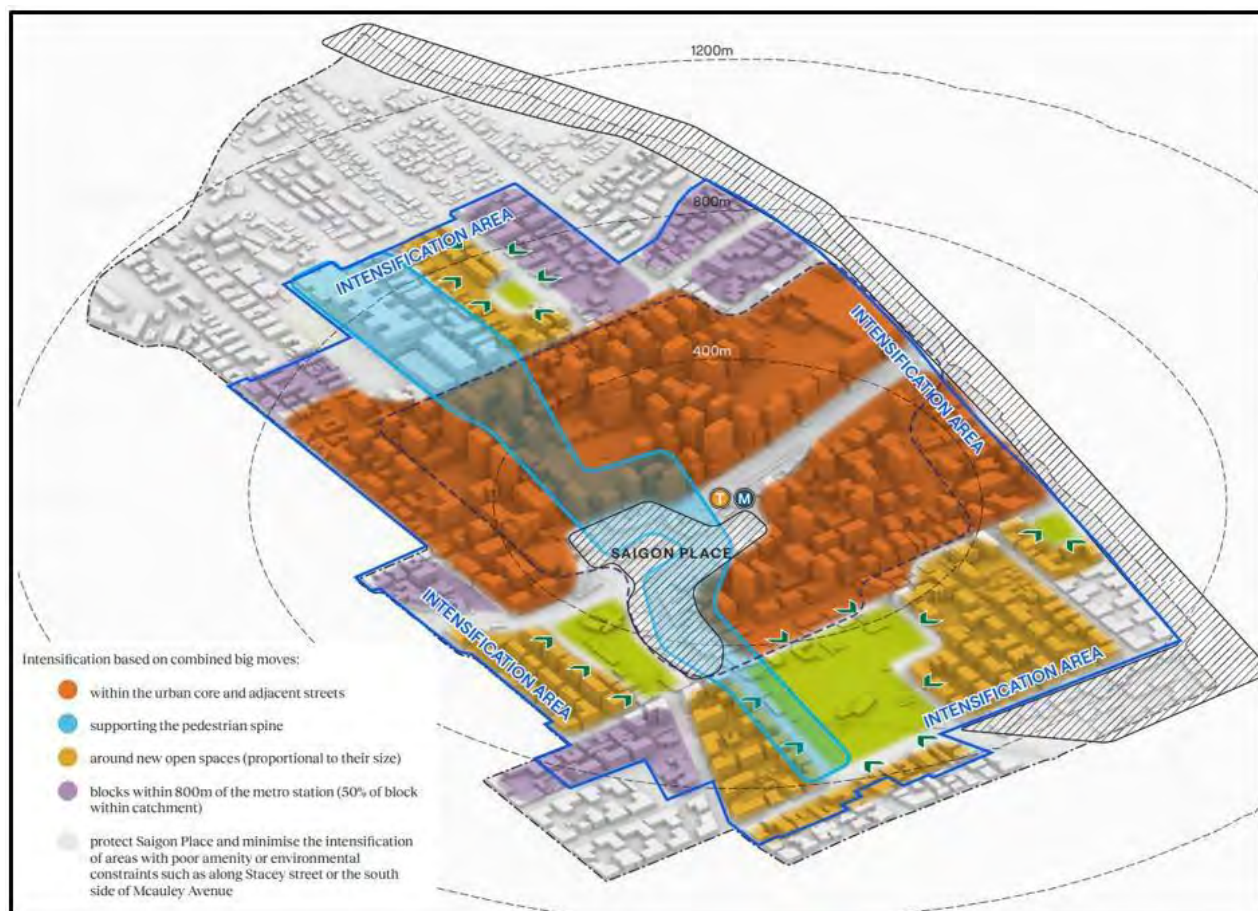


Figure 1. Proposed Framework Plan


Land Use Zoning

Overall, the proposed EIE zonings generally align with Council's BCCMP Planning Proposal, however there are a number of key areas of change, as outlined below.

Rezoning of R3 Medium Density Residential to R4 High Density Residential

The table below provides a response to the proposed rezonings from R3


Rezoning of R3 Medium Density to R4 High Density Residential	Council comment
<ul style="list-style-type: none"> Along the eastern side of Oxford Avenue, between Brandon Avenue and Chertsey Avenue. 	Supported. This is consistent with the BCCMP.

Rezoning of R3 Medium Density to R4 High Density Residential	Council comment
<ul style="list-style-type: none"> Along the western side of Restwell Street, between Ross Street and Macauley Avenue. 	<p>This change is not supported, as it undermines the proposed Vimy Street Heritage Conservation Area, discussed in further detail below.</p> <p>It is recommended that this change not be pursued.</p>
<ul style="list-style-type: none"> Along the eastern side of Percy Street and western side of Stacey Street, between Stanley Street and Macauley Avenue. 	<p>Supported. This is consistent with the BCCMP.</p>
<ul style="list-style-type: none"> Along Marion Street, west of the underpass. 	<p>Supported. This is consistent with the BCCMP.</p>

B4 Mixed Use Zone

The table below provides a response to the proposed rezonings

B4 Mixed Use Zone proposed changes	Council comment
<ul style="list-style-type: none"> Extend the B4 Mixed Use Zone north along Chapel Road to Heath Street as shown below: 	<p>Whilst this is inconsistent with the proposed land use zoning under the BCCMP, this change is supported as:</p> <ul style="list-style-type: none"> It aligns with the BCCMP intent to activate Chapel Road as a key north south spine within the City Centre; and The proposed new Bankstown Hospital is now confirmed to be located at the existing TAFE site. As such, the proposed new zoning will provide capacity for health

B4 Mixed Use Zone proposed changes	Council comment
	<p>related and other supporting uses to be located opposite the hospital along Chapel Road.</p> <ul style="list-style-type: none"> • This change extends the core of the City Centre to the north, and generally aligns with the proposed Eds and Meds Precinct under the BCCMP.
<ul style="list-style-type: none"> • 40 Marion Street, Bankstown (Car Park). Proposed to be rezoned from SP2 Infrastructure to B4 Mixed Use Zone. 	<p>Supported. This is consistent with the BCCMP.</p>
<ul style="list-style-type: none"> • 369 Chapel Road and 20 Fetherstone Street, Bankstown (Bankstown Courthouse) 	<p>Supported. This is consistent with the BCCMP.</p>

Additional recommendation:

It is recommended that the EIE and proposed land use zoning map be updated to include the rezoning of the former Ambulance site and the Meredith Street car park sites (shown dashed in black in the figure below) to B4 Mixed Use. These sites have not been included for rezoning in the draft EIE, despite being proposed for rezoning in the BCCMP. There is no clear rationale for not including these sites. These are recommended to be rezoned from the current Special Use zoning to a Mixed Use Zone to:

- Allow flexibility in the use of the Meredith Street car park site, particularly at the ground floor, noting that Council's long term ambitions for this site to remain a car park site on the ring road of the City Centre, based on Council's Complete Street's Plan; and
- Acknowledge that the former Ambulance Site is no longer in use as an ambulance site, noting the relocation of the Bankstown Ambulance Hub to Canterbury Road.



Figure 2. Meredith Street Car Park and NSW Ambulance Site

Introduce a B3 Commercial Core Zone

It is proposed to introduce a B3 Commercial Core Zone into the City Centre, as per the figure below. This zoning is supported as it aligns with the BCCMP.

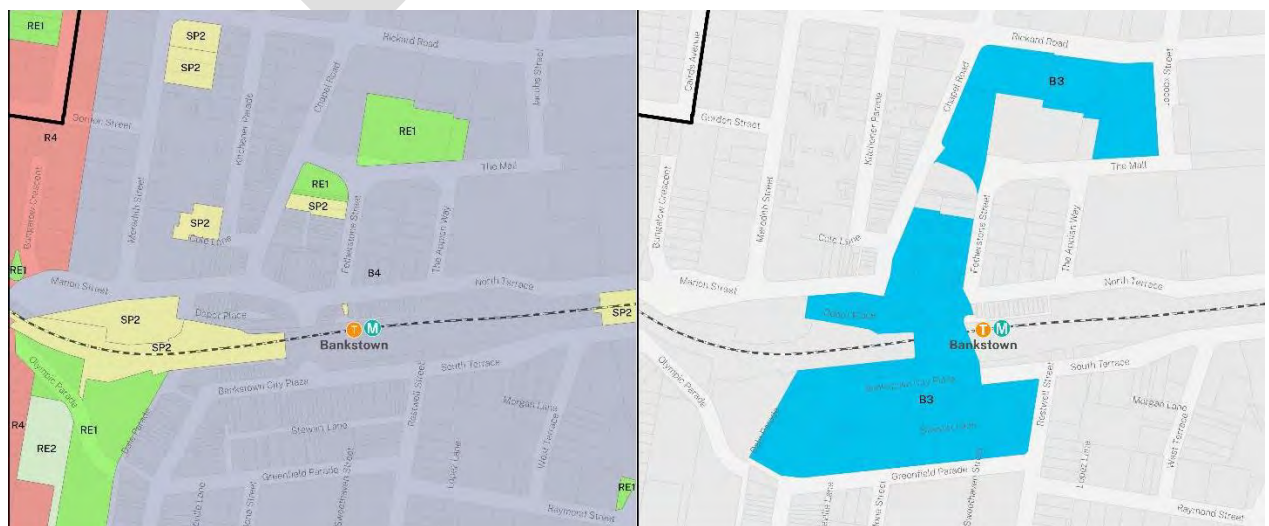


Figure 3. Proposed B3 Commercial Core Zone (current zoning on left)

Rezoning of 15 Jacob Street, Bankstown for Open Space

It is proposed in the EIE to rezone a small part of 15 Jacob Street from R4 High Density Residential to RE1 to allow for improved access between Jacob Street and Sir Joseph Banks Street and RM Campbell Reserve. This matter has been investigated and has been considered unnecessary, due to an existing consent on 15 Jacob Street to allow for public access. Council has updated its contributions plan accordingly. As such, it is recommended the Department do not proceed with this change.

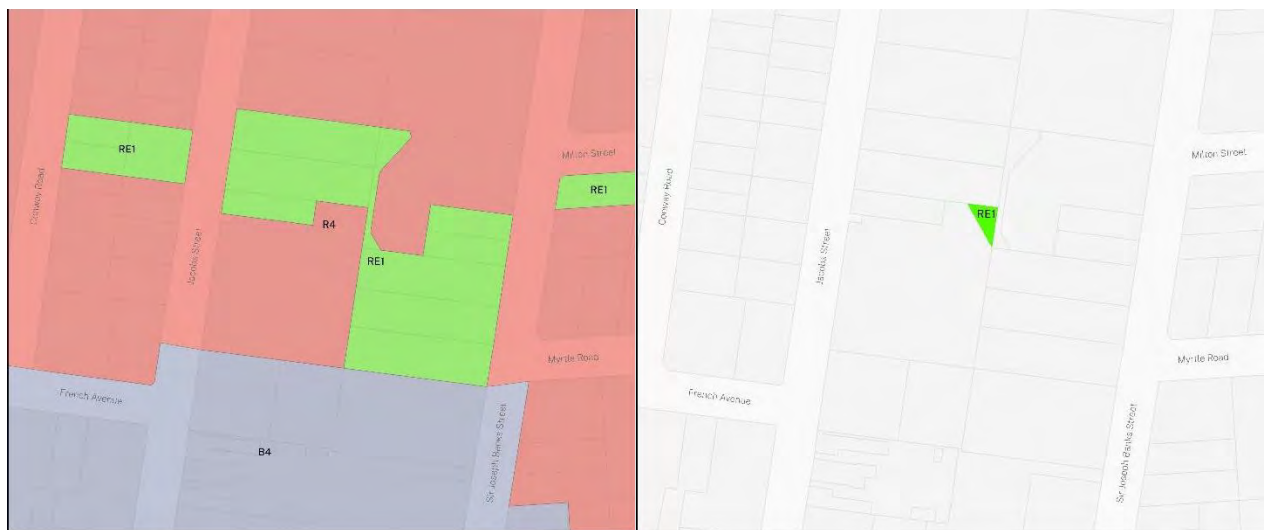


Figure 4. Proposed Jacob Street rezoning

Other zoning matters

The following additional zoning matters are raised:

- The EIE does not propose any rezoning to the Special Uses Zone applicable to the existing TAFE site, currently identified for Education Uses. It is recommended that the BCCMP recommendations for this site be adopted, particularly with respect to the zoning, height and floor space ratio, to provide certainty to the community that this will evolve into a health precinct of significant scale and ensure the controls accurately reflect the desired future character of the site.
- Council's planning proposal sought to add 'restaurants and cafes' and 'takeaway food or drink premises' uses as Additional Permitted Uses to 2 Percy Street, Bankstown (Lot 1 DP 166768), to allow for activation of the site's frontage to Stanley Street and its interface to Stevens Reserve. It is recommended this or a suitable alternative be considered.
- Council recommend consideration of the ability to confirm the 'operational land' status through this amendment of City Centre lands owned by Council.

Amendments to Height and Floor Space Ratios of Buildings

The EIE proposes new building height and floor space ratios for buildings across the City Centre. Whilst the general proposed height and floor space ratios generally align with the BCCMP intensification strategy and recommendations, the following matters require further consideration by the DPHI prior to finalisation:

- It appears many of the proposed floor space ratios proposed by the BCCMP have been reduced, for example, development north of The Mall, including 63 The Mall (Hoyts), have been reduced from 8.5:1 to 8:1, whilst other key sites, such as the Compass Centre, have had FSR reduced from the BCCMP recommendation of 5.8:1 to 5:1 and land along the Commercial Core on the northside of Greenfield Parade have been reduced from a recommended 5.5-7.5:1 to a blanket 5:1. These FSRs recommended in the BCCMP should be reconsidered, as these have been tested to be an appropriate FSR for the proposed heights. It should also be clarified as to whether these changes include the sustainability bonus, discussed further in this report.
- There are discrepancies between the proposed Maximum Height of Buildings, the number of storeys recommendations and the proposed reference scheme that guided the controls (Urban Design Framework). Three buildings were tested to highlight these discrepancies and in some instances the proposed range of number of storeys on the UDF cannot be accommodated inside the LEP Height of Building control proposed. As an example, a commercial building in a 58 metre maximum height can only achieve up to 12 storeys, despite the UDF recommending it being in a range of 13-25 storeys. The recommended built form, number of storeys and proposed Height of Building control do not always reflect each other and are in some instances conflicting. More rigorous analysis should be undertaken in order to translate urban design schemes into new controls.
- A number of sites have seen a reduction in height in the EIE, compared to the BCCMP, due to a more 'blanket' approach being taken. For example, Council has provided variation in height for built form articulation and overshadowing testing across blocks such as the northern side of Greenfield Parade, the southern side of French Avenue and the northern side of Rickard Road. The EIE will effectively reduce development capacity in many of these sites, many of which are capable of urban renewal due to large landholdings within the core.

It is therefore recommended that height and floor space ratios be aligned with the BCCMP, and that clarity is provided regarding the sustainability bonus, and whether the 0.25-0.5:1 bonus will continue to apply.

Underground floor space exclusion

The EIE seeks to introduce a new LEP clause which specifies that underground floor space will be permitted, in addition to the maximum FSR prescribed on certain sites on the FSR Map in the B4 Mixed Use and B3 Commercial Core zones. This is supported, as it aligns with the BCCMP intent of allowing larger format uses to be underground, to improve street activation and greater ground floor permeability.

Council recommends that the application of this clause should be limited to:

- Uses such as theatres, supermarkets, entertainment facilities and registered clubs.
- Larger sites that can accommodate the above mentioned uses and demonstrate improved streetscape and public domain impacts.
- Be in areas that do not have minimum parking rates, to ensure the design does not force deeper excavation to accommodate minimum parking rates.
- The underground uses should not go beyond the building footprint above, to ensure opportunities for planting and open space in setback areas are maintained.
- Entries to the underground floor space should have an appropriate, active, ground floor frontage;
- The basement levels used should have a minimum floor to ceiling height of 3.7 metres;
- The basement levels used should be the upper-most basement levels, closest to ground floor.

Key Sites Provisions

Non-residential floor space

The EIE proposes a number of key sites to provide a minimum amount of non-residential floor space. The intent of this control aligns with the BCCMP, to ensure that key sites deliver a minimum quantum of employment-generating floor space. Whilst Council supports the intent of this provision, the application of it in the EIE departs from the BCCMP, which sought to focus this employment density around the Metro Station and along the Appian Way/Restwell Street spine. The DPHI Map and Council's BCCMP approach are shown below for comparison.

The evidence provided for amendment to this provision is not considered adequate, as it does not address the long term needs of Bankstown to emerge as a successful health and education precinct, and the needs of appropriate spatial and built form distribution of employment-generating development on key sites. Large sites, as

identified by Council, are capable of accommodating stand alone non-residential buildings to provide for jobs growth, without compromising the delivery of separate residential buildings.

By reducing the quantum of employment-generating uses on key sites, and distributing this over more sites, the typology of built form also changes – from standalone residential and non-residential towers, to integrated, mixed use buildings with podium employment uses and residential above. This compromises the flexibility of employment growth and evolution over time, and limits the type of employment uses that can occur, potentially deterring significant institutional investment in private hospitals, research or more specialised employment-generating development due to site's being compromised by residential development.

Furthermore, the incorporation of the Marion Street car park site is objected to by Council, as this goes against the adopted position of Council to expand car parking on the site and focus parking along the ring road network, which includes Marion Street.

It is recommended that:

- The DPHI reconsider the key sites approach, focusing non-residential development on large sites around the Metro Station and along the Appian Way/Restwell Street spine, as recommended by the BCCMP; and
- Remove 40 Marion Street, Bankstown (Marion Street Car Park) as a key site for employment-generating uses.

It is also recommended that a 'no net loss' provision of employment-generating floor space be applied to the B3 Commercial Core and B4 Mixed Use zones to ensure sites and precincts with significant commercial floor space are not compromised, particularly around Paul Keating Park and Rickard Road, which creates a civic core.

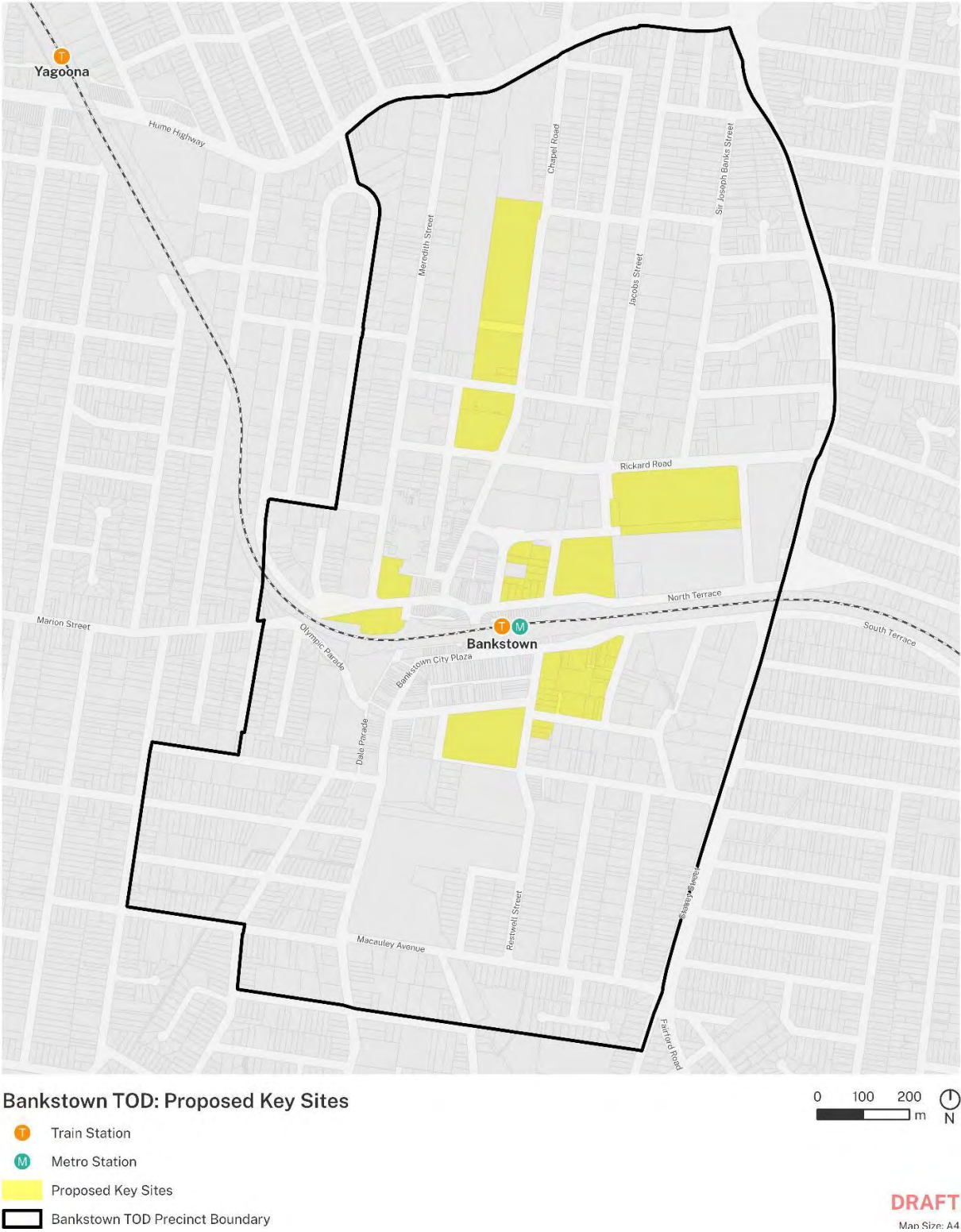


Figure 5. Key sites proposed for Employment Generating Uses in EIE



Figure 6. Council proposed Key Sites for Employment Generating Uses as per BCCMP

Delivery of community infrastructure

The EIE does not propose a way forward for the delivery of community infrastructure. The BCCMP provided an incentive based provision to deliver through-site links and other types of community infrastructure such as multi-purpose facilities and indoor sports facilities. The BCCMP proposed these facilities on the current PCYC and St Paul's Anglican Church sites. It is recommended that these incentives be retained, with development of these sites required to provide these facilities. This can be mandated and/or incentivised in a number of ways, such as through a floor space incentive, or mandating these uses whilst exempting them from the maximum floor space ratio control.

Furthermore, Council wish to note the significant concern associated with delivery of community infrastructure on and through redevelopment of the Bankstown Central site, as discussed above.

Council has also reviewed the informing Infrastructure Delivery and Implementation Plan (IDIP) provided as part of the exhibition package, and raises the following matters:

- That the IDIP and DPHI confirm that the *Canterbury Bankstown Local Infrastructure Contributions Plan 2022* (CB LICP 2022) will adequately provide for growth envisaged in the Revised Masterplan, and as a consequence, confirm no amendments to the contributions plan are required.

- The IDIP should include analysis of nexus and apportionment issues associated with infrastructure works proposed in the IDIP.
- That the IDIP's income scenario forecasts - for contributions achieved through Section 7.11 and Section 7.12 contributions - be amended to accurately identify that Section 7.12 residential contributions of 6.9% would be required to match current residential s7.11 levies based on Council's analysis, well above current Section 7.12 permissible rates.
- That contributions income forecast for scenario B (Section 7.11 IPART endorsed revised plan), be deleted, because:
 - it significantly overstates likely income given the CB LICP 2022 works schedule items and
 - if the high value open space and community facilities items which do not comply with IPART Essential infrastructure criteria are excluded, the contribution rates would not exceed \$20,000/dwelling.
- Delete from the IDIP content proposed additional "aspirational" open space as it offers limited amenity and is unsuitable to the needs of the growing Bankstown city centre community (as discussed under 'Public Open Space'.
- The IDIP should provide greater detail on available State funding (TOD, HPC) for potential, additional future infrastructure. This should outline project criteria, value of funding likely to be available and the entities to whom it can be directed.
- Outline the basis for increased employment growth forecast (which the IDIP identifies as being 38% higher than Council's Masterplan forecast)
- Correct a number of references to the status of city centre developments (e.g., hospital, TAFE), typographic or document titles and missing content.

Affordable housing

The EIE proposes a 3-10% affordable housing rate to be held in perpetuity and managed by a registered housing provider. It is Council's intent that any affordable housing is dedicated to Council, to be run by a community housing provider on its behalf.

As per the BCCMP Planning Proposal, it is recommended that a 3-4% rate be applied, based on feasibility testing, and that this be phased in over time. The recommended application of the rates is provided below.

Date of determination of development application	Business Zone	Residential Zone
Within 12 months of the LEP Amendments (Bankstown) being gazetted	1%	1%
After 12 months but before 24 months of the LEP Amendments (Bankstown) being gazetted	2%	2.5%
On or after 24 months of the LEP Amendments (Bankstown) being gazetted	3%	4%

This rate can be reviewed over time, for potential gradual increase should there be sufficient feasibility. Furthermore, government-owned lands should be considered for higher rates of affordable housing.

Below is a suggested control, based on that of other LEPs:

Clause XX - Affordable housing

(1) In this clause, the **Canterbury Bankstown Affordable Housing Principles** are as follows—

- (a) *affordable housing must be provided and managed to make accommodation for a diverse residential population representative of all income groups available in Canterbury Bankstown,*
- (b) *affordable housing must be rented to tenants at rents that do not exceed a benchmark of 30% of actual household income,*
- (c) *dwellings provided for affordable housing must be managed to maintain their continued use for affordable housing,*
- (d) *the Council must use the following received by or on behalf of the Council to improve or replace, or provide additional, affordable housing in Canterbury Bankstown —*
 - (i) *rent from affordable housing, excluding landlord's expenses, such as management and maintenance costs and rates and taxes payable in connection with the dwellings,*
 - (ii) *money from the disposal of affordable housing,*
- (e) *affordable housing must consist of dwellings constructed to a standard that, in the opinion of the consent authority, is consistent with the same type of dwellings forming part of the proposed development, particularly in relation to internal fittings and finishes, solar access and privacy.*

(2) *This clause applies to the erection of residential accommodation on land identified [on a referenced affordable housing map], other than development for the purposes of boarding houses, community housing, group homes, hostels and public housing.*

(3) *Development consent must not be granted to development to which this clause applies unless the consent authority has considered the following—*

- (a) the Canterbury Bankstown Affordable Housing Principles,*
- (b) the impact of the development on the existing mix and likely future mix of residential accommodation in Canterbury Bankstown.*

Note—

The matters set out in [State Environmental Planning Policy \(Housing\) 2021](#), section 15 may also apply to the development.

(4) The consent authority may, when granting development consent to development to which this clause applies, impose a condition requiring an affordable housing contribution equivalent to the contribution specified in subclause (5).

(5) The contribution for development on land is the amount of gross floor area equivalent to the mapped percentage of the gross floor area of the residential component of the development.

(6) A condition imposed under this clause must permit a person to satisfy the contribution by one or both of the following—

- (a) a dedication, in favour of the Council, of land comprising 1 or more dwellings, each having a gross floor area of at least 50m²,*
- (b) a dedication, in favour of the Council, of land for the purpose of providing affordable housing, or*
- (c) a monetary contribution paid to the Council.*

(7) A monetary contribution must be calculated by reference to the market value of dwellings of a similar size to the dwellings in the proposed development.

(8) In this clause—

community housing has the same meaning as in the [Community Housing Providers National Law \(NSW\)](#).

mapped percentage, in relation to development on land, means the percentage shown on the [Affordable Housing Map](#) for the land.

public housing has the same meaning as in the [Housing Act 2001](#).

Sustainability

The EIE does not provide detail in relation to the implementation of sustainability measures for the Bankstown City Centre. An existing sustainability bonus currently applies to certain development in the Bankstown City Centre under the CBLEP. Sustainability is a critical issue, and was a key area of public support for the BCCMP during its exhibition in 2021. Bankstown, like much of Middle and Western Sydney, suffers from urban heat vulnerability – and therefore addressing sustainability not only requires a business as usual approach, but the establishment of higher standards to ensure buildings achieve best practice and improved conditions for future generations.

The existing bonus scheme was independently reviewed through the Master Planning process by Sustainability Consultants Oculus which recommended a number of changes to better support achieving Council's net zero emissions target by 2050. One of the recommended changes was to broaden the application of the bonus across the Bankstown City Centre, rather than only to limited, large scale developments.

It is recommended, based on the BCCMP, that the existing sustainability bonus be retained, and amended in terms of the quantum of bonus floor space that can be achieved and the outcomes. Given it is proposed to apply the sustainability bonus more broadly, a 0.5:1 FSR bonus for development achieving less than 1.5:1 is a substantial uplift that will result in poor built form outcomes. As such, for development with a proposed maximum FSR of less than 1.5:1, it is proposed that the Sustainability Bonus be reduced to 0.25:1 FSR to be more proportionate to the 'base' FSR applicable to the site.

It is also recommended that the sustainability bonus be amended to achieve the following measures:

- Identifying land on the Special Provisions Map that will be subject to this clause.
- Apply the clause to a range of development types including residential flat buildings, commercial premises, tourist accommodation and mixed-use development.
- New development will not be connected to natural gas, include installation of a solar photovoltaic system and for residential development, achieve best-practice energy and water efficiency targets.
- There will be specific energy, water and emissions controls for non-residential development including office premises, shopping centres/retail development or new hotels to be in the top 15% of building performance for sustainability.
- All other development not covered by the above criteria will be required to demonstrate exceeding the Section J 'Energy Efficiency' National Construction Code Building Code of Australia by 15%.
- Setting out the allowable bonus FSR, being up to an additional 0.25:1 if the total resultant FSR of development will be 1.25:1 or less, or 0.5:1 if the total resultant

FSR of development will be more than 1.25:1. This bonus FSR may be applied above the maximum FSR permitted on the 'Maximum Floor Space Ratio' Map.

Design excellence

The EIE notes the importance of design and sustainability excellence, however does not provide a draft way forward. It is recommended that Council's existing design excellence clause be updated to ensure it captures the items suggested in the EIE, in particular culture and country and sustainability excellence. It is also recommended that design excellence be demonstrated following a design review panel process.

Below are recommended amendments to the existing Design Excellence Clause under Section 6.15 of the CBLEP (**amendments in red**):

6.15 Design excellence

(1) The objective of this clause is to ensure that development exhibits high quality architectural, urban and landscape design.

(2) This clause applies to the erection of a new building for the following purposes—

- (a) boarding houses, if the new building has at least 4 storeys,*
- (b) multi dwelling housing of 10 or more dwellings,*
- (c) residential flat buildings, if the new building has at least 4 storeys,*
- (d) schools, if the new building has a gross floor area of 2,000m² or more used for a school,*
- (e) centre-based child care facilities, if the new building will be used for a centre-based child care facility for at least 100 children at one time,*
- (f) seniors housing, if the new building has at least 4 storeys,*
- (g) co-living housing, if the new building has at least 4 storeys,*
- (h) commercial premises, if the new building has a gross floor area of 1,000m² or more used for commercial premises,*
- (i) shop top housing, if the new building has at least 4 storeys,*
- (j) warehouse or distribution centres, if the new building has a gross floor area of 5,000m² or more used for a warehouse or distribution centre,*
- (k) places of public worship, if the new building has a gross floor area of 1,000m² or more used for a place of public worship,*
- (l) registered clubs, if the new building has a gross floor area of 1,000m² or more used for a registered club,*

(m) health services facilities and educational establishments if the floor space of the proposal exceeds 2,000 sqm.

(3) Development consent must not be granted to development to which this clause applies unless the consent authority is satisfied the development exhibits design excellence, and has been considered by a design review panel.

(4) In deciding whether the development exhibits design excellence, the consent authority must consider the following—

(a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,

(b) whether the form and external appearance of the development will improve the quality and amenity of the public domain,

(c) whether the development detrimentally impacts on view corridors,

(d) how the development addresses the following matters—

(i) heritage issues,

(ii) the relationship of the development with other existing or proposed development on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,

(iii) bulk, massing and modulation of buildings,

(iv) street frontage heights,

(v) environmental impacts, including sustainable design, overshadowing, wind and reflectivity,

(vi) the achievement of the principles of ecologically sustainable development,

(vii) pedestrian, cycle, vehicular and service access, circulation and requirements,

(viii) the impact on, and any proposed improvements to, the public domain,

(ix) the integration of utilities, building services and waste management infrastructure in the site layout and building design,

(x) designing for culture and country

(e) whether the development integrates high quality landscape design in the site layout and building design

(f) the advice of the local or State design review panel.

Active frontages

The EIE seeks to introduce an active frontage map to active streets within the City Centre. This is supported, as it aligns with the intent of the BCCMP. Notwithstanding, it is recommended that the existing minimum ground and first floor non-residential use requirement is retained in the LEP, to support the active frontage clause, and the long term role of Bankstown as a strategic centre.

Public open space

The EIE notes the need to further address and incentivise the delivery of public open space. Whilst the proposed land use zoning does not seek to rezone additional land for open space, with the exception of 15 Jacob Street, it is noted that the urban design study makes a number of recommendations for open space, not supported by Council. Council recommends the following approach to open space delivery:

- Remove the rezoning of part of 15 Jacob Street from R4 High Density to RE1 Public Recreation, as this land is not required for acquisition;
- Do not implement expansions to Memorial Oval via Vimy Street nor a proposed open space at the corner of Meredith Street and Rickard Road, as this sits at the junction of the ring road network and is within walking distance of new open space and existing open spaces nearby;
- Consider opportunities for more flexible zoning of the southern playing field of the LaSalle Catholic College, in return for mandating a minimum quantum of publicly accessible open space of at least 4,000 sqm, in close proximity to the new hospital and mixed use zone along Chapel Road to address the need for open space in the northern part of the City Centre. This could also be achieved through rezoning of part of the site, with the State Government nominated as the acquisition authority, and that costs to establish the open space be borne by the State Government or applicant of future development on the site.
- The DPHI analysis of open space does not give regard to smaller parks (less than 3,000sqm) or new open spaces, such as that provided on the former Bankstown RSL site between Kitchener Parade and Meredith Street (approximately 2,500sqm).
- Consider opportunities expansion of other parks surrounding the TOD Precincts, such as Cairds Reserve, where there is opportunity to expand northward.
- Council does not support the expansion of open space between Conway Street and Jacobs Street, given long term and recent development on the site for the purpose of a NSW Health Facility, which will hinder the potential of the site for open space in the short and medium term. It is recommended that alternatives be considered, and that the State consider being an acquisition

authority. Alternatives may include land with frontages to Heath, Conway and Price Lane, or other parcels of land with multiple street frontages and existing low density housing. On this basis, it is recommended that the RE1 zoning of 13 and 15 Conway Street (privately owned properties) be removed and amended to match adjacent R4 High Density Residential zoning.

- It is noted that the existing Polish Club site on East Terrace is impacted by flooding due to the location of stormwater culverts on the site. This site may provide opportunities for expanded open space, as suggested by the BCCMP.
- South of Macauley Avenue, it is acknowledged that density has been reduced from the BCCMP, and maintained at the current R2 zoning east of Salt Pan Creek. It is recommended that the DPHI consider zoning of the two properties adjacent to Salt Pan Creek to RE1 Public Recreation to improve access and sightlines to this parkland.
- It is recommended that the DPHI amend zoning maps for 53 De Witt Street to zone the site as per the adjacent industrial zone, with only a 10 metre buffer required along the creek line for public recreation, consistent with the intent of the BCCMP.
- Council also makes the following comments with respect to the Urban Design Report recommendations for open space:
 - **Extension of Apex Reserve** – Land is unusable grade for open space, likely to be flood impacted and at not accessible to key areas of growth. It is also at the junction of a major road intersection which may be required for future intersection works.
 - **Stacey Street Reserve** – this opportunity of surplus land along the Stacey Street corridor being used for open space is supported, provided it is supported by a green connector via Heath Street.
 - **Extension of RE1 (between Conway Street and Jacobs Street)** – R.M Campbell Reserve is located across the road, and therefore the provision of this open space is not supported as a priority.
 - **Meredith Street Carpark and Ambulance Site** – Not supported due to reasons outlined above.
 - **West Terrace Car Park** – The plan continues to allow for flexibility in how this open space is delivered on the site.
 - **Extension of Memorial Park** – The extension into Vimy Street is not supported due to heritage listed items. However, this may be replaced by properties along the southern side of Macauley Avenue for improved sight lines and access to Salt Pan Creek.

Exempt development and trading hours

The EIE proposes to modify exempt development provisions for hours of operation within the City Centre as follows:

Extended operating hours (late night trading) proposed under Schedule 2 Exempt development	
<u>Zones</u> B3 and B4 zones within the Precinct	
<u>Proposed hours and uses to be permitted as exempt</u> <ul style="list-style-type: none"> • Business premises • Shop 6.00am to 11.00pm, Monday to Thursday, Sunday and public holidays 6.00am to 12.00am, Fridays and Saturdays	<u>Proposed hours and uses to be permitted as exempt</u> <ul style="list-style-type: none"> • Market • Restaurant or café • Take away food and drink premises • Mobile food and drink outlets 6.00am to 11.00pm, Fridays and Saturdays

This change is supported, as it aligns with the intent of the BCCMP for promoting Bankstown City Centre as a vibrant, 24 hour destination to support its evolving role and resident, worker and student populations.

Non-Aboriginal heritage provisions

The EIE proposes listing of a number of heritage items within the Bankstown City Centre. Council supports these listings where they align with the BCCMP, however notes the following departures from the BCCMP:

- The EIE does not seek to provide a heritage conservation area over the Vimy Street precinct due to the *“insufficient assessment and evidence to justify the proposed heritage listing of this War Service Homes Heritage Conservation Area”*. Council recommend that this matter be further investigated prior to making of any amendments to prepare a comparative analysis to that investigates whether there are substantially intact properties on the western side of Vimy Street with the already listed properties at 10 and 22 Vimy Street.
- The EIE includes listing of 461 Chapel Road, Bankstown (St Paul’s Anglican Church), which Council resolved previously to investigate further. It is noted that further clarification is required regarding this listing, in terms of items of potential heritage significance other than the Church building itself, noting that there is a live DA for demolition of buildings such as the hall.

Infrastructure funding and delivery

The EIE itself does not propose any changes to Council’s current contributions plan, and recommends continuing discussions with Bankstown Central regarding proposed infrastructure on that site that had been negotiated through the Planning Agreement process. Furthermore, it does not discuss priorities or the distribution of funding of the \$520 million being allocated to the eight accelerated precincts.

Firstly, it is noted that Council's adopted Contributions Plan gives regard to the envisaged growth in the Bankstown City Centre, both through the BCCMP and the Accelerated Precinct. However, background and technical studies provided to support the EIE recommend a number of infrastructure changes that require further detail from the DPHI prior to implementation. These include:

- Clarity on proposed funding mechanisms for the open space shortfall in the northern half of the City Centre. The DPHI studies and the EIE identify that there may be a need for further open space. It also identifies Council land, including the Meredith Street Car Park, and adjacent sites, as being suitable for additional open space. Council recommends that any additional open space identified by the DPHI as necessary to support growth should be funded by DPHI through an appropriate mechanism, given Council has determined the adequacy of open space through the BCCMP and amended the Contributions Plan accordingly. Furthermore, there is opportunity through this process to work with the Sydney Catholic Archdiocese and LaSalle Catholic College to get unencumbered and publicly accessible open space of at least 4,000sqm on the southern playing fields (west of the hospital) by limiting the area of potential future development on the site, and providing an appropriate height and floor space ratio that would allow for use of part of the site as open space. This site was identified for potential open space through the BCCMP. Alternatively, this site could be rezoned for public recreation for acquisition by the State Government.
- Clarity regarding the distribution of the \$520 million of funding allocated from the Housing and Productivity Contributions towards the eight accelerated precincts. It is imperative that Council receives a commensurate share of the allocated \$520 million for accelerated precincts in Bankstown – specifically, \$105 million based on its proportional contribution of 12,500 dwellings to the total 61,855 dwellings planned across Greater Sydney. Applying the \$520 million equally, without considering housing delivery potential, would result in Bankstown receiving approximately \$65 million, significantly less than its proportional share based on its contribution to housing delivery.
- The BCCMP provides an advocacy platform for State and regional infrastructure to support the planned growth of the Bankstown City Centre, this includes city-shaping projects such as direct rail connectivity to Parramatta and Liverpool, to delivering the grade separation of the Stacey Street and Hume Highway intersection. A clear plan for infrastructure phasing and delivery is required by the State Government in consultation with Council to ensure Bankstown's role as a strategic centre can be realised.
- Clarity around a new multi-purpose facility, noting that the EIE does not include floor space incentives for the PCYC and Anglican Church sites, identified in the BCCMP as being sites to accommodate upgrades and/or new multi-purpose, publicly accessible facilities.

The EIE provides insufficient detail associated with these matters. Infrastructure funding and delivery is critical to the success of the City Centre, and these matters

should therefore be resolved prior to the gazettal of LEP amendments for further growth.

Other matters

The following other matters require the DPHI's consideration prior to finalisation:

- It does not appear that the urban design framework is consistent with building separation standards in the Apartment Design Guide (ADG).
- Low rise street wall heights are not supported on tall buildings, and should be reconsidered. This will also impact resultant and achievable floor space ratios.
- Appropriate transition of heights is required with low rise surrounding areas and open space.
- It is acknowledged that further work is being undertaken in relation to flooding. Reference is made to the Flood Impact and Risk Assessment Report, dated 28 June 2024.
 - Flood Impacts (4.5.5) - It would be necessary to undertake a high-level modelling of potential mitigation measures at a precinct-scale to help alleviate all flood impacts observed within the study area. Relying primarily on site and building design to resolve impacts may not be possible especially for developments located within the main flow paths. It would be necessary to provide confidence that the impacts can be resolved, without exacerbating flood risks for adjacent properties, infrastructure, and watercourses.
 - Evacuation Route (5.5.3) - the planning and assessment of evacuation routes should consider access to either the nearest evacuation shelters designated by SES or arterial roads, not just PMF flood-free land. It is likely that residents will head towards a shelter which can provide food, water, and access to amenities.
 - It should be noted for the land immediately south of the railway line bounded by Chapel Road, East Terrace and Macauley Ave, the only evacuation route available is via the bridge crossing over the railway line at the Bankstown Station. This bridge is currently open to bus traffic only.
 - With the intensification of the CBD area, flood evacuation modelling will need to be undertaken to assess the capacity of existing road network in handling the extra traffic generated.
 - Shelter-in-place (5.5.5) - In addition to the structural stability of the building, the shelter should also be self-sustaining for the period of isolation with access to ablutions, water, electricity and first aid equipment. Consideration must be given to the availability of on-site systems to provide for electricity, water, and sewage services for the likely flood duration of surrounding areas.

- Flood Mitigation Measures (5.7.2) - Considering the flood impacts anticipated based on the flood modelling undertaken, consultation with Sydney Water should be undertaken as early as possible to narrow down potential options which can be adopted to alleviate flood impacts.
 - Potential DCP (5.7.3) - Council does not advocate the use of automated flood gates as there is a risk of the flood gates not operating correctly during a major flood event. Council supports the recommendation for imposing a development control to ensure flood immunity of the basements up to the FPL or PMF level whichever is the higher.
- Council requests a draft copy of the LEP controls for comment prior to Gazettal.
- Council does not support the removal of minimum frontage and lot size controls for tall buildings.
- Council recommends implementing the recommendations of the *Site Specific Land Owner Submission Review*, an independent review post-exhibition, submitted with the BCCMP Planning Proposal.

3. Planning pathway changes

A separate EIE was exhibited by the DPHI in relation to alternate planning pathway changes for certain developments within the TOD Accelerated Precincts. These changes, if implemented, will apply to Bankstown City Centre. In summary, the proposed changes are listed below:

- A new temporary State Significant Development (SSD) category for residential development that is valued above \$60 million. This threshold is proposed to be implemented where not already captured by existing SSD thresholds that apply to the Precincts.

Council comment: This change is not supported. Council has demonstrated capacity and capability to assess and determine DAs within the City Centre and across the LGA in a timely and efficient manner. Council recommends not applying this provision to development within the Bankstown City Centre.

- Removing the need for concurrence and referral requirements that are not high risk.

Council comment: This change requires further information, however Council supports streamlined processes that remove the need for duplication or unnecessary referrals

- 'Switching off' the infill affordable housing pathway.

Council comment: Council supports the exemption of these centres from the affordable housing and low to mid rise housing reforms, as the master planning process for these centres sets the ideal design and built form outcome, that should not then be compromised or duplicated by separate bonus or density controls.

Council recommends not applying the low to mid rise housing reforms to the Bankstown City Centre (or other TOD Precincts within the LGA).

4. Special Entertainment Precincts

The EIE proposes the introduction of a Special Entertainment Precinct within the Bankstown City Centre. A Special Entertainment Precinct (SEP) is an area where regulatory provisions encourage live performance, incentivise later trading at licenced and unlicensed premises that host live entertainment trading hours and sound from venues. Councils can set localised sound limits for amplified music in a Precinct Management Plan (PMP), and dedicated live music venues are allowed an extended trading hours.

Council supports this approach and will work with the DPHI on implementation.

29 July 2024

Mr Andre Szczepanski
Director Assessment and Systems Policy
Department of Planning, Housing and Infrastructure
Locked Bag 5022
Parramatta NSW 2124

Dear Mr Szczepanski

Pathway changes to support Transport Orientated Development

I refer to the Explanation of Intended Effect (EIE) relating to the proposed Pathway changes to support 'Transport Oriented Development' and provide the following feedback on behalf of the City of Canada Bay.

Exemption from in-fill affordable housing provisions

- The City of Canada Bay is supportive of TOD precincts being exempted from the in-fill affordable housing provisions of *State Environmental Planning Policy (Housing)*. Bonus Gross Floor Area and Building Height provisions should not be available in precincts that are subject to master planning and where maximum densities and envelopes were determined by a detailed strategic planning and urban design process.
- Concern is raised that the exemption only applies to TOD precincts.

The City of Canada Bay has a number of precincts that are subject to State Government endorsed strategies that are the result of detailed master planning. These localities include the Parramatta Road Corridor and the Rhodes Peninsula. It is argued that the constraints in these areas are greater than in the TOD precincts due to poor access to public transport or the inadequate public transport.

It is requested that the Department of Planning, Housing and Infrastructure confirm how other precincts that have been the subject of detailed master plans can be exempted from the in-fill affordable housing provision of the Housing SEPP.

Exemption from low and mid-rise reforms

- The Homebush Accelerated Precinct and the North Strathfield TOD precinct both apply to land in North Strathfield.

It is requested that the mapping layer associated with the Housing SEPP be updated to illustrate the North Strathfield TOD no longer applying to land within the Homebush Accelerated TOD (ie on the western side of the rail line).

Exemptions from certain concurrence and referral requirements

- The EIE does not state which concurrence and referral requirements will no longer apply. It is therefore difficult to confirm whether the exemptions will have a material impact on the assessment of State Significant Development Applications.
- In the removal of concurrences and referral requirements, DPHI should be satisfied that relevant issues will be addressed by development controls applying to each TOD area or through the imposition of appropriate conditions of development consent.

Alternative design excellence pathway

- Council objects to the dilution or removal of design excellence competitions.
- The Canada Bay Local Strategic Planning Statement includes an action to implement design excellence competitions and Clause 6.14 of the *Canada Bay Local Environmental Plan* requires competitions for buildings with a height of 28m or 8 storeys.
- Design competitions are a well-tested and successful model for delivering a high quality of design and innovation. Competitions generate a range of responses to each design challenge, allowing the comparative evaluation of different approaches. This enables participants to analyse the relative merits of different responses to a brief and builds confidence in the selected design as the best response.
- There are instances of architectural firms producing high quality buildings through competitive design processes and the same architects producing sub-par buildings when directly engaged by developers. Simply including an architect on a list due to their experience preparing a high-quality building is not sufficient to ensure a good outcome. Where a sub-par building is designed, design review panels will be put in a position of having to improve the building design as opposed to facilitating good design from the outset.

It is requested that Accelerated precincts be subject to competitive design excellence processes.

General

- Confirmation is sought that the exemptions and alternative pathways outlined in the EIE are intended to apply to all development in Accelerated Precincts, including State Significant Development and applications that are processed by Councils.

Should you have enquiries in relation to this submission, please contact Paul Dewar, Manager Strategic Planning on 9911 6402.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'monica cologna'.

Monica Cologna
Director, Environment & Planning

9 August 2024

Mr Andre Szczepanski
Director Assessment and Systems Policy
Department of Planning, Housing and Infrastructure
Locked Bag 5022
PARRAMATTA NSW 2124

Dear Mr Andre Szczepanski

CITY OF NEWCASTLE SUBMISSION – TRANSPORT ORIENTED DEVELOPMENT PROGRAM

City of Newcastle (CN) appreciates the opportunity to provide feedback on the Explanation of Intended Effect (EIE) for the Transport Oriented Development (TOD) accelerated precincts.

CN supports the Department of Planning, Housing and Infrastructure's (Department) commitment to delivering high quality, well-designed homes as a key focus of this reform. We are also committed to facilitating more high quality, well-located homes near transport, community services and open spaces.

The EIE applies to the eight identified accelerated precincts and is not applicable to the Newcastle local government area (LGA). However, in our previous submissions to the Department regarding the Transport Oriented Development (TOD) Program, we identified that CN is working with the Department to deliver the Broadmeadow Place Strategy which is a 30-year plan that will increase housing, employment opportunities, public spaces and facilities in the area. The Broadmeadow Place Strategy includes Broadmeadow Station.

CN notes the NSW Government commitment of \$520M for community infrastructure in the accelerated precincts. We feel this funding, and the provision of community infrastructure would help stimulate growth in Broadmeadow, a regionally significant growth area, and Broadmeadow should be nominated as a precinct, noting over 20,000 homes is envisaged to be delivered within the precinct.

CN requests that Broadmeadow be included as a priority accelerated precinct. Broadmeadow has the potential to deliver more housing than the currently identified accelerated precincts and the planning for Broadmeadow has progressed further than some of the selected precincts such as Homebush and Bays West.

CN would welcome opportunities to discuss this further with the Department. Should you have further questions about this submission, please contact Amy Ryan, City Significant and Strategic Planning Section Manager on 4974 2492 or aryan@ncc.nsw.gov.au.

Yours faithfully



Michelle Bisson
EXECUTIVE DIRECTOR PLANNING AND ENVIRONMENT

9 August 2024

Our Ref: 2024/421922
File No: X102116.004

Mr Andre Szczepanski
Director Assessment and Systems Policy
Department of Planning, Housing and Infrastructure
Locked Bag 5022, Parramatta NSW2124
submitted via NSW Planning Portal

Dear Andre,

City of Sydney submission - Pathway changes to support Transport Oriented Development Explanation of Intended Effect

Thank you for the opportunity to make a submission to the NSW Government's 'Pathway changes to support Transport Oriented Development' (TOD) Explanation of Intended Effect (the EIE). The EIE puts forward a series of changes to quicken the delivery of new dwellings within the TOD accelerated precincts whilst ensuring that developments achieve high-quality design outcomes.

The City generally supports the high-level principles of TOD development as an appropriate approach to increasing the supply of well-located new homes in Sydney, although the main issue causing under supply of housing in Australian Cities and elsewhere, is poor sectoral business conditions for new building production. Nevertheless, the City supports faster assessment times for DAs and will similarly take action to review and improve assessment processes and practices.

The City understands that changes proposed in the EIE will only be applied to development within the TOD accelerated precincts. Much has been done to rectify construction quality over the last few years. It is important not to weaken design quality. Changes proposed for planning processes for accelerated TOD development should not expand to other development circumstances in the future. Quality of building design should not be sacrificed for the poor post-Covid business conditions.

EIE - alternative design excellence pathway

The EIE proposes a consistent approach to design quality across all TOD precincts, with the aim of combining faster DA assessment timeframes with high-quality design outcomes. It proposes an alternative design excellence pathway to replace any LEP-based requirement for a design competition. The alternative pathway would include a design review process and a requirement to guide the selection of architects.

Competitive design processes in the City of Sydney

The continued move to higher density living in more compact cities from a tradition of single suburban houses, requires greater consideration and care in design and execution than the limited impacts of the single house.

Sustainable Sydney 2030-2050 Continuing the Vision recognises that well-designed buildings improve the urban and public domain character of a city, contributing to its liveability, particularly in densely developed areas. High quality design is essential to the amenity and attractiveness of development, and in the acceptance of a high-density residential lifestyle in the City. High density living in a democracy requires a social license, as poor results (such as construction defects in residential towers) can have a significant, lasting negative effect. It is important that design excellence and quality continues to be a key consideration in the assessment of development proposals.

Competitive design processes for larger and more prominent buildings have been part of the City's planning framework for over 24 years, introduced in Central Sydney in 2000 and expanded to the whole LGA through Sydney Local Environmental Plan 2012. The City of Sydney was the first jurisdiction to recognise that as buildings become larger, design quality is just as important as construction quality. The method for ensuring design quality for larger projects is through the principle of 'compare and contrast' alternative design solutions. Competitive processes are in effect a design tender in the joint interests of the developer, residents and the public.

To recognise design excellence, developments following this process have access to a bonus of up to 10 per cent additional floor space or height when they are the outcome of a successful competitive design process and have demonstrate design excellence to the satisfaction of the consent authority.

More than 160 competitive processes have been completed since inception, with many developments acknowledged by local and international design and development industry awards. A selection of award recognized developments delivered through the City's competitive design processes can be found in Attachment A to this submission.

Development resulting from the City's competitive design processes is routinely used as exemplars of good design in government and industry publications, including the NSW Governments recent Low-and Mid-Rise Housing reforms and the 'Good design for Housing' map published by the NSW Government Architect. It has influenced similar programs in other states and abroad.

The City continually reviews its processes to ensure they continue to deliver optimal planning outcomes. In December 2023, Council endorsed for exhibition, changes to the City's planning controls which will marginally reduce the number of developments required to go through a competitive design process and offers a streamlined design excellence pathway for social and affordable housing projects.

The benefits of competitive design processes

A competitive design process is a mechanism for selecting a superior design solution through comparative assessment. It establishes a benchmark, which subsequent design development is assessed against to uphold the delivery of excellence. Supported by a panel of experts, competitive design processes can provide sophisticated development solutions that tackle development challenges efficiently and effectively.

The competitive design process generates a range of design options from different architects, enabling comparison between differing approaches. This allows for the exploration and testing of multiple opportunities to improve development outcomes and foster innovation. It also allows for identification of development risks early in the process, leading to more efficient project delivery.

Additional benefits from competitive processes in the planning system include:

- building skills and capacity in the architecture and development industries through fostering innovative thinking and approaches
- providing opportunities for smaller up-and-coming firms to test their design skills on larger projects
- setting design quality benchmarks for future projects to build on.

A design review process, where a single design option is generated and then improved and refined through review, does not typically offer the same broader benefits. The review process can improve the selected design, but it does not foster innovation and design excellence in the same manner as a competitive process. The capacity to generate a variety of options that can be subject to comparative analysis is the key to the success and effectiveness of the competitive process. In its absence, any design review process will need a strong and proven framework to be an effective tool in promoting high-quality design.

Recommendations

In the event the proposals are considered for expansion beyond the TOD program:

1. Maintain the Sydney LEP requirement for a competitive design process
2. Competitive processes should continue to be consistent with the City of Sydney Competitive Design Policy that has produced award-winning projects
3. Maintain existing requirements for a competitive design process where a bonus incentive for floor space or height is provided for achieving design excellence
4. Any design review process should be consistent with NSW State Design Review Panel (NSW SDEP) process
5. To qualify for the design review process, the selected architect shall have demonstrated:
 - capabilities in design excellence by being the recipient of an Australian Institute of Architects (AIA) commendation or award in the past 5 years or in the case of overseas competitors, the same with their equivalent professional association, and
 - experience on projects that have either received an environmental sustainability award or achieved high Green Star Design & As Built or NABERS Energy/Water ratings.

If you wish to discuss any aspect of this submission, please contact David Fitzpatrick, Senior Planner, on 9265 9333 or dfitzpatrick@cityofsydney.nsw.gov.au

Yours sincerely,



Graham Jahn AM LFRAIA Hon FPIA
Director
 City Planning | Development | Transport

Enclosed:

Attachment A – Competitive design process – selection of award-winning built developments in the City of Sydney

Attachment A

City of Sydney Competitive Design Processes Selection of award-winning built developments in the City of Sydney

18 Huntley Street, Alexandria

Developer

Defence Housing Australia

Development summary

- 26 residential ground floor terraces and 124 apartments

Competitive design process type

Invited Competitive Design Alternatives Process

Competition program

4 weeks

Winning architect

Breathe Architects and DKO

Awards

- 2021 Banksia Sustainability Awards - Medium Business Sustainability Award
- 2021 Frame Awards - Best Use of Material (Highly Commended)
- 2021 NSW Architecture Awards - Residential Architecture – Multiple Housing
- 2021 Frame Awards - Co-Living Complex of the Year
- 2020 AILA National Award of Excellence for Gardens – Arkadia Apartments by OCULUS
- 2020 AIA NSW Architecture Awards - Sustainability Architecture Award
- 2020 Sustainability Award - Good design Awards
- 2020 AIA NSW Architecture Awards - People's Choice Award
- 2020 Good Design Awards - Best in Class Architectural Design, Residential & Commercial
- 2020 Sustainability Award - Multiple Dwellings
- 2020 Think Brick Awards - Bruce Mackenzie Landscape Award



Image source: DKO, Arkadia, accessed July 2024

Photography: Tom Ross

18 O’Dea Avenue, Waterloo

Developer

Crown Group Pty Ltd

Development summary

- Three 7-storey buildings and a 20-storey tower
- Mixed-use building, retail and residential apartments
- 331 residential apartments

Competitive design process type

Invited Competitive Design Alternatives Process

Competition program

4 weeks

Winning architect

SJB

Awards

- 2021 AIA NSW Architecture Awards - City of Sydney Lord Mayor's Prize

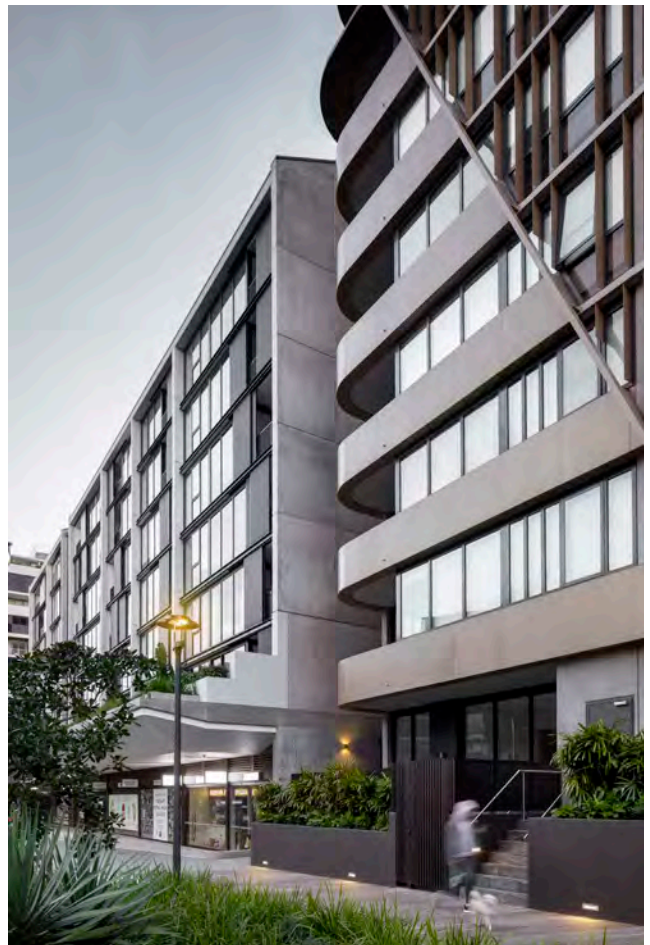


Image source: SJB, Waterfall, accessed July 2024

60 Bathurst Street, Sydney

Developer

SHOKAI AUSBAO

Development summary

- 27 storey building
- Mixed-use development, retail, residential and hotel
- 95 residential apartments and 147 hotel rooms

Competitive design process type

Invited Competitive Design Alternatives Process

Competition program

6 weeks

Winning architect

Smart Design Studio

Awards

- 2021 Asian Pacific Property Awards - Mixed Use Development and Residential Interior Apartment
- 2021 Asian Pacific Property Awards - Residential Interior Apartment
- 2021 Think Brick Awards - Horbury Hunt Award (Highly Commended)
- 2020 Urban Taskforce Development Excellence Awards - Mixed Use Development

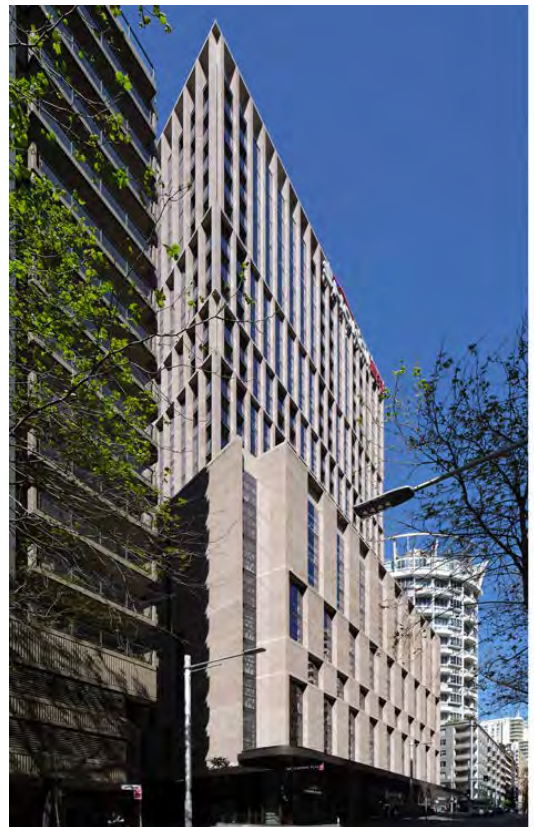


Image source: Smart Design, Bathurst 60, accessed July 2024

1-7 Sonny Leonard Street, Zetland

Developer

Lateral Estate

Development summary

- 308 residential apartments

Competitive design process type

Invited Competitive Design Alternatives Process

Competition program

5 weeks

Winning architect

Candalepas & Associates

Awards

- 2024 AIA NSW Architecture Awards - Residential Architecture, Multiple Housing (Commendation)



Image source: Candalepas, 511 Botany Road, accessed July 2024

Photography: Rory Gardiner

115 Bathurst Street, Sydney

Developer

Greenland Australia

Development summary

- 67 storey mixed use tower
- Retail, rehearsal and production spaces and residential
- 490 residential apartments

Competitive design process type

Invited Competitive Design Alternatives Process

Competition program

6 weeks

Winning architect

BVN Donovan Hill

Awards

- **2023** CTBUH Awards -Best Tall Building, Oceania Award of Excellence
- **2023** UDIA NSW Chapter - Apartments (High Rise) Award
- **2023** AIA NSW Architecture Awards - Residential Architecture - Multiple Housing
- **2020** MIPIM/The Architectural Review Future Project Awards (Highly commended, Residential Category)



Image source: BVN, Greenland Centre Sydney, accessed July 2024

Photography: John Gollings and Tom Roe

161 Clarence Street, Sydney

Developer

Crown Group

Development summary

- 26 storey mixed-use development
- Retail, residential and serviced apartments
- 135 residential apartments and 86 serviced apartments

Competitive design process type

Invited Competitive Design Alternatives Process

Competition program

5 weeks

Winning architect

Koichi Takada Architects

Awards

- **2020** CTBUH Awards - Award of Excellence, Best Tall Building under 100 meters (CTBUH Awards)
- **2020** HIA-CSR Australian Housing Awards - Apartment Complex
- **2019** Brick in Architecture Awards – International, Gold Winner
- **2019** Master Builders Association Excellence in State Awards - Residential & Mixed-Use Development Buildings
- **2019** Architecture Masterprize - Architectural Design/Mixed Use Architecture
- **2019** Think Brick Awards - Horbury Hunt Commercial
- **2019** World Architecture Festival - Completed Buildings Mixed use, (Shortlisted)
- **2019** 7th Annual Architizer A+ Awards - Special Honoree, across all categories

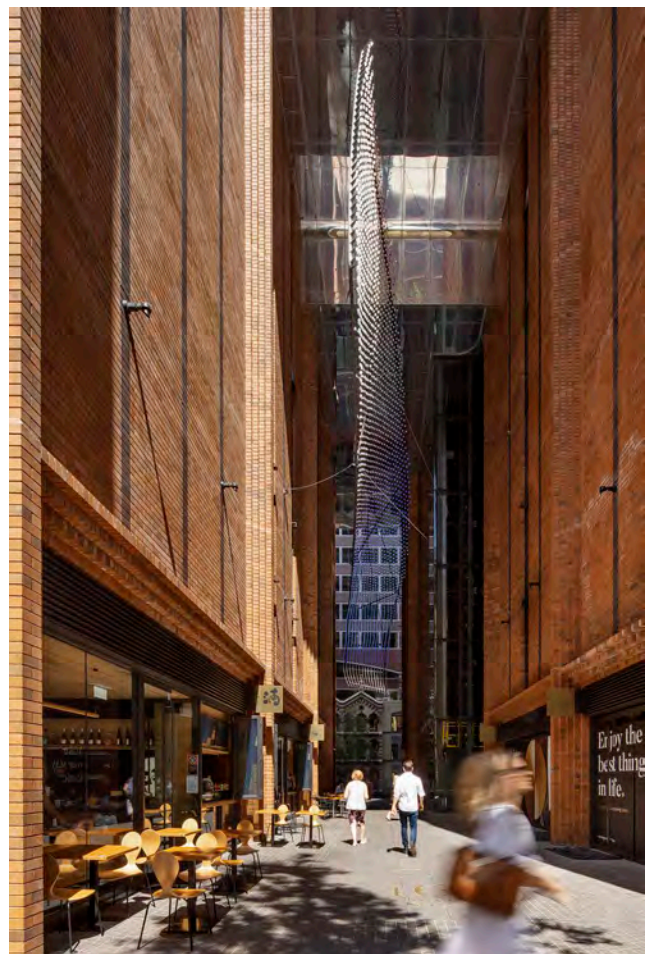


Image source: Koichi Takada architects, Arc, accessed July 2024

116 Bathurst, Sydney

Developer

Mars Property Group

Development summary

- 37 storey mixed use, retail, residential, hotel and commercial
- 131 residential apartments and 121 hotel rooms
- Refurbishment of the heritage-listed Porter House

Competitive design process type

Invited Competition

Competition program

6 weeks

Winning architect

Candalepas & Associates

Awards

- 2024 AIA NSW Architecture Awards - Commercial Architecture
- 2024 AIA NSW Architecture Awards, - The Greenway Award for Heritage



Image source: Candalepas, The Porter House Hotel Sydney M Gallery and 'The Castle' Residences, accessed July 2024

Photography: Rory Gardiner

280-288 George Street, Sydney

Developer

TOGA Group

Development summary

- 194 hotel rooms and retail

Competitive design process type

Invited Competition

Competition program

6 weeks

Winning architect

Johnson Pilton Walker (JPW)

Awards

- **2023** CTBUH Award of Excellence - Best Tall Building Oceania
- **2023** Urban Taskforce Development Excellence Award - Tourism Development



Image source: JPW, A by Adina, accessed July 2024

210 George Street, Sydney

Developer

Poly Australia Wynyard 048 Service PTY LTD

Development summary

- 27 storeys, mixed use building
- Commercial and retail

Competitive design process type

Invited Competition

Competition program

7 weeks

Winning architect

Grimshaw

Awards

- 2023 AIA NSW Architecture Awards -The Sir Arthur G Stephenson Award for Commercial Architecture



Image source: Grimshaw, Poly Centre, accessed July 2024

60 Martin Place, Sydney

Developer

Investa Nominees Pty Ltd, Gwynvill Group,
Investa Commercial Property Fund (ICPF)
Gwynvill Group (Gwynvill)

Development summary

- 33 storey
- Commercial and retail

Competitive design process type

Invited Competitive Design Alternatives Process

Competition program

6 weeks

Winning architect

Hassell

Awards

- 2021 Property Council of Australia / Rider Levett Bucknall Innovation and Excellence Awards - Rider Levett Bucknall NSW State Development of the Year
- 2021 Property Council Australia Awards – NSW State Development of the Year Winner
- 2021 CTBUH Awards - Best Tall Building, by height 100-199m
- 2021 CTBUH Awards - Interior Design Award
- 2021 CTBUH Awards - Facade Engineering



Image source: Hassell Studio, Sixty Martin Place, accessed July 2024

Photography: Mark Syke

501 George Street, Sydney

Developer

Greycliff Developments Pty Ltd

Development summary

- 41 storey mixed-use development, retail and residential
- 447 residential apartments

Competitive design process type

Invited Competitive Design Alternatives Process

Competition program

4 weeks

Winning architect

Foster + Partners + PTW Architects

Awards

- 2008 AIA NSW Architecture Awards - Residential Architecture Multiple Housing (Commendation)
- 2008 Urban Taskforce Development Excellence Award - Development of the Year
- 2008 AIA NSW Architecture Awards - Commendation for Multiple Housing
- 2008 UDIA NSW Awards - Excellence for High Density Housing



Image source: Foster + Partners, Lumiere Apartments, accessed July 2024

50 Bridge Street, Sydney

Developer

AMP Capital

Development summary

- 206 m commercial tower, retail and public space podium
- Adaptive reuse of superstructure and service core of 50 Bridge Street tower

Competitive design process type

Two-stage invited Architectural Design Competition

Competition program

7 weeks

Winning architect

3XN and Executive Architect BVN

Awards

- 2023 CTBUH Awards: Best Tall Building Worldwide
- 2023 CTBUH Awards: Best Tall Building Oceania
- 2023 CTBUH Awards: Repositioning Award
- 2023 CTBUH Awards: Space Within Award
- 2023 CTBUH Awards: Construction Award
- 2023 CTBUH Awards: Structure Award
- 2023 CTBUH Awards: Best Tall Building 200-299 meters - Award of Excellence
- 2023 AZ Awards: Adaptive Re-use
- 2023 AZ Awards: Environmental Leadership - Award of Merit
- 2023 International Architecture Awards: High Rises
- 2023 Australian Institute of Architects NSW Awards - City of Sydney Lord Mayor's Prize
- 2023 Australian Institute of Architects NSW Awards - Commercial Architecture Award
- 2023 MIPIM Awards - Best Office and Business Project
- 2023 OPAL Awards - Architectural Design of the Year
- 2022/23 International Highrise Award

- 2022 WAF Awards - World Building of the Year
- 2022 WAF Awards - Completed Buildings: Office
- 2022 WAN Awards - Tall Buildings – Gold
- 2022 Urban Taskforce Australia Awards - Development of the Year
- 2022 Engineers Australia Excellence Awards - Sydney Project Award
- 2017 Sydney Design Award - GOLD Winner of 'Architecture

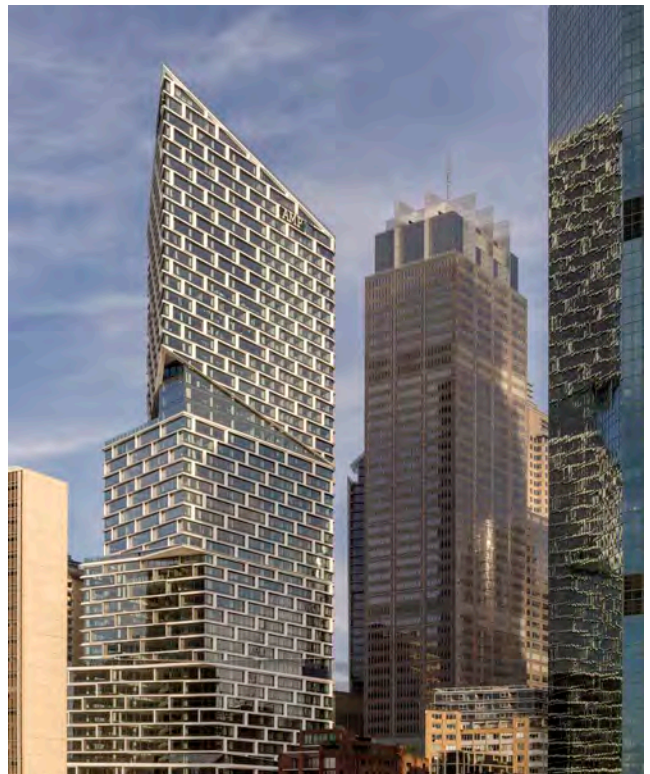


Image source: 3XN, Quay Quarter Tower, accessed July 2024

1 Bligh Street, Sydney

Developer

Dexus Property Group / Dexus Wholesale
Property fund / CBUS Property

Development summary

- 28 storey office tower and child care centre

Competitive design process type

Invited Architectural Design Competition

Competition program

? weeks

Winning architect

Ingenhoven Architects + Architectus

Awards

- **2013** Urban Taskforce Australia Development Excellence Awards: Winner Sustainable Development
- **2013** Chicago Athenaeum Museum of Architecture and Design: Green GOOD DESIGN™ Award - Green Architecture
- **2012** UNAA World Environment Day Awards
- **2012** Green Building Award (Finalist)
- **2012** Australian Institute of Architects - National Awards: Award for Sustainable Architecture
- **2012** Australian Institute of Architects - NSW: Milo Dunphy Award for Sustainable Architecture
- **2013** Construction Owners Association of America (COAA) Owner's Choice BIM Award - New Construction Award
- **2012** Royal Institute of Chartered Surveyors: Australian winner and Highly Commended in International Design and Innovation category
- **2012** International Highrise Award 2012 by Deutsches Architekturmuseum
- **2012** Urban Development Institute of Australia (UDIA) Design and Innovation Award
- **2012** PCA Awards: Innovation Award (Finalist)
- **2012** Australian Institute of Architects - National Awards: Harry Seidler Award for Commercial Architecture
- **2012** Australian Institute of Architects - NSW: Sir Arthur G Stephenson Award for Commercial Architecture, Award for Urban Design
- **2011** Australian Property Institute: Best Development
- **2011** API NSW Excellence in Property Awards: Best Commercial Development
- **2011** UDIA NSW Austral Bricks Awards - Best Retail/ Commercial Development
- **2010** Asia Pacific Property Awards - Office Development and Office Architecture Awards
- **2008** International Property Awards, Office Architecture: World class office architecture
- **2008** Chicago Athenaeum International Architecture Award
- **2012** Council on Tall Buildings and Urban Habitat (CBTUH): Most outstanding new tall building in Asia and the Australasian region
- **2012** Australian Institute of Building (AIB): Commercial Construction Award for Projects > \$100m
- **2010** MBA Excellence in Construction: Site Safety for Commercial Projects >\$50M





Image source: Architectus, 1 Bligh Sydney, accessed July 2024

Photo references

18 Huntley Street, Alexandria

dko.com.au/projects/arkadia/

18 O’Dea Avenue, Waterloo

sjb.com.au/projects/waterfall/

60 Bathurst Street, Sydney

smartdesignstudio.com/architecture/commercial/bathurst-60/

1-7 Sonny Leonard Street, Zetland

candalepas.com.au/home/projects/511-botany-road/

115 Bathurst Street, Sydney

bvn.com.au/project/greenland-centre-sydney

161 Clarence Street, Sydney

koichitakada.com/projects/arc/

116 Bathurst Street, Sydney

candalepas.com.au/home/projects/thecastle/

280-288 George Street, Sydney

jpw.com.au/projects/a-by-adina-sydney/

210 George Street, Sydney

grimshaw.global/projects/workplace/210-george-street/

60 Martin Place, Sydney

hassellstudio.com/project/sixty-martin-place

501 George Street, Sydney

fosterandpartners.com/projects/lumiere-apartments

50 Bridge Street, Sydney

skyfish.com/p/3xngxn/2226529

1 Bligh Street, Sydney

architectus.com.au/projects/1-bligh-street/



9 August 2024

Mr Andre Szczepanski
Director Assessment and Systems Policy
Department of Planning, Housing and Infrastructure
Locked Bag 5022
Parramatta NSW 2124

Dear Mr Szczepanski

SUBMISSION TO THE EXPLANATION OF INTENDED EFFECT: POLICY CHANGES TO SUPPORT TRANSPORT ORIENTED DEVELOPMENT

I am writing on behalf of City West Housing (CWH) to provide feedback on the Explanation of Intended Effect: Policy changes to support Transport Oriented Development.

We welcome the opportunity to engage with the NSW Department of Planning, Housing and Infrastructure (the Department) on these important changes in relation to the delivery of affordable housing in NSW.

CWH is an independent not-for-profit and registered Tier 1 housing provider of affordable rental housing in Sydney. CWH plays its part in addressing the enormous demand for affordable housing in Australia's biggest and most challenging housing market. By charging affordable rent, CWH supports residents on very low to moderate incomes to live near their work, contributing to the economy and their local communities.

CWH has a strong track record of working with partners to build quality, innovative and economic design that enhances resident wellbeing, creates a sense of community belonging, and optimises the lifecycle of their assets. CWH has been successful in delivering medium density affordable housing throughout Pyrmont, Ultimo, Glebe, Forest Lodge, Eveleigh, Zetland, and Alexandria. CWH currently owns properties for future development in TOD precincts including Bankstown.

As a Tier 1 CHP in NSW, CWH are heavily involved in the delivery of medium density affordable housing in NSW. We strongly support the Department in making changes to better support the provision of affordable housing across NSW through the changes proposed to the Housing SEPP and Planning Systems SEPP and we welcome the intent of these changes. This submission outlines some key concerns CWH has identified in the proposed changes.

CWH OBSERVATIONS AND RECOMMENDATIONS

The EIE states that the objective of the proposed changes is to support the TOD program and streamline the delivery of dwellings within the TOD Accelerated Precincts based on the following objectives:

- Simplify planning controls within the TOD Accelerated Precincts
- Encourage the lodgement of applications for residential development in the TOD Accelerated Precincts
- Streamline the development application process so that applicants can lodge development applications sooner so that consent authorities may improve determination times.

- Ensure that development within the TOD Accelerated Precincts achieve high quality design outcomes.

CHW supports the need to streamline approvals and delivery of housing, particularly affordable housing. However, there are concerns regarding proposed policy changes which may impact approval and the viability of subsequent construction of housing in the TOD Accelerated Precincts, including:

- Temporary approval pathways and time limited consents which may constrain the delivery of affordable housing.
- Limited incentives or uplift to supply of additional affordable housing.

In particular, CWH has identified the following proposed policy changes of concern:

1. Temporary State Significant Development pathway

The EIE proposes the introduction of a temporary State Significant Development (SSD) pathway for residential development over \$60 million in the TOD Accelerated Precincts. The temporary SSD pathway is proposed to be in place until November 2027 to encourage the lodgement of DAs to align with the five-year Housing Accord period.

Noting the indicated expiration of the SSD pathway from November 2027, it is unclear if there will be an alternate SSD pathway for residential development in the TOD Accelerated Precincts after November 2027. CWH developments are often subject to external financing or government programs with timeframes beyond CWH control. As such the limited time for the SSD pathway and the limited time for commencement is a risk to the viability of CWH developments due to uncertainty regarding the planning pathway and approval process for development in the TOD Accelerated Precincts beyond November 2027.

There is concern that the temporary timeframe for the SSD pathway may have an adverse impact on the planning and implementation of affordable housing projects noting the current durations Developers require to progress projects through design and construction phases.

Recommendation.

CWH recommends that:

- The proposed TOD SSD pathway is not temporary to ensure there is sufficient certainty regarding the planning approval process for development in the TOD Accelerated Precincts.
- If not, an alternate SSD pathway (including SSD pathways for affordable housing developments) must be considered to ensure the approval and delivery of affordable housing is not impacted in the TOD accelerated Precincts after November 2027.
- Further consideration of approval processes and pathways to streamline housing approvals in the TOD Accelerated Precincts should be considered if the aim is to fast-track construction.

There must be improved certainty of SSD planning pathways and approval processes to ensure there is a clear and transparent pathway and process for industry and community housing providers for development in the TOD Accelerated Precincts.

2. Time limited consents

In association with the temporary SSD pathway for the TOD Accelerated Precincts, the EIE indicates that consents granted under the TOD SSD pathway would be time-limited to encourage proponents to begin works within two years.

It is noted that time-limited consents are not proposed for other categories of SSD development, or for any residential development within the broader 31 TOD precincts under the TOD Program. Specifically, there is also no time limit on the infill affordable housing SSD pathway which CWH would ordinarily use.

CWH notes that there is no detail provided in the EIE on the proposed time-limited consents, including information on whether the consents would lapse after two years or and how they are intended to operate.

CWH is often reliant on external government funding sources for project development and often these timeframes are beyond CWH control and as such the limited time for the SSD pathway is a concern and poses a risk to the progression of new affordable housing projects.

Critically, there is a risk that a limited consent period of two years may constrain the design and delivery of affordable housing, remove flexibility and conflict with established financing arrangements for CHPs.

In the absence of further information on the time-limited consents and there is a need for further detail and consultation with the development industry and housing providers to consider the potential impacts on housing construction if time-limited consents are introduced.

Recommendation

- Ensure any consents relating to the TOD SSD pathway are not time-limited for two-years; or provide a clear process for extending the consent period if required.
- Ensure there is equity and consistency in relation to proposed time-limited consents and mechanisms to fast track commencements and construction, noting that time-limited consents do not apply in other State-led precincts, renewal areas or SSD projects.

3. Removal of In-fill affordable housing bonuses and SSD pathway

The EIE proposes to exclude the TOD Accelerated Precincts from the in-fill affordable housing provisions in Chapter 2 of the Housing SEPP. This means the bonus height and floor space provisions for affordable housing will not apply to development in the TOD Accelerated Precincts.

It also means that the TOD Accelerated Precincts are also excluded from the associated affordable housing SSD pathway under Clause 26A of the Planning Systems SEPP. The in-fill affordable housing SSD pathway under Clause 26A of the Planning Systems SEPP is available where development utilises the affordable housing bonus provisions in the Housing SEPP.

There is concern that this removes the SSD pathway for affordable housing development in the TOD Accelerated Precincts – even when development may deliver substantial affordable housing. CWH are also concerned that there is no incentive or uplift for development that delivers significant affordable housing above the minimum requirements. CWH is concerned that a blanket exclusion to the affordable housing bonuses will significantly reduce the capacity for affordable housing in key areas.

There is a need to ensure that existing incentives and bonus provisions to increase affordable housing in highly accessible locations are not unnecessarily turned off. The proposed exclusion of affordable housing bonuses and associated SSD pathway has the potential to impact the amount of affordable housing delivered in the TOD Accelerated Precincts.

CWH are also seeking further detail on the minimum affordable housing contribution in the TOD Accelerated Precincts as this is currently unclear. For example, in the Bankstown Precinct the proposed range for affordable housing is 3-10% but no further information is provided. There is a need for greater detail and clarity regarding how affordable housing will be required in the TOD

Accelerated Precincts. For example, will developers have the option to provide a monetary contribution or dedicate completed apartments and how will this be determined?

Recommendation

- The SSD pathway for in-fill affordable housing should continue to apply to affordable housing developments in the TOD Accelerated Precincts. The proposed SSD pathway for the TOD Accelerated Precincts is temporary and should not replace the existing SSD pathway available for affordable housing development.
- Reconsider the proposed exemption to the affordable housing provisions in Chapter 2 of the Housing SEPP to ensure there is no impact on the potential to deliver increased affordable housing in highly accessible locations.
- At a minimum, consider retaining the affordable housing bonus provisions under the Housing SEPP for CHPS's in the TOD Accelerated Precincts.
- Ensure there is a permanent SSD pathway available for affordable housing developments in the TOD Accelerated Precincts.
- Retain a level of uplift available to developments that provide above the proposed maximum required of 10%.

4. Exemptions from certain concurrence and referral requirements

The EIE proposes to exempt local and regionally significant development within the TOD Accelerated Precinct from concurrence and referral requirements that are not considered high risk. The EIE states that the exemption is proposed to apply for five years.

It is noted that this would not apply to SSD, as concurrence and referrals are considered in accordance with Section 4.41 and Section 4.42 of the *Environmental Planning and Assessment Act 1979*.

The EIE does not provide guidance on the type of concurrence and referral requirements that will be subject to the exemption, but notes that the Department is developing a risk criterion and will work with Government agencies to finalise the risk criteria and exemptions.

The EIE outlines that the Department is seeking feedback about what concurrence and referrals could be switched off; however, no further detail is provided on how or when the Department will be seeking input from stakeholders, councils, agencies, and the development sector on this matter.

Recommendation

- Ensure there is an opportunity for key stakeholders and landowners to provide guidance to the Department on what concurrence & referrals can be switched off.
- CWH supports the switching off referrals and concurrences and welcomes the opportunity to provide more detailed input to this process.
- Recommend that the concurrence and referrals to be "switched off" are reviewed on a site-by-site basis, as some areas may have lower or different risks to others.

5. Alternative Design Excellence Pathway

CWH supports a clear and streamlined design excellence process that eliminates the time and cost implications of a design competition or multiple presentations to a design review panel. We welcome the release of further details on the proposed pathway to enable more detailed feedback.

Thank you for the opportunity to provide comment on the proposed changes.

Yours sincerely,



Lisa Sorrentino

Head of Development

Lisa.sorrentino@citywesthousing.com.au

0448 672 122



Your ref: Proposed pathway changes to support TOD rezoning
Our ref: DOC24/572507-3

Mr Andre Szczepanski
Director Assessment and Systems Policy
Planning, Land Use Strategy and Housing
NSW Department of Planning, Housing and Infrastructure
Locked Bag 5022
PARRAMATTA NSW 2124

Submitted via Planning Portal

Dear Andre,

I refer to the Proposed pathway changes to support Transport Oriented Development, which is on exhibition until 9 August 2024. The NSW Environment Protection Authority (EPA) understands the proposed changes include:

- A temporary state significant development (SSD) pathway until November 2027 for residential development applications valued over \$60 million. This will ensure a consistent approach to both rezoning and assessment across the precincts.
- Height and floor space bonuses and the associated SSD pathway for in-fill affordable housing will be turned off to avoid conflict with planning controls in TOD accelerated precincts. The state rezoning process will seek to maximise housing delivery including setting affordable housing requirements.
- A 5-year exemption from concurrence and referral requirements that are not considered high-risk to speed up assessment timeframes. High-risk concurrence and referrals will be retained to ensure safe and orderly development.
- Exemption from some low- and mid-rise housing reforms to reduce duplication and maximise housing potential.
- Introducing an alternative design excellence pathway in place of design competitions to streamline the delivery of housing while maintaining high-quality design.

Based on review of the information provided, the EPA has identified that the proposal is likely to interact with scheduled and non-scheduled activities as defined under section 5 of the *Protection of the Environment Operations Act 1997* (POEO Act), as well as main roads, rail corridors and contaminated lands.

The EPA also notes that a 5-year exemption from concurrence and referral requirements that are not considered high-risk is proposed. This will be based on criteria being developed under this strategy to speed up assessment timeframes. Irrelevant of developed risk level criteria, any planning matters considered scheduled activities as per Schedule 1 of the *Protection of the Environment Operations Act 1997* (POEO Act) and requires an Environment Protection Licence (EPL) is required under Part 3.2 of the POEO Act to be referred to the EPA for approval. Additionally, any development which interacts with contaminated lands notified or required to be notified under s.60 of the Contaminated Land Management Act 1997 (CLM Act) are also required to be referred to the EPA.

To assist in delivering improved environmental outcomes and reduce possible land use conflict, the EPA has identified several matters for consideration. These detailed comments are provided in **Appendix A**.

If you have any further questions about this submission, please contact Mandy Grewal, Strategic Planning Unit, at environmentprotection.planning@epa.nsw.gov.au.

Yours sincerely

A handwritten signature in black ink, appearing to read 'G. Sutherland', with a long horizontal flourish extending to the right.

Gabby Sutherland
**A/Unit Head – Environment Protection Planning
Strategy and Policy Division**

7 August 2024

Appendix A – EPA comments of TOD rezoning proposal

General Comments

The EPA requires engagement on planning matters that have the potential to pose a significant risk to the environment and human health. This could include issues such as a proposal or strategy seeking approval to locate sensitive receivers in proximity to:

- notified or regulated contaminated sites
- existing or proposed new heavy industrial uses
- other existing activities which hold a current environment protection licence (EPL).

Licensed Facilities may interact with the proposal

There are a range of scheduled and non-scheduled activities within the vicinity of the proposal area that have the potential to interact with future sensitive receivers within the proposal area. These interactions may cause land use conflict in the form of noise, odour, and air quality impacts.

Potential to interact with contaminated lands

The EPA notes the presence of potentially contaminated lands within the proposal area that do not require regulation under the CLM Act.

Rezoning should be supported by information demonstrating that the land is suitable for the proposed use or can be made suitable, either by remediation or by the way the land is used (see [Managing Land Contamination Planning Guidelines SEPP 55–Remediation of Land](#) (EPA and Department of Urban Affairs and Planning, 1998)).

Additionally, under section 60 of the CLM Act, the EPA must be notified of contamination that meets certain triggers. These are outlined in the [Guidelines on the duty to report contamination under the Contaminated Land Management Act 1997](#) (EPA, 2015).

Water quality

Stormwater discharges from areas of increased residential density have the potential to impact on local surface water and groundwater quality.

The EPA recommends the use of the [NSW Water Quality and River Flow Objectives](#) (NSW WQO and RFOs) when assessing potential surface water and groundwater quality impacts from a proposed development. NSW WQO and RFOs provide the agreed environmental values, community values and long terms goals for assessing and managing the likely impacts of an activity on water for each catchment in NSW.

Additionally, the [Local Planning for Healthy Waterways using NSW Water Quality Objectives](#) (Department of Environment and Conservation, 2006) provides guidance on how to incorporate these objectives into strategic planning. The [Risk-based Framework for Considering Waterway Health Outcomes in Strategic Land-Use Planning Decisions](#) (NSW OEH and EPA 2017), provides a practical case study on how cost-effective management strategies can be used to accommodate urban growth.

Noise and air impacts from major roads and rail corridors

A number of major roads and rail corridors are located within the proposal area and have the potential to cause noise and air impacts on proposed residential receivers.

The EPA recommends that the department review the noise limits for development in proximity to busy roads contained in the [State Environmental Planning Policy \(Transport and Infrastructure\) 2021](#) (see cl 2.120), as well as the [NSW Road Noise Policy](#) (Department of Environment, Climate Change and Water NSW 2011) and [Development Near Rail Corridors and Busy Roads – Interim Guideline](#) (The NSW Department of Planning 2008) when determining the suitability of locations within the proposal area for increased residential density.

Waste management considerations

The proposed increase in residential and commercial receivers has the potential to burden existing solid waste management facilities. The EPA encourages the NSW Government to collaborate with the local council and waste management operators to plan for increased volumes of waste resulting from the expected growth in the number of residential and commercial receivers.

Consideration of the Department of Planning, Industry and Environment 2021, [*NSW Waste and Sustainable Materials Strategy 2041, Stage 1: 2021-2027*](#) and [*Better Practice guide for resource recovery in residential developments*](#) (EPA, 2019) is recommended.

GoGet response to proposed pathway changes to support Transport Oriented Development

Background

While the proposed policy changes are a positive step towards streamlining development assessment and accelerating housing delivery in TOD precincts, it is essential to consider the critical role of carsharing in addressing urban mobility challenges. As metropolitan councils across NSW increasingly recognize carsharing as a viable solution to car dependence and parking oversupply, it is imperative that these TOD precincts actively support and incentivize carsharing initiatives.

GoGet currently operates 2,225 vehicles across NSW servicing 155,000 members. Within the NSW network there are over 300 vehicles associated with over 90 residential and commercial developments, with our first building launching in 2008.

Challenges with Current DA Conditions:

- **Unused Carsharing Spaces:** Poorly designed DA conditions can lead to situations where designated carsharing spaces remain unused, negating the intended benefits of reduced car ownership and use.
- **Limited Enforcement:** Vague DA conditions often lack clear guidelines and enforcement mechanisms, hindering the ability of responsible authorities to ensure proper carsharing implementation.

Recommendations for Improved Outcomes:

The GoGet team strongly recommends revising the standard carshare permit conditions for all applications that are assessed by the NSW Department of Planning, Housing and Infrastructure (DPHI), with a specific focus on State Significant Development (SSD) applications. This revision should aim to:

- **Guarantee Operational Carsharing Services:** Ensure that conditions require developers to not only designate carsharing spaces but also to actively partner with an approved carsharing service provider to guarantee operational services in the development. This eliminates the loophole where spaces are marked but no service is available.
- **Optimise Transport Outcomes:** Develop clear and enforceable conditions that promote the successful operation of carsharing programs, ultimately maximising their contribution to a sustainable and efficient transport network within developments.

We believe that by updating these permit conditions, NSW DPHI can significantly enhance the effectiveness of carsharing programs, fostering a future with reduced car dependence and improved environmental outcomes.

Examples of a poorly-worded SSD conditions:

1. SSD 10362 - 338 Pitt St, Sydney NSW 2000 (City of Sydney)
 - a. Requirement for 10 carshare spaces - [Link](#)

ALLOCATION OF PARKING

- C10. The number of car parking spaces to be provided for the development shall comply with the table below. Details confirming the parking numbers shall be submitted to the satisfaction of the Accredited Certifier.

Car Parking Type	Number
Residential spaces	288
Accessible residential spaces	89
Retail car parking	17
Accessible retail car parking	3
Hotel car parking	33
Accessible hotel car parking	2
Subtotal	
Motorcycle parking	38
Car share parking	10
Courier / B99 Spaces*	10
Service vehicle Small Rigid Vehicle loading dock(s)	5
Service vehicle Small Rigid Vehicle loading dock(s) for Telstra Plaza (320 Pitt St)	2
Service Vehicle Medium Rigid Vehicle loading dock(s)	3
Service Vehicle Medium Rigid Vehicle loading dock(s) for Telstra Plaza (320 Pitt St)	1
Courier bays for Telstra Plaza (320 Pitt St)	8
Hotel drop off and pick up	6

CAR SHARE SPACES

- C16. The car spaces must be retained as common property of the Owners Corporation of the site, and not sold or leased to an individual owner/occupier at any time.
- C17. The spaces must be made available to car share operators without a fee or charge.
- C18. The spaces must be sign posted for use only by car share vehicles and well lit.
- C19. The spaces must always be accessible to members of the car share scheme.
- C20. The car share spaces are to be available when the car park commences operation.

CAR SHARE SPACES

- F18. A minimum of 10 car parking spaces for the exclusive use of car share scheme vehicles are to be provided. The spaces must be retained as common property of the Owners Corporation of the site, and not sold or leased to an individual owner/occupier at any time. The spaces must be made available to car share operators without a fee or charge. The spaces must be sign posted for use only by car share vehicles and well lit. The spaces must be accessible to members of the car share scheme at all times. The car share spaces are to be available at the same time that the car park commences operation.

Note: It is recommended that the applicant discuss the proposed location of car share parking spaces with car share operators prior to the issue of a construction certificate to ensure the commercial requirements of the operator can be accommodated.

2. SSD 8903 - Ivanhoe Estate (Midtown), Macquarie Park NSW 2113 (City of Ryde)
 - a. Requirement for 12 carshare spaces

NUMBER OF CAR PARKING SPACES

- B77. A maximum of 208 residential car parking spaces and 13 visitor car parking spaces and a minimum of 12 childcare centre car parking spaces are to be provided for Building A1. Details demonstrating compliance must be submitted to the Certifier prior to the issue of the relevant Crown Building Works Certificate.
- B78. A maximum of 328 residential car parking spaces, 15 visitor car parking spaces and three staff car parking spaces are to be provided for Building C1. Details demonstrating compliance must be submitted to the Certifier prior to the issue of the relevant Crown Building Works Certificate.
- B79. A minimum of 12 car share spaces must be provided within the site in association with Stage 1.

Current Conditions: A Loophole for Unusable Spaces

While the existing conditions requiring "car share spaces" seem adequate at first glance, they create a loophole. Developers can technically fulfil the requirement by simply marking parking spaces with "car share" signage. This doesn't guarantee an actual carsharing service will be operational on-site, often rendering the designated spaces unusable as they haven't taken the carshare service providers operational requirements into consideration. GoGet has experienced the perverse effects of this loophole dozens of times whilst trying to integrate into developments with these DA conditions. We are continually working with Councils to change their standard permit wordings to prevent it from recurring in the future.

Proposed Improvements: Clearer Requirements, Better Outcomes

To address this issue, we recommend revising the conditions to specify a "carshare operation" instead of just "car share spaces." Here's how this benefits all parties:

- **Reduced Ambiguity:** "Carsharing operation" clearly communicates the intent – a functional carsharing service available to residents.
- **Earlier Collaboration:** This wording encourages developers to engage with approved carsharing service providers (CSPs) at an earlier stage in the planning process. This ensures smoother integration and meets the needs of both residents and the developer.
- **Timely Implementation:** Adding a timeline for securing an operational agreement (e.g., before the Construction/Occupation Certificate) further strengthens the requirement. This guarantees a functioning carsharing service is available from day one of resident occupancy. This, in turn, incentivizes developers to work with CSPs well in advance to avoid delays in project completion.

By adopting these revisions, DPHI can ensure that developments with designated carsharing spaces actually offer a functional service to residents, maximising the intended benefits of carsharing.

Examples of Council Conditions that include these improvements:

City of Sydney

(115) CAR SHARE SPACES

- (a) A minimum of two (2) car parking spaces for the exclusive use of car share scheme vehicles are to be provided.
- (b) The spaces must be retained as common property of the Owners Corporation of the site, and not sold or leased to an individual owner/occupier at any time.
- (c) The spaces must be made available to car share operators without a fee or charge.
- (d) The spaces must be sign posted for use only by car share vehicles and well lit.
- (e) The spaces must be accessible to members of the car share scheme at all times. This may require a standalone access system for car share scheme members to access the location of proposed car share space/s such as basement. Car share operators should be contacted for further information.

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NOTICE OF DETERMINATION – APPROVAL D/2021/563

The car share spaces are to be fully operational prior to the issuing of any Occupation Certificate/s. The car share scheme operator is to confirm operation to

City of Ryde

160. **Car Share Provider.** The submission of documentary evidence to Council that an agreement with a car-share provider has been entered into for the seven (7) car share spaces on site, prior to the issue of any **Occupation Certificate**.

201. **Car Share Parking.** To maintain, facilitate and encourage the use of the car share scheme implemented in the development, the following requirements are to be maintained for the ongoing serviceable life of the development;
- All car share spaces must be publicly accessible 7 days of the week, 24 hours of the day.
 - Carshare parking spaces must be clearly designated and linemarked in the development.

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Conditions of Consent for LDA2016/0602 :-

- Must be retained as Common Property by any future strata subdivision of the development lot.

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ABN: 39 102 892 679

Ideal Carshare Condition Wording – Summary

To ensure a well-designed carsharing program, carsharing arrangements should be finalised before issuing the construction certificate. This allows for earlier collaboration between developers and carshare providers, leading to optimal integration. Additionally, a reporting system for carshare space utilisation would benefit authorities, demonstrating compliance and allowing for adjustments. Ideally, the program should be scalable to adapt to changing demand. This could involve designing spaces that can be used for carsharing or visitor parking as needed, ensuring the development remains adaptable and future-proof.

GoGet's Proposed Ideal Condition Wording

1. XX spaces are to be reserved for carshare operation with no charge to the carshare operator to use them
2. These carshare spaces must be available to all members of the carshare scheme 24/7 and should be well-lit with safe pedestrian access
3. These carshare spaces must be contracted to an operator (a CSP that has been approved by the Responsible Authority) with evidence of agreement submitted to the Responsible Authority prior to issuing of the Construction Certificate
 - a. The agreement must ensure appropriate insurance and vehicle maintenance is in place including public liability.
4. The carshare operation must be in place within XX weeks of issue of the Occupation Certificate
5. The carshare operator must report utilisation of the spaces to the Responsible Authority on a quarterly basis
6. The Responsible Authority reserves the right to conduct audits of the operation at any given time. In the event that a breach of these conditions is identified, the Authority may issue a compliance notice. Alternatively, they may opt for a recurring monthly penalty until the rectification of the non-compliance is achieved. Funds levied through such penalties would be directed towards subsidising the local transportation network.

Optional Extras:

- Strata Managers are to enter an agreement with an operator to ensure all future residents have access to free membership for XX years
- These carshare spaces must have sufficient cellular connectivity to enable booking and operation of the carshare vehicles
- In the interest of future-proofing the parking infrastructure it is recommended that the installation of the requisite Electric Vehicle infrastructure (conduits, wiring, appropriately sized power supply, and metering cabinet) is made mandatory during construction so that EV chargers can be installed when demand necessitates.

If anyone from the Department of Planning, Housing and Infrastructure wishes to discuss these recommendations, or has any further questions, please don't hesitate to contact us.

Kind Regards,



Christopher Vanneste
Head of Space
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Katya Eagles
Council Policy Liaison
katya.eagles@goget.com.au



Darcy Lechte
Carshare Strategic Planner
darcy@goget.com.au

22 August 2024

Mr Andre Szczepanski
Director Assessment and Systems Policy
Department of Planning, Housing and Infrastructure
Locked Bag 5022
Parramatta NSW 2124

Dear Mr Szczepanski,

Explanation of Intended Effect: Pathway changes to support Transport Orientated Development

1. Introduction

This submission has been prepared by *Keylan Consulting Pty Ltd* (Keylan) on behalf of Holdmark in response to the Department of Planning, Housing and Infrastructure's (DPHI) exhibition of the *Explanation of Intended Effect* (EIE) for the *Pathway changes to support Transport Orientated Development*.

The EIE has been exhibited following the NSW Government's announcement in December 2023 of the Transport Orientated Development (TOD) program. The announcement identified 8 station precincts (referred to as the TOD Precincts) which are proposed to be rezoned by the NSW Government to facilitate the accelerated delivery of residential dwellings close to transport, jobs and services.

Holdmark is one of Australia's leading construction companies and owns land within some of the accelerated TOD precincts, including Macquarie Park and Crows Nest. We have made separate submissions on behalf of Holdmark on the respective TOD rezoning proposals for each of these precincts.

We have undertaken a detailed review of the exhibited EIE, as outlined in Section 2 below. In summary, whilst we generally support the proposed planning pathway amendments as they will potentially streamline the assessment process, they will only be effective if they are supported by comprehensive rezonings within the TOD precincts which properly incentivise redevelopment for residential purposes.

In relation to the proposed affordable housing contribution arrangements, we acknowledge the need for affordable housing provision in the TOD precincts. However, in order to ensure project feasibility and the ability for new developments to provide affordable housing, any contribution requirements must be supported by more flexible built form controls that are at least equivalent to the bonuses that would otherwise be available under the Housing SEPP. Similarly, the affordable housing contribution timeframe should be the equivalent to the minimum period of 15 years under the Housing SEPP.

2. Analysis of EIE

The EIE proposes a suit of policy changes to support the TOD program aimed at streamlining the development assessment process and ultimately accelerate housing delivery within the TOD precincts. We have undertaken a detailed review of the EIE and provided a summary of our position in the table below.

Proposed policy change	Position	Comment
Temporary State Significant Development pathway for residential development over \$60 million within until November 2027	Conditional support	<ul style="list-style-type: none"> In-principle support on the basis of: <ul style="list-style-type: none"> single consent authority which will streamline assessment processes and timeframes will better align with State Government objectives to accelerate housing supply and affordability DPHI having more experience with larger scale DAs subject to: <ul style="list-style-type: none"> DPHI being adequately resourced to deal with increased number of applications and ensure timely assessments and determinations sufficient areas of the TOD precincts being rezoned and given sufficiently flexible planning controls to capitalise on the SSD pathway (refer to our submission on the Macquarie Park TOD) the temporary SSD pathway being applied to both Stages 1 and 2 of the Macquarie Park Precinct
Exemption from in-fill affordable housing provisions	Conditional support	<ul style="list-style-type: none"> We note it is proposed to exempt the TOD Precincts from the 20-30% height and bonuses for affordable housing under the <i>State Environmental Planning Policy (Housing) 2021</i>. Concurrently, the Macquarie Park and Crows Nest TODs propose an affordable housing contribution of 10-15%, to be held in perpetuity and managed by a registered Community Housing Provider, for all new residential development. Whilst an affordable housing contribution is generally supported, this is subject to: <ol style="list-style-type: none"> the TOD precinct rezonings properly rezoning all appropriate areas for mixed use and residential development and providing appropriate increases in height and FSR provisions, that are at least equivalent to the bonuses that would otherwise be available under the Housing SEPP – if such rezonings and height and FSR increases are not provided, it will significantly impact on the commercial feasibility of redevelopment in the TOD

Proposed policy change	Position	Comment
		<p>precincts and ultimately act as a disincentive to the provision of affordable housing</p> <p>ii. the affordable housing contribution timeframe being the equivalent to the minimum period of 15 years under the Housing SEPP – this is not only an issue of equity with affordable housing requirements in non-TOD areas but also in ensuring project feasibility within TOD areas</p> <ul style="list-style-type: none"> In terms of changes to planning controls: <ul style="list-style-type: none"> our submission on the Macquarie Park TOD provides a detailed analysis demonstrating that the proposed changes are significantly limited in scope and do not fully capitalise on opportunities for growth across the entire precinct by providing appropriate mixed use zones and increased height and FSR controls in certain areas of that precinct our submission on the Crows Nest TOD provides a detailed analysis of the excessive non-residential FSR applying to Holdmark's site at 35 and 39 Chandos Street, St Leonards, which will act a disincentive to redevelopment of the site and its ability to deliver additional housing
Exemption from low-and mid-rise housing reforms	Conditional support	<ul style="list-style-type: none"> We note DPHI 'may' exempt some TOD Precincts from the low-and mid-rise housing reforms in order to reduce duplication. Whilst we support the aim of reducing duplication of planning controls, any support for this exemption is subject to the TODs providing appropriate rezonings and flexible height and FSR controls that will facilitate redevelopment for residential purposes and contribute to the overall TOD objective of accelerating housing supply. If such changes to planning controls are not provided, landowners and developers within the TOD precincts will be penalised by not having access to the more flexible planning controls that would otherwise be available under the low and mid-rise housing reforms.
Exemptions from certain concurrence and referral requirements	Conditional support	<ul style="list-style-type: none"> It is proposed to exempt local and regionally significant development from concurrence and referral requirements for developments not considered 'high risk' – the high-risk criteria are currently being prepared by DPHI. This exemption is supported in principle, subject to DPHI releasing these high-risk criteria for review and comment at the earliest practicable time.

Proposed policy change	Position	Comment
Alternate design pathway	Conditional support	<ul style="list-style-type: none"> We note an alternate design excellence pathway is proposed for where a Local Environmental Plan requires a design excellence competition to occur within a TOD precinct. However, detail is yet to be released as this alternate pathway is currently being developed by the Government Architect NSW. Whilst we support in-principle a uniform design excellence process, it is imperative that DPHI release details on this proposal for review and comment at the earliest possible time.

Table 1: Summary of position

As outlined above, we generally support the proposed planning pathway amendments on the basis they have the potential to streamline and expedite the assessment process and ultimately facilitate residential redevelopment opportunities in the TOD precincts.

However, we emphasise that these pathway amendments will only be effective if they are supported by comprehensive rezonings and meaningful changes to planning controls across all suitable areas of the TOD precincts.

In this regard, we have prepared separate submissions on the *Macquarie Park Innovation Precinct Stage 2 Rezoning Proposal* and the *Crows Nest Rezoning Proposal*. These submissions set out in detail a number of fundamental shortcomings of these rezoning proposals which mean they will not fully capitalise on opportunities for growth across these precincts and, therefore, will not fully promote the overall TOD objective of accelerating housing delivery in well located areas.

If the proposed rezonings are limited in scope and do not properly incentivise redevelopment for residential purposes (and other complementary land uses), the pathway amendments will provide little utility to the industry and have limited effectiveness in facilitating housing supply.

We also understand that the proposed SSD pathway will only apply to the Stage 2 area of the Macquarie Park Precinct and not Stage 1. This is a highly inequitable outcome that is not based on any planning rationale – there is no reason why this pathway should not be made available to relevant DAs within Stage 1, given this area is still part of a broader precinct that is subject to the same guiding strategic document in the *Macquarie Park Innovation Precinct Place Strategy*. It is imperative that this is rectified and the SSD pathway also be applied to the Stage 1 area in order to properly facilitate accelerated housing supply across the entire precinct.

3. Conclusion

In conclusion, we generally support the EIE for the *Pathway changes to support Transport Orientated Development* and intent of the reforms to fast track the delivery of housing in TOD Precincts.

However, this is subject to:

- DPHI being adequately resourced to deal with an increased number of SSD applications
- the SSD pathway being applied to both the Stages 1 and 2 areas of the Macquarie Park Precinct
- the TODs providing appropriate rezonings including flexible height and FSR controls that facilitate redevelopment for residential purposes and contribute to the overall TOD objective of accelerating housing supply (we have made separate submissions to the Macquarie Park and Crows Nest TOD rezonings which provide a detailed analysis of these rezoning proposals and make specific recommendations to improve their effectiveness in promoting residential development)
- the affordable housing contribution timeframe being the equivalent to the minimum period of 15 years under the Housing SEPP
- DPHI releasing at the earliest practicable time for review and comment, details on key aspects of the proposed reforms

If you would like to discuss any of the above, please do not hesitate to contact Dan Keary, Director at dan@keylan.com.au.

Yours sincerely

Dan Keary

Dan Keary BSc MURP RPIA
Director

Mr Andre Szczepanski
Director Assessment and Systems Policy
Department of Planning, Housing and Infrastructure
Locked Bag 5022
Parramatta NSW 2124

Re: Transport Oriented Development (TOD) accelerated precincts – Pathway Changed to support Transport Oriented Development

Dear Andre,

Thank you for providing Homes NSW opportunity to provide feedback on proposed changes to support Transport Oriented Development (TOD).

Homes NSW has reviewed the Explanation of Intended Effect (EIE) '*Pathway changes to support Transport Oriented Development*' (Department of Planning, Infrastructure and Housing, July 2024) and commends the Department for preparing the TOD program to deliver a large number of new dwellings in areas that leverage existing transport infrastructure investment, reflecting the NSW Government's commitment to supporting growth around transport hubs.

The proposed changes to support TOD are broadly supported and we would like to make the following comments:

Accelerated precinct boundaries

Homes NSW has significant land ownership within 1,200m radius of certain accelerated precinct stations but note that these properties are excluded from the master planning area.

Consideration should be given by the Department to adjusting the boundaries of certain precincts, in consultation with Homes NSW, to ensure that more social housing can be included within the accelerated precincts and incorporated into holistic planning for the precincts.

Potential opportunities for Homes NSW properties to be included by adjusting the master plan boundaries are in the accelerated precincts of Bankstown and Homebush, in particular.

Exemption from infill affordable housing incentives in TOD precincts

According to the EIE, there will be no additional affordable housing incentives available within the TOD precincts. This would exclude any application of the infill affordable housing floor space ratio

and height of building bonuses under Chapter 2, Part 2, Division 1 of State Environmental Planning Policy (Housing) 2021 (Housing SEPP).

Homes NSW opposes this proposal and recommends the height and floor space ratio bonuses should be maintained within the accelerated precincts for *relevant public authorities* as specified under Housing SEPP. This would help ensure economic viable delivery of additional social and affordable housing across the precincts.

Affordable housing contribution

Homes NSW supports the mandatory requirement for all new residential development within an accelerated precinct to include an affordable housing component to be held in perpetuity and managed by a registered Community Housing Provider (CHP).

We note different contribution requirements are proposed for the accelerated precincts ranging between 3-8% for Bella Vista and Kellyville to 10-15% for Crows Nest and Macquarie Park.

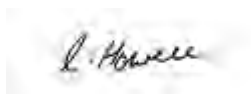
Homes NSW recommends affordable housing contribution rates be a minimum of 10% of the gross floor area of development across all the TOD accelerated precincts and that the contribution be directly proportional to the proposed uplift for any development site arising from the TOD reforms. Homes NSW recommends the affordable housing is retained in perpetuity.

Homes NSW requests being considered as a lead or a support agency in the implementation of the affordable housing contributions program, to deliver diverse and affordable housing. We have the capability to deliver medium and higher density housing for diverse communities, including with local community housing providers.

Homes NSW looks forward to continuing to work with the Department so the proposed changes align with our shared goals of more diverse, social and affordable homes to support more people and families.

Should you require any further information or wish to discuss, please contact Ambrose Marquart on 0410 711 904 or by email at Ambrose.Marquart@homes.nsw.gov.au

Sincerely,



Carolyn Howell
A/Director, Portfolio Services
Portfolio Strategy & Origination
Housing Portfolio, Homes NSW



CONFIDENTIAL

23 August 2024

Mr Andre Szczepanski
Director Assessment and Systems Policy
Department of Planning, Housing and Infrastructure
Locked Bag 5022
Parramatta NSW 2124

Town Planning Submission: Proposed Pathway Changes to Support Transport Oriented Development

Knight Frank Town Planning has been engaged to prepare this submission on the proposed pathway changes to support the Transport Oriented Development (TOD) Program. This submission has been prepared on behalf of landowners within the area identified as Key Site 11 who own land within the Macquarie Park Stage 2 Rezoning. On behalf of our clients, we thank the Department for the opportunity to comment on the proposed changes to support the TOD Program.

Our clients' landholdings are located within Neighbourhood 6, and identified as Key Site (11) in the Draft TOD Rezoning Proposal. This key precinct is expected to deliver a high-density mixed-use development with a residential focus.

It is noted that the proposed accelerated pathway will make provision for development with a value of greater than \$60 million to be eligible for SSD approval pathway. We understand that the rezoning proposal is expected to be finalised by the end of 2024, and these changes to support the TOD program are proposed to be in place for development applications are lodged by November 2027. Together with integrating the scale of development contemplated by the Key Site is the challenge of coordinating landowners noting that consolidating landholdings into a development site is a key reason for designating key sites. Accordingly, we request consideration be given in this instance or more generally to TOD developments above a certain capital value or key sites, to an extended period in which to lodge a development application under the SSD approval pathway.

The proposed changes (EIE Executive summary) indicate that consents granted under the TOD category will be time limited to encourage proponents to begin works within two years. Similarly in considering the scale of our clients' key site we recommend that development consents not be limited to 2 years for commencement. This again is a practical problem for sites of this size with multiple landowners to coordinate. Accordingly, we recommend that the consent period be extended to 5 years as it is for most developments. Again, we would suggest that such an exception to the 2-year period might apply only in this instance or other limited circumstances, say above a certain capital value or to key sites. We understand and note the intent of these changes being to address the housing crisis and maximise housing delivery. We believe lowering the SSD threshold from \$100 million to \$60 million is appropriate, and we assume this will apply also to concept DA. However, this should not be time limited by lodgement of DA or commencement of development for large strategic key sites.

In summary, on behalf of our clients, we request the following particularly in our clients' circumstance where the cost of development is expected to exceed 800 million, and which involves multiple landowners to coordinate.

- Consideration be given to an extended period of time for lodgement of DA beyond November 2027; and
- Consideration be given to an extended period of time for consents

Yours sincerely,

A handwritten signature in blue ink, appearing to read "Mark Grayson", written over a light blue grid background.

Mark Grayson
Director
Knight Frank Town Planning
M: 0400 413 701
Mark.Grayson@au.knightfrank.com

From: Planning Portal - Department of Planning and Environment
<noreply@feedback.planningportal.nsw.gov.au>
Sent: Monday, 22 July 2024 9:47 PM
To: DPE PS ePlanning Exhibitions Mailbox
Cc: DPIE PA Systems Productivity Policy Mailbox
Subject: Webform submission from: Proposed pathway changes to support Transport Oriented Development

Follow Up Flag: Follow up
Flag Status: Flagged

Submitted on Mon, 22/07/2024 - 21:47

Submitted by: Anonymous

Submitted values are:

Submission Type

I am making a personal submission

Name

First name

Lachlan

Last name

Pickles

I would like my name and personal contact details to remain confidential

No

Info

Email

lachlanpickles@hotmail.com

Suburb/Town & Postcode

2126

Please provide your view on the project

I support it

Submission

I fully support this project, and believe it should be expanded to more than just 8 stations. In addition, working with councils to achieve a variety of apartment sizes, and prices will accommodate families and low-income earners to provide affordable options for everybody, not just 1-2 bedroom luxury apartments.

I agree to the above statement

Yes

From: Planning Portal - Department of Planning and Environment
<noreply@feedback.planningportal.nsw.gov.au>
Sent: Sunday, 21 July 2024 7:50 PM
To: DPE PS ePlanning Exhibitions Mailbox
Cc: DPIE PA Systems Productivity Policy Mailbox
Subject: Webform submission from: Proposed pathway changes to support Transport Oriented Development

Follow Up Flag: Follow up
Flag Status: Flagged

Submitted on Sun, 21/07/2024 - 19:49

Submitted by: Anonymous

Submitted values are:

Submission Type

I am making a personal submission

Name

First name

Lee

Last name

Ryan

I would like my name and personal contact details to remain confidential

No

Info

Email

leecryan01@gmail.com

Suburb/Town & Postcode

Summer Hill 2130

Please provide your view on the project

I support it

Submission

Sydney desperately needs more housing of all types. I personally connect with this TOD project because if I happened to move to this location, while a little further out, it would allow me to remain on the same train line. Making it easier for me to maintain my employment and social connections. For someone of my generation to have any hope of owning a home without massive financial aid (something I don't have), housing like this needs to be

built.

I agree to the above statement

Yes

From: Planning Portal - Department of Planning and Environment
<noreply@feedback.planningportal.nsw.gov.au>
Sent: Wednesday, 24 July 2024 1:51 PM
To: DPE PS ePlanning Exhibitions Mailbox
Cc: DPIE PA Systems Productivity Policy Mailbox
Subject: Webform submission from: Proposed pathway changes to support Transport Oriented Development

Follow Up Flag: Follow up
Flag Status: Flagged

Submitted on Wed, 24/07/2024 - 13:50

Submitted by: Anonymous

Submitted values are:

Submission Type

I am making a personal submission

Name

First name

Lisa

Last name

Skerl

I would like my name and personal contact details to remain confidential

No

Info

Email

lisa_skerl@hotmail.com

Suburb/Town & Postcode

2049

Please provide your view on the project

I object to it

Submission

I have several issues with the proposal:

Heritage conservation areas should NOT allow for ANY development proposals other than restoring the building. More heritage buildings should be applied for and given Fast Track response to save them.

Minns wanted a French style of apartments to be built in inner Sydney. Maximum height of 22 or 24 storeys is NOT following this vision. Height level is inappropriate to local surrounding area.

Design of buildings need to blend in aesthetically to surrounding buildings. Modern buildings are an aesthetic eye sore and clash with surrounding buildings especially along the inner west corridor which is the part of the eldest zones of Sydney.

Sydney needs to shift the mental focus of demolition to restoration.

Housing crisis is not the exact reality in stead it is a housing PRICE crisis , this is the truth.

Older hubs / villages around stations such as Homebush, Croydon and Marrickville will lose their vibe and appeal. Existing buildings MUST not be demolished for higher and uglier buildings . These areas need to be maintained and restored to preserve culture and history through architectural visual and historical platforms.

I agree to the above statement

Yes

Our ref: R20/0017#04

22 August 2024

Mr Andre Szczepanski
Director Assessment and Systems Policy
Department of Planning, Housing and Infrastructure

By email: SystemsProductivity.Policy@planning.nsw.gov.au

EIE: Proposed pathway changes to support Transport Oriented Development

Dear Mr Szczepanski

Thank you for the opportunity to provide comment on the above Explanation of Intended Effect (EIE) for proposed pathway changes to support Transport Oriented Development (TOD). Local Government NSW's (LGNSW) comments on the proposed changes are set out below.

Please note that this submission is made in draft form, pending endorsement by the LGNSW Board. Any amendments will be forwarded in due course.

State Significant Development category for TOD accelerated precincts

To support the TOD program, the Department of Planning, Housing and Infrastructure (DPHI) is proposing to establish a new temporary State Significant Development (SSD) category for residential development valued over \$60 million located within the eight designated TOD Accelerated Precincts. The pathway will remain in place until November 2027, aiming to encourage lodgement of development applications (DA) within the five-year housing accord period.

As a principle, LGNSW objects to the continued and concerning trend by successive State Governments to remove local councils from the assessment process by lowering SSD thresholds.

Councils are supportive of measures to deliver more housing, but this needs to be done with due regard for the strategic plans that have been agreed upon by councils, their communities and the NSW Government.

This proposal is of significant concern to councils because the low threshold value assigned to determine what is 'state significant' means that many applications will be

determined by a state government approval pathway, bypassing local community participation and diminishing the role of local government and planning panels in the decision-making process.

Councils continue to raise concerns about the expansion of SSD in the planning system. This provision further removes decision-making from councils and their communities. Councils point to frequent instances of inadequate consideration of local planning, such as the provision for local infrastructure and consideration of local infrastructure contributions, when development is assessed under this pathway. As discussed later in this submission, the overall absence of detail in the TOD Program about how increased infrastructure needs will be assessed, planned for and funded is a major concern of local government.

A local DA pathway allows for appropriate conditions of consent to be applied to address and mitigate any local impacts.

As a matter arising from the expansion of the SSDA pathways in this and other areas, councils are reporting to us that they continue to be called upon to either provide assessment advice to the Department or to comment on formal reports as part of the assessment process. This work is currently unfunded for councils. As a result, ratepayers are subsidising the assessment work of the NSW Government rather than councils being able to charge a fee as per usual under the adopted fees and charges. In these circumstances it is appropriate that councils be allowed to charge a fee to the State for these services to allow for cost recovery. We would be pleased to assist with further consultation with the sector to advise as to the costs being incurred if that is of assistance.

Exemption from in-fill affordable housing provisions

DPHI is proposing to exempt development in TOD accelerated precincts from the in-fill affordable housing provisions within Chapter 2 of the Housing SEPP. The provisions provide a floor space ratio bonus of 20-30 percent and a height bonus of 20-30 percent for projects that include at least 10-15 percent of gross floor area as affordable housing.

Councils have been concerned about the complexity, confusion and unintended consequences of multilayered provisions between the various planning instruments that apply in TOD precincts.

LGNSW is not supportive of the affordable housing infill provisions (on the basis that permanent height and density bonuses should not be awarded for temporary affordable housing). Thus, LGNSW supports the exemption from these provisions in TOD accelerated precincts, particularly as the precincts will require a certain quantum of affordable housing provision in perpetuity.

A clear framework for affordable housing provision in both the TOD accelerated precincts and Tier 2 precincts must be prioritised. In precincts where affordable housing contribution schemes have not yet been developed, rezonings are being progressed with indicative rates of affordable housing. However, there is little evidence of how these have been derived. A robust, transparent and replicable method for determining contribution rates (and increasing them over time) is critical to ensure contributions are maximised in line with the development uplift proposed.

In addition, the NSW Government's commitment to delivering 30% social and affordable housing on surplus government sites must be upheld. LGNSW understands there are several government land parcels within TOD precincts.

We also acknowledge the Department's engagement with LGNSW and other key stakeholder organisations regarding work currently underway more broadly in to incentivise affordable housing by addressing development of affordable housing contributions plans.

Exemption from low and mid-rise housing reforms

The low and mid-rise housing reforms (LMR housing reforms) propose expanded permissibility of housing types and related planning controls in station and town centre precincts.

While the proposed changes have not yet been fully introduced, councils have raised concern about complexity and confusion if the proposed changes apply in TOD precincts.

The commitment in the EIE to fully assess the interrelation between the LMR housing reforms and accelerated TOD rezonings to reduce duplication and maximise housing potential is therefore welcome. However, the EIE contains no detail on how this will be done and what the impact will be. In the absence of any meaningful explanation of intended effect, any changes must be undertaken in close consultation with relevant councils.

Exemptions from certain concurrence and referral requirements

LGNSW understands there is potential to streamline local and regionally significant development within TOD accelerated precincts from concurrence and referral requirements.

The EIE proposes that concurrence and referral requirements that are not considered to be high risk be exempted, with the exemption established for a period of five years.



Individual councils will be best placed to advise on exemptions appropriate to the TOD precincts in their area.

Again however, the EIE does not contain any detail of the requirements that will be considered, nor explanation of intended effect of this proposal, and so cannot reasonably be commented on.

As a result, it is critical that:

- councils have the opportunity to review and endorse any exemptions proposed
- there is flexibility to review exemptions during the five year period, should feedback indicate the level of risk has changed, and
- the rationale (including risk assessment) underpinning specific exemptions is clearly documented and publicly available.

Alternative design excellence pathway

Councils understand the importance of timely DA assessment timeframes, however this should not come at the expense of delivering well-designed precincts and buildings for current and future communities.

The proposal in the EIE to develop an alternative design excellence pathway where a Local Environment Plan (LEP) requires a design competition is intended to “deliver faster DA timeframes combined with high-quality design outcomes”.

LGNSW understands this pathway is being developed by the NSW Government Architect and will involve a design review process and requirement regarding selection of architects.

It is critical that the NSW Government Architect consult closely with councils in the development of the design excellence pathway. Many councils have extensive experience working with design panels to deliver high quality development tailored to local circumstances.

The absence of local involvement risks long term harm to the quality and liveability of TOD precincts.

LGNSW opposes moves to bypass existing design excellence pathways.

Infrastructure planning and funding mechanisms

Infrastructure capacity and timely provision are some of the most critical elements if the State is to achieve its delivery targets under the National Housing Accord. The cumulative impacts on infrastructure capacity of the TOD program (combined with the blanket permissibility provisions for density uplift under the low and mid-rise housing changes and additional affordable housing bonuses already in place) will be immense.

Infrastructure planning is fundamental when rezoning to intensify land use, and as such councils are ever mindful of local capacity constraints associated with urban infill when they undertake planning proposals that rezone land. The Government's TOD program proposals effectively bypass a conventional rezoning (or planning proposal) and give a green light to significant and widespread increases in development capacity without any detail about how increased infrastructure needs will be assessed, planned for and funded.

New housing will require more than access to transport. New housing will increase demand for water and sewerage, schools, hospitals, sports fields and open space and other local services. It will also place cumulative pressure on state road infrastructure as well as specific pressure on local roads traffic and stormwater. In many locations this infrastructure is already at capacity, as has been highlighted by councils in their earlier submissions on the TOD reforms.

In planning to accommodate over 230,000 new dwellings in the TOD precincts alone, communities cannot afford the consequences of the NSW Government failing to appropriately consider infrastructure planning, sequencing and investment.

The exhibited documents for the 8 accelerated precincts lack detail around commitments to State Government funding to deliver improvements to state and regional infrastructure. In the case of the Hornsby rezoning proposal for example, the EIE notes that State infrastructure upgrades and improvements will be subject to further detailed investigations and funding commitments and the infrastructure proposals and initiatives are indicative and subject to appropriate approval pathways and funding commitments for delivery¹. While the accelerated precincts EIEs note that the State Government has committed \$520m from the Housing and Productivity Fund to be spent on community infrastructure in the TOD precincts, they do not identify which projects will be allocated this funding.

While acknowledging the work that is proposed to be undertaken by the Urban Development Programs and the impact that may have on strategic infrastructure planning, councils are seeking greater certainty that essential supporting infrastructure will be delivered for future communities as part of the planned density

¹ [Explanation of Intended Effect \(EIE\) - Hornsby TOD](#)

increases in these precincts. This should be made evident and the infrastructure needed should be clearly planned for, ideally at the time of these rezonings, but if not at least in line with the approvals granted. This is critical not only for the building of healthy, active and prosperous communities, but also critical to ensuring the right price signal is to be sent to the market as to the value of the land they are being asked to buy/develop.

~ ~ ~

LGNSW notes that for many of the proposed changes further work is required to develop policies and processes to implement them. DPHI must consult further with councils as these are progressed.

In addition, the key concerns set out in LGNSW's submission to the parliamentary inquiry into the development of the TOD program remain, and that submission is thus appended to this response.²

Yours sincerely

A handwritten signature in blue ink, appearing to read 'David Reynolds'.

David Reynolds
Chief Executive

² LGNSW submission in response to the Inquiry into the development of the Transport Oriented Development Program, [available online](#).

Transport Orientated Development, submission:

Mr Andre Szczepanski
Director Assessment and Systems Policy
Department of Planning, Housing and Infrastructure

Despite the obvious need for additional housing in Sydney and its proposed locations being linked to transport hubs, I feel issues of environmental impact, increased pressure on existing infrastructure such as roads, sewage, water supply, educational opportunities need to be addressed first.

Greens spokesperson for Planning, Sue Higginson said recently;

“Top down planning regulations should never be the first step. Councils responsible for the delivery of well located and appropriate homes in their local government area should be front and centre in any housing and development planning capacity program. To deliver arbitrary and rubbery numbers based on theoretical modelling will result in ad-hoc developments driven by corporate profit driven interests, not community wishes,”

In the Willoughby City Council area the proposed increase in density for an area such as Artarmon is a classic example of lack of planning. The demands on the sewage system is already at breaking point. This is evidenced by overflows into natural waterways (creeks and ultimately Sydney Harbour) whenever large rain events occur. Schools are in insufficient supply, electricity grids need upgrading and local Royal North Shore Hospital land has been rezoned.

The State Government is overriding the planning powers of Local Councils without addressing the legislated procedures that they should follow. In particular the EP&A Act has not been adhered to, as the legal challenge from Ku-ring-gai Council attests.

Heritage protection is not weighted heavily enough, such that the tone and style of an area could be completely destroyed.

The submission made by the ‘Local Government NSW’ adequately and seriously addresses my concerns and much more. Local Government is not being engaged sincerely in light of their existing contribution to housing availability. They highlight the infrastructure planning shortfalls and I endorse all of their recommendations. The link to their submission is below;

[https://lgnsw.org.au/common/Uploaded files/Submissions/2024/
Transport_Oriented_Development_Program.pdf](https://lgnsw.org.au/common/Uploaded%20files/Submissions/2024/Transport_Oriented_Development_Program.pdf)

Finally, affordable housing needs are barely addressed by an expectation that only two percent of the 180,00 new dwellings will allocated to address that purpose. A much higher number would be required to help those in need and keep a diversity of income earners and employment styles accommodated within our communities.

Mark Crew

From: Planning Portal - Department of Planning and Environment
<noreply@feedback.planningportal.nsw.gov.au>
Sent: Monday, 5 August 2024 6:06 PM
To: DPE PS ePlanning Exhibitions Mailbox
Cc: DPIE PA Systems Productivity Policy Mailbox
Subject: Webform submission from: Proposed pathway changes to support Transport Oriented Development

Follow Up Flag: Follow up
Flag Status: Flagged

Submitted on Mon, 05/08/2024 - 18:06

Submitted by: Anonymous

Submitted values are:

Submission Type

I am making a personal submission

Name

First name

Martin

Last name

Scurrah

I would like my name and personal contact details to remain confidential

No

Info

Email

mascurrah@gmail.com

Suburb/Town & Postcode

HIGHFIELDS 2289

Please provide your view on the project

I object to it

Submission

Mr Andre Szczepanski

Director Assessment and Systems Policy

Department of Planning, Housing and Infrastructure

Locked Bag 5022

Parramatta NSW 2124

Dear Mr. Szczepanski:

I am writing to object to the policy changes aimed at streamlining development assessment and speeding up housing delivery in Transport Oriented Development (TOD) accelerated precincts.

I am objecting because social justice and equity require that affordable housing be the top of the range for each development, or 15%. Affordable housing should be regulated by not-for-profits and in perpetuity.

I request that these considerations be incorporated in the proposals for all Transport Oriented Development (TOD) accelerated precincts.

Yours sincerely,

Martin Scurrah

I agree to the above statement

Yes

PIA Submission – Proposed pathway changes to support Transport Oriented Development

PIA is pleased to provide our submission on the proposed pathway changes to support Transport Oriented Development (TOD). This submission incorporates feedback from the PIA NSW Policy and Advocacy Committee.

PIA supports streamlined assessment – but only where risks have been managed up-front by robust planning and engagement at the precinct scale.

Comments on the proposed pathway changes are provided in the table below.

Proposed changes	PIA comment
SSD category for TOD Accelerated Precincts	We do not object but note the additional procedural requirements under the SSD pathway – council assessment could offer a reduced administrative burden in some cases. There is also a risk of Departmental assessment resources becoming overwhelmed.
Exemption from in-fill affordable housing provisions	Supported – assuming TOD affordable housing arrangements deliver more comprehensive affordable housing outcomes. Arrangements for affordable housing should be clearly signalled up-front and implemented alongside rezoning.
Exemption from low-and mid-rise housing reforms	Supported – there should be a single set of controls for high density TOD precincts. This reduces the risk of sites being development prematurely below the intended density.
Exemptions from certain concurrence and referral requirements	Removal of concurrence and referral requirements is only warranted if the role of these processes is performed at the precinct scale prior to rezoning (e.g. exhibited precinct master plans – prepared with State Agency input)
Alternative design excellence pathway	Further detail required – an alternative pathway could be supported where an urban design framework is adopted in the context of a precinct master plan.

PIA engagement with the TOD Program

PIA have been closely engaged with the TOD Program throughout its development. In September 2023, we issued a [joint statement](#) with Shelter NSW in support of a “Station Precinct SEPP and enabling reforms”, calling for an integrated package which “*streamlines development assessment where there is capacity near stations for growth or a commitment to build capacity by creating opportunities for inclusive renewal.*”

Since the announcement of the TOD Program, PIA have written submissions on the TOD SEPP and to the Inquiry into the Development of the TOD Program ([link](#)). These submissions have supported the intent of the TOD Program, but on the basis that it should be just one of the many components needed to deliver a broader city strategy.

Consistent themes of our advocacy have been the need for integrated strategic planning, better coordination between planning instruments, and up-front arrangements for delivering affordable housing.

Risk-weighted planning pathways

The success of proposed pathway changes depends on there being sufficient planning work done up-front to manage the risks of development before individual development applications are actually lodged. This follows the principle of having assessment according to risk, as set out in the Development Assessment Forum (DAF) Leading Practice Model (2005)¹:

“Development applications should be streamed into an assessment ‘track’ that corresponds with the level of assessment required to make an appropriately informed decision.”

This idea is embedded in the development control system of every Australian jurisdiction, including New South Wales. Lower risk applications, determined according to clear criteria, can proceed down a code-based ‘complying development’ pathway. On the other hand, more complex or risky developments are streamed into different merit-based pathways for a more rigorous test of their potential impacts. This allows for risks to be managed at the assessment stage – this is why height and floor space ratio (FSR) controls set only a maximum building envelope that could be achieved if concerns including privacy, solar access and site coverage are addressed.

Streamlined or reduced assessment might provide a faster process, but it also implies that some of the ability to negotiate risks at the assessment stage is lost. This trade-off must be balanced out by ensuring that the relevant planning issues are managed before development assessment takes place. Evidence that this step has been taken should be publicly available.

For example, PIA’s [recent submission](#) on the Draft Guide to Transport Impact Assessment (TIA) recommended that Transport Impact Statements (TIS), which are a reduced form of TIA, could be used to streamline development in strategic areas. This would require a more thorough assessment of cumulative transport impacts and network design at the precinct scale prior to any rezoning.

Effective consultation with other state agencies is also an important step in this process, as it allows resources to be coordinated across Government to ensure an adequate level of service is maintained at all development fronts.

Unless this early work is undertaken to justify streamlined assessment, development risks will simply be borne by local communities and the city at large.

¹ The DAF was established by the Federal Government in 1998 to “bring together the three levels of government with industry and professional associations, to examine ways to speed up assessment and cut red tape, without sacrificing the quality of the decision-making.”

Strategic integration

The cumulative risk of development is also influenced by how well it integrates with the overarching strategic framework for an area. Development which varies from stated policy has a higher risk of contributing to negative cumulative impacts at the suburb or city scale.

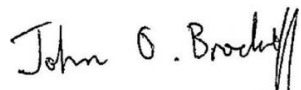
The strategic planning framework is also the basis for coordinating the priorities of various infrastructure and service delivery agencies across Government.

The DAF Leading Practice Model (2005) observes the general principle that the level of assessment should relate to the strategic planning framework. It recognises that an effective policy framework is an essential precondition for assessment, and that assessment criteria function as interpretations of how policy outcomes should be met by new development.

This highlights the need for a broader city strategy which includes the TOD Program, but within the context of other land uses, infrastructure and places which are also vital.

Please contact PIA NSW at nsw@planning.org.au for further information on this submission.

Yours sincerely,



John Brockhoff
PIA National Policy Director

30 August 2024

Monica Gibson
Deputy Secretary
Planning, Land Use, Strategy, Housing and Infrastructure
Department of Planning, Housing and Infrastructure
Lodged via NSW Planning Portal

Submission to the NSW Government's Tier 1 Transport Oriented Development Program (Accelerated Precincts)

Dear Ms Gibson, *Monica,*

The Property Council is pleased to provide comment on the various Explanations of Intended Effect (EIE) for the Accelerated Precincts on exhibition as part of the NSW Government's Transport Oriented Development (TOD) agenda.

Our submission is broken into key parts and provides comment on the overall planning framework, in addition to more specific feedback on a precinct by most precinct basis. We are particularly enthusiastic about the steps taken by the government in taking existing place strategies and pre-planning work to bring forward these initial accelerated precincts.

As our members have considered the precinct EIE's and structure plans, development feasibility has been at front of mind. The NSW Government has a short window of time to deliver 377,000 new dwellings as part of the National Housing Accord and the key consideration driving member feedback has been whether development under the proposed controls and contributions will be achievable in an environment of inelastic price expectations and escalation of costs.

To this extent we have raised concerns about the level of affordable housing contributions proposed across the precincts. The TOD opportunity – and the delivery of significant development uplift – is one of the few very real opportunities for a contribution of this nature to work, and while indicative contributions have been provided, concern has been raised about the viability of these rates and their impact on project feasibility. We address this issue and provide options for the Department to consider in Part One of our submission.

In some precincts, the accelerated nature of the rezonings has resulted in our members identifying areas and opportunities to deliver additional housing. In these cases we have asked the Department to identify "future investigation areas" and future stages of TOD rezoning. These opportunities will be discussed in Part Two of our submission.

Congratulations to you and the entire Planning, Land Use, Strategy, Housing and Infrastructure team on the acceleration of these precincts. While there is more work to do in addressing our housing supply crisis, we are committed to achieving practical and workable outcomes.

If you wish to discuss aspects of our submission further please feel free to reach out to myself or our Western Sydney Regional Director Ross Grove on 0412 897 130 or via email to rgrove@propertycouncil.com.au

Yours sincerely,



Katie Stevenson
NSW Executive Director
Property Council of Australia



Submission to the NSW Government's Tier 1 Transport Oriented Development Program (Accelerated Precincts)

August 2024

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Part One: A new planning pathway

State Significant Development

The draft Explanation of Intended Effect (EIE) proposes a temporary State Significant Development (SSD) pathway until November 2027 for residential development applications valued over \$60 million. In support of the proposal the EIE claims this approach will ensure a consistency across the rezoning and assessment of these precincts.

Given the significance of the Tier 1 precincts to the delivery of the state's housing targets under the National Housing Accord, the Property Council is supportive of opening of the pathway to projects rezoned under the program.

The 2-year time limitation for applications under this pathway is not supported. Projects of a larger scale involve a level of planning and preparation work that is likely to require a longer period of pre-lodgement activity, in addition to creating an unintended consequence of a larger number of applications being "rushed" into the system in the leadup to the closure of the SSD pathway in November 2027.

While there is a case to be made for a periodic review of the type of development that is subject to an SSD pathway, this should occur in the context of all state significant development with a view toward creating durable, responsive and proportional assessment pathways rather than a piecemeal and temporary approach.

Policy options

Working with our members, we have identified two options to improve on the proposal in the EIE:

- Option One: Provide a permanent State Significant Development (SSD) pathway for residential development over \$60 million within each of the Transport Oriented Development Precincts, with any future changes to the eligibility criteria and CIV thresholds for State Significant Development to be considered as a part of a periodic statewide review.
- Option Two: Extend the proposed temporary provision of a State Significant Development Pathway from two years to the five-year National Housing Accord Period.

Recommendation

1. Make the State Significant Development (SSD) pathway permanent, with any future changes to the eligibility criteria and CIV thresholds for State Significant Development to be considered as a part of a periodic statewide review.

Concurrence and referral

The EIE proposes a 5-year exemption from concurrence and referral requirements that are not considered high-risk to speed up assessment timeframes. It is also proposed that high-risk concurrence and referrals will be retained to ensure safe and orderly development.

While specific detail on concurrence and referral requirements in the exhibition material is limited, the Property Council is acutely aware of the role that prolonged concurrence and referral assessment times have in stretching out the determination times for applications, in addition to the uncertainty created by a referral where the outcome is unclear or inconsistent.

Our members commonly identify delays related to the consideration of referrals related to traffic management, stormwater management, and building in close proximity to either utilities or major public transport assets.

Removal of duplicate referrals

In some cases, referrals to emergency services such as the Rural Fire Service or the State Emergency Service occur at both the planning proposal stage and development application stage. This duplication of referrals needs to be reviewed by the Department, with the objective of promoting a level of careful and thorough pre-planning at the planning proposal stage with an ultimate design to minimise further agency referrals where an application meets the objectives of a relevant development control.

National practices

In November 2017, the Property Council of Australia's Residential Development Council released its research paper *Cutting the Costs: Streamlining State Agency Approvals*. The report makes three findings which remain relevant today:

- The current approach to state agency approvals is inconsistent, inefficient and adds to housing costs
- There is considerable scope for reform in each state and territory that would lift our capacity to boost housing supply pipelines, and
- Governments interested in reducing their own administrative costs have plenty to gain from transforming approval processes.

The report benchmarks states against key design elements of good planning systems, namely:

- Only one body should assess an application, using consistent policy and objective rules and tests
- Referrals should be limited only to those agencies with a statutory role relevant to the application
- Referrals should be for advice only
- A referral authority should only be able to give direction where this avoids the need for a separate approval process.
- Referral agencies should specify their requirements in advance and comply with clear response times.

This report formed a significance basis for the Property Council's advocacy in subsequent years, leading up to its support for the creation of the Planning Delivery Unit in July 2020. While

the operation of the PDU was a positive step forward for unblocking referrals across government, the model stopped short of compelling agencies to respond within fixed timelines.

Queensland's SARA model

While potentially outside of the scope of the immediate rezoning agenda, our members generally share the view that the Queensland Government's State Assessment and Referral Agency (SARA) remains the best practice of state governments across Australia.

This model, and its practical application in a local context should be considered as a policy priority beyond the immediate precinct rezoning agenda.

Unnecessary referrals

In consultation with our members on agency referrals, the feedback ranged from the need to identify "low hanging fruit" and the removing the need for additional reports on items which are likely to be considered as part of the initial rezoning. The "low hanging fruit" sought the removal of requirements for social impact assessments, crime prevention strategies, economic impact assessments, infrastructure strategies and traffic impact assessments given that these impacts are best considered as part of the rezoning of the entire precinct.

"Life or death" referrals

The EIE lightly touches on a need to retain referral and concurrence requirements in situations that are "high risk". This seems like a reasonable approach, however consideration should also be given to whether this consultation should occur at the time of zoning so that issues like fire, flood and emergency service risk can be considered at a whole-of-precinct level, rather than ad hoc advice for development applications that comply with the relevant controls.

Turnaround time caps

Additionally, our members were very quick to point out that improvements to the remaining concurrences and referrals are likely to perform "only as well as the slowest moving part", meaning that a prolonged water referral effectively offsets any gains realised by incremental improvements elsewhere in the concurrence and referral framework. As a result, we are recommending that any referrals that continue to apply to a TOD Precinct be subject to a response time of 90 days, extendable to 120 days with the agreement of the Department.

This limitation on referral times provides certainty to industry and the Department, while elevating the significance of the TOD agenda to non-planning areas across government that is reflective of the NSW Government's housing agenda.

Recommendations

1. Concurrence and referral requirements should be turned off in as many cases as possible, particularly where an application broadly complies with a development control.
2. In the limited circumstances, where referrals and concurrence are deemed necessary, the period for comment be limited to 90 days.
3. Where this hasn't already occurred, concurrence and referral agencies develop plans and policies to enable the swift assessment of applications in a TOD location (e.g. creating standard conditions of consent for building across each component of trunk drainage infrastructure in a precinct structure plan).

4. The NSW Government give further consideration to how to best manage the burden of concurrences and referrals on the delivery of new housing supply for development applications outside of the focus of the Tier 1 TOD accelerated precincts.

Affordable housing contributions

Across the various TOD locations, in-perpetuity Affordable Housing Contributions are proposed at various rates spanning from 3% in Bankstown and Bella Vista to 15% in Crows Nest and Macquarie Park.

A summary of the Affordable Housing Contributions by precinct can be found below:

Precinct	Affordable Housing contribution	Anticipated affordable housing (approx)
Hornsby	5-10%	250-500
Macquarie Park	10-15%	460-690
Kellyville and Bella Vista	3-8%	620-1,650
Crows Nest	10-15%	325-488
Bankstown	3-10%	375-1,250
Homebush	5-10%	805-1,610

Our position on inclusionary zoning

Inclusionary zoning can only work in specific situations, where it doesn't harm the feasibility of projects. Get it right, and inclusionary zoning can add to the stock of social and affordable housing. Get it wrong, and it can stop housing from being built or make housing in the surrounding development unaffordable.

If inclusionary zoning could be made to work, it would be in specific precincts where development potential is being dramatically increased, or government is supplying the land, and only where it's applied to new developments, not projects already in the pipeline.

Contributions not viable

In the present market conditions, these contribution rates are not economically feasible and will severely restrict the development capability of each of these precincts. We note the Department has not produced any economic modelling to justify the determination of these rates, and in the absence of this material it is difficult to help identify where in the rationale underpinning the contributions the government has erred.

In June this year we launched our research report, *Release the Pressure*. The report identifies that infill development in the Central River City and Western Parkland City is no longer economically feasible because the development margin between costs and anticipated sale prices create an unacceptable risk for lenders.

The report identified increased construction costs, the new Housing and Productivity Contribution (in effect from 1 October 2023) and Sydney Water Development Service Plans (in effect from 1 July 2024) as the key cost drivers placing pressure on feasibility. The inclusion of new affordable housing contributions creates another cost barrier to the delivery of new housing.

Without the introduction of affordable housing contributions, development feasibility is already called into question for the Bankstown, Bella Vista and Kellyville precincts; and at their current proposed level the affordable housing contributions will place pressure on the development

feasibility of the remaining precincts, particularly those sites which are not presently in government ownership.

Policy options

There are several options available to government to address the impact of affordable housing contributions on development feasibility. Unfortunately, the government has not provided any economic modelling to support the case for these contributions and this has constrained the industry's capacity to respond to what is proposed..

Across the board rate reduction

Individual landowners are making submissions regarding the level of inclusionary zoning that can be feasibly accommodated on their site. These reductions will vary from location to location given the different price and market conditions and the cumulative impact of special costs that relate to an individual site.

What is clear is the affordable housing contributions are not affordable in their present form. A steep, across-the-board reduction in affordable housing contribution rates is the simplest and fastest way to promote development feasibility while meeting the NSW Government's ambition to introduce inclusionary zoning at a larger scale to the Sydney property and development landscape.

Cash contributions

Each of the proposed affordable housing contribution schemes requires the dedication of housing stock, without any option for developers to make a cash contribution where the delivery of this housing is unworkable.

By way of example, an apartment building of 20 dwellings in the Bankstown TOD precinct under the proposed rates will incur a 3% affordable housing contribution, requiring the dedication of 0.6 dwellings to a community housing provider.

It is recommended that the option of making a cash contribution in lieu of dedicating stock be included within all of the affordable housing contribution schemes. Cash contributions are a critical ingredient for low-rate affordable housing contributions schemes as they provide a degree of flexibility for the developer in meeting their obligations across a wide range of development types.

This will provide a better outcome for industry where the dedication of stock is impractical, and enable the community housing sector to pool funds with a view to consolidating their portfolio across a smaller number of sites.

Future of the existing height/floorspace bonus

We note the NSW Government has a stated intention of promoting in-perpetuity affordable housing within from the TOD precincts, to be enabled through the uplift created by the rezoning of the TOD precincts.

At the present contribution rates and in the present market conditions, the targeted delivery of affordable housing is unlikely to be achieved.

The likelihood of achieving the desired level of affordable housing is far more likely to be achieved under the existing infill affordable housing incentive with the affordable housing stock to be held for a period of 15 years. This is because affordable housing stock under this model

ultimately has an economic value which can be realised by the proponent, and this benefit can be taken into account by finance providers when making a lending decision.

Application area for affordable housing contributions

Our members note the accelerated rezonings tend to apply to smaller catchments within a defined precinct area. Differences exist within the exhibition material and draft affordable housing contribution schemes regarding the application of these contributions.

For the avoidance of doubt, our preference is for affordable housing contributions to apply only to those areas which have been the subject of significant residential uplift, and not to those aspects of a precinct which are yet to be rezoned.

Recommendations

1. The draft affordable housing contribution schemes not proceed at their present rates.
2. The affordable housing contributions across all precinct locations be reduced to ensure development is economically feasible and capable of attaining finance in the present cost and market landscape.
3. The NSW Government give careful consideration to retaining the in-fill affordable housing bonus as the most effective mechanism for the delivery of affordable housing within the 5-year National Housing Accord period, particularly in those markets where inclusionary zoning provisions might not be feasible.
4. Each of the Affordable Housing Contribution Plans be amended to make provision for cash contributions where the dedication of stock is impractical.

Height and floorspace bonuses

Exemption from in-fill affordable housing provisions

In December last year, the NSW Government implemented changes to the Housing SEPP to promote in-fill development and encourage private developers to deliver more affordable and market housing. The reforms included:

- A floor space ratio (FSR) bonus of 20–30% and a height bonus of 20–30% for projects that include at least 10–15% of gross floor area (GFA) as affordable housing. The height bonus only applies to residential flat building and shop-top housing.

A requirement that the affordable housing portion of the development to remain affordable and be managed by a registered community housing provider for a minimum of 15 years.

The EIE proposes to remove the application of the in-fill affordable housing provisions from the TOD precincts, preferring the application of an in-perpetuity affordable housing contribution.

In our consultation with members, this element of the proposal was a cause of disappointment given the clear market signal to industry that occurred with the introduction of the incentive in December. The view was roundly expressed that the Housing SEPP incentives were a considerably more effective mechanism for delivering affordable housing than the in-perpetuity contributions proposed in the exhibition material.

Low and mid-rise housing reforms

Concerns have been raised regarding the application of the low and mid-rise (LMR) housing reforms to the accelerated precincts. The EIE does not provide clarity as to how or if these reforms will apply.

The TOD rezoning agenda exists to provide pathways to deliver high levels of housing supply to meet the needs of the market and address the state's obligations under the National Housing Accord. In theory, the TOD rezonings should be of a scale whereby the industry would not be interested in considering its options under the LMR reforms, however our members have identified areas in the Crows Nest TOD where this is not the case. We discuss this specific example in the Crows Nest component of Part Two of this submission. For the industry to support the switching off of these provisions, we would need to be satisfied that all areas subject to an accelerated rezoning would be capable of achieving a floor space ratio higher than 2.86:1 across all precincts. We encourage the Department to make these changes in its final rezoning.

Status of seniors living incentives under Housing SEPP

The Housing SEPP provides incentives for seniors housing targeted at the development of "vertical villages". The incentives are designed to improve housing diversity, provide options for people to downsize while staying in their local community and promoting retirement villages as a viable development option, particularly when having to compete against traditional residential developers for the acquisition of land.

Specifically, the SEPP provides for incentives are between 15% and 25% bonus floor space, a reduction in the landscaped area requirements for residential care facilities from 25 m2 to 15 m2 per bed, and a new State Significant Development pathway for seniors housing for projects worth more than \$30 million.

The seniors housing aspect of the Housing SEPP is not mentioned in the exhibition material, although in the context of the switching off of affordable housing incentives we wish to confirm our support for their continued application in the areas subject to an accelerated rezoning.

Recommendations

1. Floor space ratios within the areas identified for rezoning need to be increased beyond 2.86:1 to provide a level of density beyond the capacity of the low and mid-rise housing reforms. These changes would need to be accompanied by a proportionate level of height adjustments..
2. The Housing SEPP incentives for seniors living continues to apply to the accelerated precinct.

Design excellence pathway

The EIE proposes to replace existing requirements for an architectural design competition with alternate design excellence provisions.

While the EIE provides minimal detail regarding the specifics of what is under consideration, the departure from design competitions is a welcome step forward as it removes a process which is both costly and time consuming, particularly when other mechanisms exist to promote design excellence.

We note applications that rely on the State Significant Development Pathway will be subject to design excellence provisions that already exist, and our members advise this is their preferred policy solution.

Award winning architects

The Property Council is aware of a proposal to create a pool of reputable architects for developers to use in the preparation of designs in place of holding a design competition. The pool of architects would be limited to practitioners who had either won a design competition in another location, or who had won a recognised design award.

In considering its support for this solution, the number of eligible practitioners would be a key consideration. We encourage the NSW Government to engage in targeted consultation with key industry groups including the Property Council prior to adopting this measure.

Limitation to existing design competition requirements

In adopting any change, the primary objective needs to be the removal of unnecessary cost and delay to the delivery of new housing. With this in mind, the Property Council is seeking confirmation that any of these changes will be limited to sites where the local council has already identified a requirement for an architectural design competition.

Recommendations

1. An alternate pathway should be provided to enable industry to deliver housing in the TOD precincts without being required to undertake a costly and time-consuming architectural design competition.
2. The preferred option is that the design excellence requirements attached to existing State Significant Development should apply in lieu of the requirement for a design competition.
3. Any alternate process be included as an option for sites which are presently the subject of a design competition, and not across all of the precincts identified for an accelerated rezoning.

Part Two: TOD Precinct feedback

Hornsby

The EIE for Hornsby proposes to deliver up to 5,000 additional new dwellings within the precinct. The development uplift includes mandatory affordable housing contributions of between 5-10% for all new residential development, delivering between 250 and 500 homes in perpetuity and managed by the community housing sector.

The proposed rezoning builds on the work of Hornsby Shire Council's Hornsby Town Centre Master Plan (2023) which was the culmination of five years of work to formulate an ambitious vision to transform Hornsby's major town centre.

Reach of study area

In identifying the parts of Hornsby selected for an accelerated rezoning, the Department has taken an approach of focusing on those locations with sites where an immediate uplift in housing is practical and likely to occur given a site's proximity to transport infrastructure, lot sizes and ownership patterns. This is a sensible approach.

Our members have expressed the view that sites exist at the periphery of the structure plan that are worthy of consideration in the accelerated rezoning. Within a walkable radius to Hornsby Station opportunities exist for further rezoning, with the furthest site to proposed for an accelerated rezoning only 618 metres from the station itself.

We encourage the Department to carefully consider landowner submissions seeking inclusion in the catchment area for accelerated rezoning, while identifying a future planning investigation area for streets within an 800m radius (subject to walkability) to enable further planning proposals to provide additional housing supply.

Government owned land

Land exists to the north of Hornsby Station (south of Bridge Road and bordering Jersey Street and George Street) that is not being rezoned. It is understood that DPHI is in discussions with the Transport Asset Holdings Entity (TAHE) to gauge the development potential of this land.

Mindful of the heights proposed for neighbouring sites in private ownership, we encourage this future rezoning to proceed in the short to medium term.

Recommendations

1. Consider landowner submissions seeking inclusion within the area identified for accelerated rezoning.
2. Identify a planning investigation area to enable further developer, council or state-led planning proposals within a walkable area of Hornsby Station.
3. Work with TAHE to rezone government-owned land in the precinct.

Kellyville and Bella Vista

The EIE for Kellyville and Bella Vista proposes to deliver up to 20,700 additional new dwellings within the precinct. The development uplift includes mandatory affordable housing contributions of between 3-8% for all new residential development, delivering between 620 and 1,650 homes in perpetuity and managed by the community housing sector.

Precinct boundary

The EIE identifies both a precinct boundary and focus areas within these boundaries identified for the accelerated rezoning.

Perplexingly, there is a large lot in single ownership (currently Parklea Markets) sitting immediately outside the wider precinct boundary that has been identified previously by proponents as the location of a future town centre. The site sits within the 1.2km radius required in the principles supporting TOD.

In addition to this site, Rothwell Circuit, Consolo Avenue and Almona Street in Glenwood have also been excluded from both the wider precinct boundary and focus area for accelerated rezoning, despite being even closer to both stations. The lot sizes, zoning and ownership patterns are not inconsistent with other similar areas to the west of Windsor Road that have been identified for accelerated rezoning.

We encourage the Department to consider including these locations in the accelerated rezoning for Kellyville and Bella Vista, and should further exploration be required, to identify the areas for further investigation or a future stage rezoning.

Supporting infrastructure

The Department in its public online briefings has already acknowledged the need for further school infrastructure in to support existing growth in the area. A new school has been identified for Kellyville, and the Department has confirmed that efforts are underway to identify further opportunities.

Additionally, Blacktown City Council has identified a need for greater walkability across the precinct. Old Windsor Road is the boundary between Blacktown and The Hills Shire Councils, and the width of this corridor becomes more challenging from a walkability perspective once the bus transitway and metro rail corridors are also considered.

To address these two issues, we encourage the Department of Planning, Housing and Infrastructure to work with the relevant government agencies to progress their investigations and ultimately business cases for these supporting infrastructure projects in order to ensure they are capable of being considered as part of the Urban Development Program.

Recommendations

1. Consider expanding the precinct boundary to include areas of Glenwood, including Parklea Markets within the 1.2km radius.
2. Department to work with other agencies to bring prioritise the delivery of schools and walkability infrastructure to support growth in the precinct.

Macquarie Park

A longstanding vision exists for the Macquarie Park precinct through the *Macquarie Park Innovation Precinct (MPIP) Place Strategy 2022* and supporting technical studies. The strategy informs a two-step state-led rezoning of the precinct with the present exhibition material seeking to accelerate the “Stage 2” rezonings.

The EIE for Macquarie Park proposes to deliver up to 4,622 additional homes close to three metro stations – Macquarie University, Macquarie Park and North Ryde. The additional homes will be complemented by a further capacity to deliver 1,989,815 sqm in commercial floorspace or 5,096 additional dwellings, subject to market demand.

The development uplift includes a mandatory affordable housing contribution of between 10–15% for all new residential development in the precinct, with the intentions of delivering to deliver between 460–690 affordable homes in perpetuity, managed by a registered community housing provider.

Future commercial demand

The Property Council of Australia’s July 2024 Office Market Report does not identify strong levels of demand to support the zoning of a commercial office market with capacity to grow to 1.9 million square metres in size. An office market of this size is equivalent to the combined size of the current Parramatta and North Sydney office markets.

With this in mind, we encourage the government to consider excising the North Ryde Riverside component of the precinct for future mixed-use residential development, and to carefully consider individual landowner submissions seeking to adjust non-residential floorspace components where these proposals assist in supporting development feasibility.

Grade	Vacancy, Jul 24 (%)	Vacancy, Jan 24 (%)	Net absorption, 6 months to Jul 24 (sqm)
A	19.9	21.0	14,859
B	18.9	18.8	-352
C	11.0	13.8	977
Total	19.3	20.1	15,484

Role of build-to-rent

The Property Council is supportive of the efforts of the NSW Government, to increase the take-up of build-to-rent (BTR) in Macquarie Park, including enabling the permissibility of build-to-rent within the employment zones as outlined in the EIE.

The provision for BTR will help deliver on the Place Strategy’s ambition for an 18-hour Macquarie Park economy, while the single-owner BTR model removes ownership barriers to office conversion should market conditions change in the future.

North Ryde Riverside

The Property Council welcomes an intensification of land uses for the North Ryde Riverside sub precinct identified in the EIE, however its proposed dwelling yield and non-residential components would benefit from changes to give the sub precinct a stronger role in delivering the housing our state needs to have in well-located areas.

Our members have noted the take-up of “innovation” business uses within the area has waned following the gradual withdrawal of CSIRO’s presence. The present buildings are of a B and C-Grade office nature and a mixed-use residential precinct with higher height and FSR controls is the preferred model for the precinct’s future.

We encourage the Department to consider a “Stage 3” rezoning of this sub precinct on a standalone basis, and its gradual separation from the overall Place Strategy as part of this future role.

Prohibition on data centres

Data centres present a range of challenges given their intense need for water and power. In areas outside Macquarie Park, landowners have expressed concern regarding the impact of this resource draw on the serviceability of surrounding land. The EIE cites streetscape activation concerns as the primary objection to including data centres in the precinct, however the innovation and technology needs of the precinct are reliant on a metropolis with nearby access to data centre capacity.

The Property Council does not support further restrictions on the permissibility of data centres until such time as the Department has prepared a well-considered strategy in collaboration with industry and relevant utilities providers to cater to the Sydney’s future data centre requirements and servicing capacity.

Recommendations

1. Identify the North Ryde Riverside sub precinct as an area for a further rezoning to deliver a significantly higher residential yield in the short-to-medium term.
2. Retain the permissibility of data centres in Macquarie Park until a citywide strategy on data centre needs is prepared with support and input from industry.

Bankstown

The EIE for Bankstown proposes to deliver up to 12,500 additional new dwellings within the precinct. The development uplift includes mandatory affordable housing contributions of between 3-10% for all new residential development, delivering between 375 and 1,250 homes in perpetuity and managed by a community housing provider.

Removal of non-residential core

The Property Council supports the removal of the non-residential core for the Bankstown town centre. While we accept there is a need to provide employment floorspace in Bankstown, demand for commercial-only floorspace is limited, and the city has historically struggled to attract large-floorplate tenants to pre-commit to office space in Bankstown.

This means that for office floor space to be delivered, another revenue-generating asset class (residential) is required for a project to attain development feasibility. Bankstown's future may be as a centre of jobs, but the only pathway to enabling that floorspace to be unlocked, is through the delivery of apartments to offset the commercial risk.

This same approach to non-revenue generating floor space should be considered when exploring contribution rates for affordable housing. While the scale of development uplift suggests that opportunities for inclusionary zoning are achievable, the imposition of non-residential floorspace requirements increases the pressure on project feasibility. In a market where existing costs are already high, we strongly encourage the Department to take non-commercial floor space requirements into account when setting an affordable housing contribution level.

Recommendations

1. The Department proceed with its proposal to pursue a mixed-use core in the Bankstown town centre.
2. The impact of mandating higher non-residential floorspace on project feasibility be considered when determining an in-perpetuity affordable housing contribution, with the government to determine whether or not to reduce the non-residential requirement or the contribution rate.

Crows Nest

The EIE for Crows Nest proposes to deliver up to 3,255 additional new dwellings within the precinct. The development uplift includes mandatory affordable housing contributions of between 10-15% for all new residential development, delivering between 325 and 488 homes in perpetuity and managed by a community housing provider.

Considering the success of the NSW Government's investment in Sydney Metro, the proximity of Crows Nest as a location in proximity to North Sydney and St Leonards, the short commute times to employment centres at Chatswood, Sydney CBD, Macquarie Park and Norwest, we believe that Crows Nest is capable of delivering more growth than the accelerated rezoning is seeking to achieve.

Opportunities to deliver more housing

The overwhelming view of members and landowners believe the effort to accelerate the rezoning of Crows Nest has resulted in less housing being proposed than the precinct is capable of delivering.

A new metro station, in close proximity to commercial centres Chatswood, North Sydney, Sydney CBD and Macquarie Park needs to be capable of delivering a higher level of development density – spread across a wider precinct catchment.

Decisions to retain non-commercial floor space ratios are not supported by industry, and the Economic Impact Assessment prepared by Atlas Economics, which cites on Property Council Office Market Report data would suggest the market for this office space is limited to non-existent.

We are recommending the TOD zoning proposal for be reworked to take on a more level of housing supply, and the extent of such a revision could potentially require either a "Stage 2" accelerated rezoning or a re-exhibition of new EIE and structure plan. Should the government opt for the latter option, we encourage this to occur at the same time as the exhibition of the accelerated rezoning of the Bays West Precinct early next year.

A future Crows Nest rezoning needs to deliver more housing beyond more than the immediate blocks adjoining the rail corridors and Pacific Highway. Such a rezoning should emphasize a more generous "walkable development radius" for both precinct rezoning, and where this is not immediately possible, a compatible future investigation area that welcomes creative planning proposals.

Demand for commercial office space

With its proximity to other commercial centres and the current prioritisation of housing across all levels of government, housing needs to be the primary driver for the Crows Nest precinct.

The economic impact report prepared by Atlas Economics relies on 2024 Property Council Office Market Report data to identify a 25% office vacancy rate in Crows Nest, with strong incentives (discounts) offered by leasing agents and a reference to the Crows Nest market as being dominated by "price conscious occupiers".

The projected future commercial takeup of 20,000 sqm over is unlikely to generate the pre-lease appetite for office investment that is proportionate to the non-residential floorspace requirements proposed in the EIE – this demand can effectively be accommodated within the market's existing vacancy rate.

There is only one site in the Crows Nest precinct where the non-residential floor space ratio requirements have been reduced (by 10:1 to 1:1). We would encourage this sort of approach to other sites within the precinct to deliver affordable and market housing in response to the national housing crisis.

Defects in height transition

The transect planning hierarchy doesn't flow outward from the Crows Nest centre, meaning that contrary to conventional planning logic, higher levels of density and development are achievable outside the development area.

This is because the areas outside the rezoning area benefit from low-mid rise housing and affordable rental housing bonuses that don't apply within the rezoned area. There are sites located within 200 metres of the new Metro stop (on Nicholson Street) with floor space ratios of 1.6 :1 and 2:1.

In practice this means a site outside the accelerated rezoning boundary can theoretically achieve a floor space ratio of 2.2:1 if it's located within 400m of a railway station, and combined with a 30% affordable rental housing bonus the floor space ratio would increase to 2.86:1.

These issues underscore the need for a higher density outcome for Crows Nest.

Treatment of existing planning proposals

A number of members have raised concerns at the impact of the proposed EIE and anticipated rezoning on existing planning proposals and applications in the system. In the interest of providing a planning system that delivers on both certainty and housing, it is critical that these matters be handled carefully, mindful of the resources that have been committed to getting these projects off the ground.

Recommendations

1. The Department prepare a new planning proposal for Crows Nest, building on the existing work of the Crows Nest Place Strategy and the EIE, to be considered as either a "Stage 2" rezoning, or a fresh proposal to be exhibited concurrent with the Bays West rezoning early next year. Such a rezoning should consider:
 - a. An adjustment to non-residential floor space requirements in response to established market conditions and the need to deliver additional affordable and market housing.
 - b. Expansion of the focus area for the Crows Nest rezoning, with additional height and density to be delivered over a wider walkable catchment, consistent with the declared walkable area of 1.2km noting the variety of accessible transport options across the precinct.

Homebush

The EIE for Homebush proposes to deliver up to 16,100 additional homes within the precinct. The development uplift includes mandatory affordable housing contributions of between 5-10% for all new residential development in the precinct, delivering between 805 and 1,610 affordable homes in perpetuity and managed by a registered community housing provider.

Reach of study area

The precinct boundaries skew heavily toward areas of Homebush covered by the Canada Bay local government area. While the precinct boundaries expand the full length of the Parramatta Road corridor in the Strathfield LGA, the only significant changes to planning controls relate to the areas to the east of Flemington Markets.

Opportunities for future rezonings exist to the west of Flemington Markets, and these opportunities warrant separate consideration. These areas bounded by Parramatta Road, Marlborough Road and the rail corridor need to be flagged for future planning investigation so as not to preclude the consideration of future planning proposals.

Recommendations

1. The areas bounded by Parramatta Road, Marlborough Road and the rail corridor be identified for future planning investigation so as not to preclude the consideration of future planning proposals.

From: Planning Portal - Department of Planning and Environment
<noreply@feedback.planningportal.nsw.gov.au>
Sent: Monday, 19 August 2024 12:58 PM
To: DPE PS ePlanning Exhibitions Mailbox
Cc: DPIE PA Systems Productivity Policy Mailbox
Subject: Webform submission from: Proposed pathway changes to support Transport Oriented Development

Follow Up Flag: Follow up
Flag Status: Flagged

Submitted on Mon, 19/08/2024 - 12:58

Submitted by: Anonymous

Submitted values are:

Submission Type

I am submitting on behalf of my organisation

Name

First name

Susan

Last name

Fox

I would like my name and personal contact details to remain confidential

No

Info

Email

susan.fox@rfs.nsw.gov.au

Suburb/Town & Postcode

West Pennant Hills, 2125

Please provide your view on the project

I am just providing comments

Submission

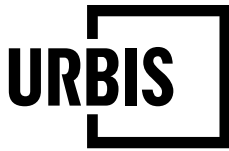
The NSW Rural Fire Service (RFS) notes the Department aims to remove certain concurrence and referral (C&R) provisions that are not considered high-risk for 5 years after the gazettal of the TOD accelerated precinct rezonings to streamline development assessment pathways.

The Department proposes to remove the C&R provisions required under Section 96 (bush fire prone land) under State Environmental Planning Policy (Housing) 2021 for the purposes of development of an independent living unit and residential care facilities.

At this stage the RFS does not have any objection to the removal of this C&R provision under the Housing SEPP as there are other approval pathways and the majority of exhibited TODS are not located on land near relevant bush fire prone land (with the exception of Macquarie Park). The RFS' view on the current exhibited TOD planning proposals should not be taken as a precedent.

I agree to the above statement

Yes



**ANGEL PLACE
LEVEL 8, 123 PITT STREET
SYDNEY NSW 2000**

URBIS.COM.AU
Urbis Ltd
ABN 50 105 256 228

23 August 2024

Mr Andre Szczepanski
Director Assessment and Systems Policy
Department of Planning, Housing and Infrastructure
via NSW Planning Portal

Dear Andre,

HORNSBY TOD PRECINCT REZONING PROPOSAL – WESTFIELD HORNSBY

1. SUBMISSION SUMMARY

- This submission has been prepared on behalf of Scentre Group (**Proponent**) in response to the public exhibition of the Explanation of Intended Effects (**EIE**) for the Hornsby Transport Orientated Development (**TOD**) Precinct Rezoning Proposal by the NSW Department of Planning, Housing and Infrastructure (**DPHI**).
- Scentre Group owns and operates, including on behalf of its co-owner partners, the Westfield Living Destinations portfolio across Australia and New Zealand. This includes 15 such centres in NSW alone. Each of their Living Destinations provide significant opportunities for employment and complementary uses and in most cases anchor broader strategic centres.
- Scentre Group takes great interest in the Hornsby TOD precinct rezoning proposal given their asset, Westfield Hornsby, is one of the largest single consolidated landholdings located within a 400m radius of Hornsby Station and forms part of the Hornsby TOD precinct boundary. Its recognition and potential to support significant housing supply was previously recognised in Council's Hornsby Town Centre Masterplan and to which Scentre Group recorded broad support but subject to certain caveats.
- Scentre Group needs to ensure that the final controls proposed by the TOD rezoning proposal are fit for purpose and are aligned with the capability that the Westfield Hornsby site can play in successfully delivering on the Government's housing policy agenda from the immediate short term.
- Accordingly, an alternative height / massing is proposed to that contained in the exhibition material. Importantly this results in no increase in FSR relative to the existing and proposed controls.
- This alternative scheme is reflective of a more detailed and contemporary analysis of feasibility and deliverability constraints and particularly in recognition of the existing operating retail footprint that currently and will continue to exist and serve its retail catchment.
- This submission is supported by specialist economic and market based advice prepared by Urbis and CBRE which confirms that the current and future retail and office market environment is not capable of supporting any increase in non-residential floor space in the short to medium term. This is a critical issue, because as currently proposed, the EIE and specifically the minimum non-

residential FSR control will effectively prevent delivery of ANY housing on the Westfield Hornsby site given the existing non-residential FSR of the site is approx. 1.56:1.

In summary, it is Scentre Group's position that the following matters be addressed in the final TOD package:



Minimum Non-Residential FSR Reduced

The minimum non-residential FSR be reduced from 2:1 to 1.3:1 to facilitate feasible development outcomes.



Redistribution of Density and Height

Density needs to be redistributed and heights increased at certain locations to make development feasible given the existing tenancy layout



Contribution and Affordable Housing Caps

Local infrastructure contributions and affordable housing be capped at 4% and 5% respectively.



Public Benefit Mechanism

Implementation of a mechanism where the delivery of a public benefit would result in density and height bonuses under the newly created LEP.



Extended Timeframe for SSDA Pathway

An extended timeframe for the SSDA pathway to 2030 to allow for detailed design work and further considerations relevant to development staging on-site.

2. WESTFIELD HORNSBY

- Westfield Hornsby is a regional shopping centre located within the Hornsby Town Centre. It is an amalgamation of four individual lots, of which are outlined in **Table 1** and shown in **Figure 1**.

Table 1 Westfield Hornsby Site Details

Address	Lot/DP
236 Pacific Highway, Hornsby	Lot 1 DP 1037552
20-34 Hunter Street, Hornsby	Lot 2 DP 1037552
24 Florence Street, Hornsby	Lot 2 DP 982708
Cnr Muriel and Burdett Streets	Lot 50 DP 777819

Figure 1 Westfield Hornsby (outlined in 'red') within Hornsby Town Centre (outlined in 'black')



Source: Urbis

- It is noted that Lot 50 is currently leased to Hornsby Council where Council operates a youth centre.
- A number of underground and airspace leases also exist. The lessor in these instances is Hornsby Council with leases in place until 2100.

3. HORNSBY TOWN CENTRE MASTERPLAN

- Scentre Group has been actively engaging with Hornsby City Council for several years during the development of the Hornsby Town Centre Masterplan.
- For context, Westfield Hornsby represents one of the largest landholdings in the precinct in single ownership. As such, Scentre Group is deeply invested in ensuring that the TOD program can be best aligned in ways that enables Scentre Group's effective contribution to housing delivery in a meaningful and expedited manner, building on themes and issues raised in its earlier dialogue with Council.

3.1. KEY MATERS RAISED IN SCENTRE GROUP SUBMISSION TO COUNCILS DRAFT MASTERPLAN

- The final adopted version of the masterplan reflected, in part, some key points raised by Scentre Group in their submission and consultation with Council. Of particular note was the redistribution of heights across Westfield Hornsby, which were increased from 24 storeys under the draft plan to 36 storeys in 2 locations and between 8-15 storeys on the remainder of the site.
- Other key matters raised by Scentre Group in their submission to Council that remain relevant to the TOD proposal are:
 - *Deliverability* – concerns over significant reliance on Westfield Hornsby to support the delivery of the quantum of dwelling and job targets noting site constraints and direct impact on existing retail footprint may preclude the construction of towers at certain locations.
 - *Feasibility* – high level feasibility testing at the time that took into consideration structural reinforcement of existing podium, opportunity costs, contribution rates and cost of construction showed that a 36-storey height control across the entire Westfield Hornsby site results in "marginal at best" feasibility.
 - *Development Staging* – development in the short – medium term (0-10 years) to be planned in the northern and southwestern portion of the asset as it provides advantages such as: greater connectivity with town centre and station precinct, improved amenity through opportunity for greater integration with existing Centre and east-west pedestrian zone and reduced intervention and impact to operation of existing centre.
 - *Pedestrian through-site Links* – the design objective of through-site links (including through the Westfield centre itself) was supported in principle as a long-term aspiration, but the practicality of achieving such will be entirely linked to tenancy lease agreements - many of which have quiet enjoyment clauses as well as buildability and feasibility considerations.
 - *Traffic and Transport Upgrades* – proposed road works that impact car park entry/exits be the subject to further review and discussion with Scentre Group having regard to the timing and delivery of the overall Masterplan and taking into account earlier recommendations regarding deliverability and feasibility.

4. OVERVIEW OF HORNSBY TOD REZONING PROPOSAL

- The EIE proposes the following statutory planning control changes over the Westfield Hornsby site:
 - Rezone the site from E2 – Commercial Centre to MU1 – Mixed Use.
 - Retention of existing 5:1 FSR control.
 - Introduce a minimum non-residential FSR control of 2:1.
 - Increasing building height from 23.5m to a maximum of 121m in portions of the site. Heights of 30m, 43m, 52.5m, and 121m are introduced across the site.
- The Design Guide proposes the following design controls relating to the Westfield Hornsby site:
 - Introduce a podium height of 3 storeys.
 - Introduce a 0m setback at the podium levels and 6-8m setback at the tower levels.
 - Provide north-south through site links.
 - Provision of active frontages along Florence Street and Hunter Street.

5. COMMENTS ON HORNSBY TOD REZONING PROPOSAL

- Scentre Group appreciates the efforts to enhance the development framework over the Hornsby TOD precinct and the site. The approach and application of changes is generally supported, however there are key elements of the TOD proposal which must be addressed to ensure development outcomes can be achieved in the short to medium term.
- Specific comments and recommendations are as follows

5.1. NON-RESIDENTIAL FSR TOO HIGH

- The EIE identifies a non-residential floor space ratio (FSR) of 2:1 for both the retail core precinct and the Westfield Hornsby site.
- As communicated previously to DPHI and Council as part of previous Development Applications and during consultation forums and submissions, the current retail FSR of Westfield Hornsby falls well below the proposed 2:1 non-residential FSR control, estimated at approximately 1.56:1 or 103,000 square meters of gross floor area (subject to detailed survey information).
- Both retail and commercial sectors are facing constraints in the current market environment, particularly exacerbated by the effects of COVID-19. For a site of this scale, accommodating an additional 0.44:1 FSR would result in an extra 29,000 square meters of non-residential floor space, which is not considered feasible, nor does Scentre Group intend to provide in the short to medium term.
- The Hornsby Council Masterplan conducted its studies of the market environment and economic context in December 2019 prior to the COVID-19 pandemic. It is understood that DPHI has adopted this required minimum as part of the rezoning proposal without evidence of further analysis to provide veracity to the proposed minimum control being viable.
- Urbis has prepared an economic assessment which provides market validation on why a non-residential floorspace reduction is appropriate and will not have a detrimental impact on the retail

and commercial outcomes of the Hornsby LGA (refer to attachment). In summary, the assessment identifies:

- There is an overprovision of regional and sub regional shopping centre floor space within 30 minute drivetime catchment of Westfield Hornsby and an overprovision of discount department store floor space per resident within this catchment.
 - Department stores are expected to continue to face reduced demand due to continued growth in online retail spending as evidenced by recent store closures and reductions.
 - Development confidence is low, with only 9,000sqm of retail floor space being proposed by the market and 11,000sqm of approved developments being abandoned in Hornsby LGA.
 - Commercial office floorspace demand is low across Greater Sydney – currently experiencing a vacancy rate of 11.6% as of July 2024 (equates to 600,000sqm floor space supply).
 - There is a permanent shift in declining office floorspace requirements per resident following COVID-19.
 - Hornsby LGA is experiencing a high commercial office vacancy rate of 8.6%.
 - Adopting a minimum non-residential FSR of 2:1 on Westfield Hornsby would result in a commercial office market oversupply of 14,100 sqm by 2034.
- CBRE has also prepared a letter of advice (refer to attachment) which supports the Urbis findings that the development of new commercial floor space is significantly challenged in Hornsby.
 - Furthermore, accommodating residential tower forms above the existing shopping centre is likely to lead to a reduction in the quantum of existing retail floor space on site. This is likely to occur in order to accommodate the tower form proposed in the SW corner of the site.
 - Therefore, it is recommended that a reduction in the non-residential FSR for Westfield Hornsby to 1.3:1 which still delivers a significant quantum of non-residential floor space – circa 85,800sqm, and is considered appropriate given the economic assessment undertaken by Urbis and commercial market update prepared by CBRE.

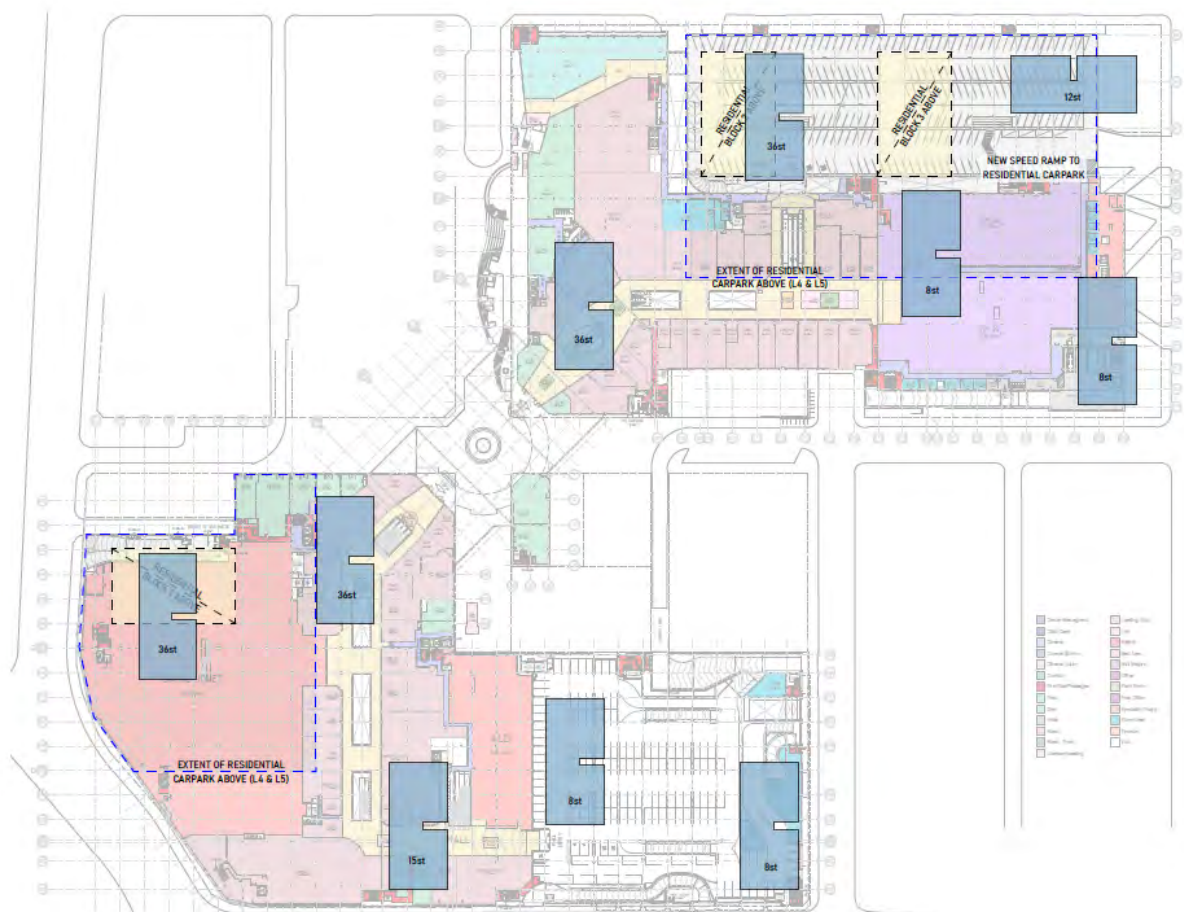
Recommendation

Non-residential FSR minimum is to factor in existing situation, market conditions and loss of existing retail floor space to accommodate tower forms. Accordingly, it is requested the non-residential FSR control be amended from the proposed 2:1 to 1.3:1.

5.2. ALTERNATIVE DISTRIBUTION OF DENSITY ACROSS WESTFIELD HORNSBY THROUGH INCREASED HEIGHTS

- It is understood the proposed height of building controls has been informed by the Design Framework including proof of concept test fits.
- As illustrated in the following plan extract prepared by Scentre Group, the majority of the proposed tower locations are impractical and won't lead to residential development in the short to medium term. There is very little commonality between proposed TOD footprints in Blue and the footprints proposed in Scentre group's alternative concept. This is primarily due to impact of residential building forms on the retail footprint along with feasibility and buildability constraints.
- Scentre Group objects to any intention to provide statutory weight to the location of building footprints per the Proof of Concepts contained in the Urban Design Framework.

Figure 2 COX Proof of Concept Overlay



Source: COX (amended by Scentre Group)

- Scentre Group has undertaken further work to determine the most practical locations for residential building forms, and the heights these buildings must achieve while:
 - remaining consistent with the maximum FSR control of 5:1;
 - ensuring suitable environmental amenity and mitigates potential adverse effects of tower built forms;
 - addressing feasibility, buildability and deliverability constraints including limiting impact to retail footprint; and
 - having regard to the established objectives and design moves and locality statement for the retail core precinct (including consideration for residential areas to the east and south).
- As illustrated in the Residential Development Study prepared by Scentre Group (attached), a high-level urban design analysis supported by feasibility testing confirms that there are only a few select locations that can support tower forms above the existing retail podium in the short to medium term. This includes two residential towers of 47 storeys above the northern car park and a 47-storey residential tower in the southwestern part of the shopping centre.
- Importantly, this alternative scheme is not seeking an increase in yield and is effectively a redistribution of built form that could otherwise be achieved if the entire site was redeveloped. As a result, the proposed residential towers (inclusive of the non-residential floor space below) results in a total GFA of approximately 224,500sqm or 3.4:1 FSR which remains well below the maximum existing and proposed FSR control of 5:1.
- The Residential Development Study is supported by high level solar access and shadow testing, which demonstrates the towers are potentially capable of resulting in a compliant scheme subject to detailed design. In addition, shadow impacts are primarily cast over the Westfield Centre itself in the morning period, with fast moving shadow over the residential precinct in the afternoon. In particular, the towers do not overshadow the area earmarked to accommodate Hornsby Square at any time of day during mid -winter and therefore are able to contribute to the new open space satisfying the solar access provisions contained in the draft Design Guide.
- In addition, the scheme does not preclude public domain upgrades such as through site links and pedestrian zones from being achieved in the longer term and generally consistent with the draft Design Guide.
- An illustrative comparison between the Hornsby TOD Proof of Concept scheme and Scentre Group redevelopment scheme (in the short term) is provided in the Figures overleaf.

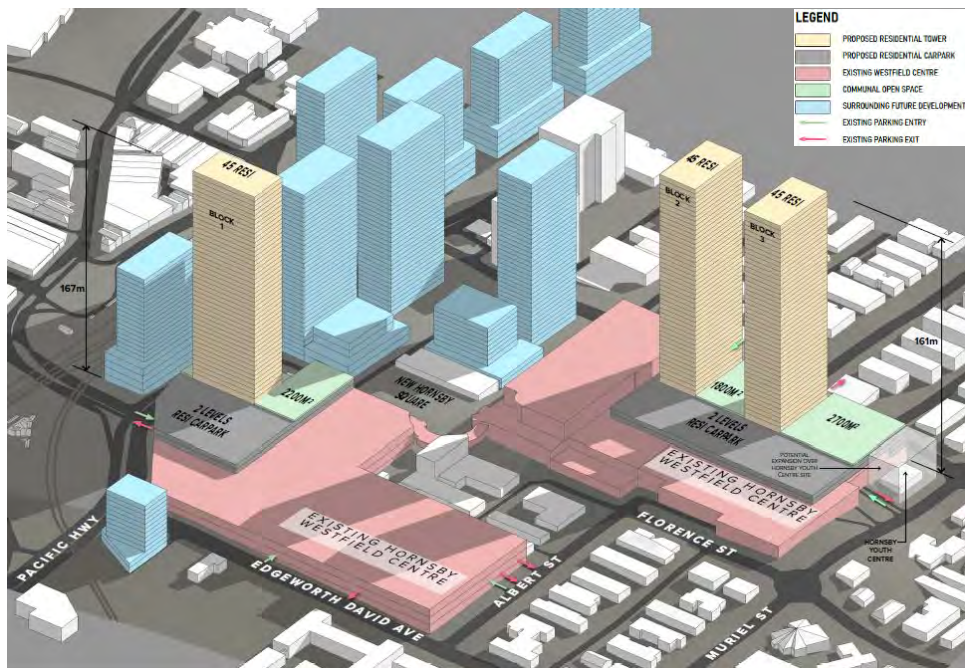
Recommendation

Amend the LEP height of building map at three locations on the Westfield Hornsby site in accordance with the Residential Development Study prepared by Scentre Group. It is proposed the heights are increased as follows:

- **South west – from 36 storeys (or 121m) to 49 storeys (or 162.6m);**
- **North west – from 36 storeys (or 121m) to 53 storeys (or 168.6m); and**
- **North east – from 12 storeys (or 43m) to 53 storeys (or 168.6m).**

In addition, it is requested that no statutory weight is provided to the location of currently proposed building footprints per the Proof of Concepts contained in the Urban Design Framework.

Figure 3 Scentre Group Residential Development Study



Source: Scentre Group

Figure 4 COX Proof of Concept – Above Podium Level – Indicative Layout



Source: COX

5.3. CONTRIBUTION FRAMEWORK AND AFFORDABLE HOUSING

- It is recognised the local contributions framework is yet to be prepared with the EIE and Infrastructure Delivery Plan referencing a potential section 7.12 levy percentage of between 4 - 5%.
- Furthermore, the exhibition documents put forward an affordable housing contribution range of 5 - 10% for all new residential development.
- It is also acknowledged that in addition to the proposed contribution mechanisms, a Housing and Productivity Contribution is also payable.
- Feasibility modelling undertaken to underpin the Residential Development Study prepared by Scentre Group is based on a maximum section 7.12 levy of 4% and maximum affordable housing levy of 5%. An increase in levies beyond these amounts would render the alternative scheme unfeasible.

Recommendation

Infrastructure contribution under s 7.12 be capped at a maximum of 4% of estimated development cost. In addition, affordable housing provision (including dedication and monetary equivalent) be capped at a maximum of 5% of new residential floor space.

5.4. HORNSBY SQUARE & MECHANISM FOR DELIVERY OF PUBLIC BENEFITS

- Implementation of the recommendations listed above represents Scentre Group's 'base case' to make any development feasible in the short to medium term.
- That said, the notion of providing public benefit (such as the delivery of infrastructure and other public benefits) in exchange for an increase in development uplift is an approach that Scentre Group supports in principle and something that could be mutually beneficial for all stakeholders.
- Reflecting this, it is noted that the EIE identifies a request for feedback regarding the expansion of Hornsby Square southward, citing:

We are seeking feedback on the potential for expanding Hornsby Square southward into the land owned by Westfield, this potential change would be made feasible by increased development potential on the rest of Westfield's land.

- Firstly, Scentre Group wishes to place on the record that it has not canvassed any views on this proposition and is concerned regarding the origin of this statement. Scentre Group have not discussed this with either Council or DPHI.
- Scentre Group's primary concern is that any expansion southward into Westfield would involve the demolition of multiple levels of prime retail floorspace and further dilute the ability to comply with the non-residential floorspace ratio control.
- However, the excerpt in the EIE gives rise to an incentive mechanism involving a partnership approach whereby additional height and floor space is awarded in return for the delivery of infrastructure which is key to the successful growth of the Hornsby Town Centre.
- Accordingly, Scentre Group is prepared to collaborate with DPHI and Council through further urban design testing to inform what the public benefit could be to unlock any proposed incentive mechanism. This may include the provision of a public library within Westfield. Any public benefit should not be limited to the southward expansion of Hornsby Square southward, which is not supported by Scentre Group at this time.

Recommendation

A site specific LEP clause be included that allows for additional height and density uplift to be realised beyond the base controls if infrastructure delivery is provided.

5.5. EXTENSION OF SSD PATHWAY

- It is understood the proposed planning pathway changes to support TOD accelerated precincts, currently on exhibition in tandem, nominates a new SSDA approval pathway for residential developments valued over \$60 million within the accelerated precincts. This is proposed to remain in place until November 2027.
- Given DPHI is proposing to finalise the Hornsby accelerated precinct by November 2024, any developments seeking to utilise the new pathway must be lodged within three years of the controls being gazetted.
- Given any residential development above the existing and active Westfield shopping centre will be a complex proposal, any future residential development on the site is likely to involve staging to ensure the centre can continue to operate during construction.
- Staging the development would push development application timeframes well-beyond 2027 and parts of the site would not be able to be developed within the three-year timeframe.
- Scentre Group understands the rationale for the timeframes in order to incentivise development across the accelerated precincts. However, extensions to the pathway should be granted to larger landholdings such as Westfield Hornsby in order to assist in the deliverability of housing.

Recommendation

DPHI extends the SSDA pathway to 2030.

6. CONCLUSION

- Scentre Group, as a significant landholder within the Hornsby accelerated precinct, is eager and uniquely positioned to contribute to the practical delivery of the TOD Program. We believe that:
 - the proposed amendments to the non-residential FSR are too high,
 - redistribution of density should be provided through increased heights,
 - clarification should be provided on the contribution framework,
 - inclusion of a statutory planning mechanism for delivery of public benefits is needed, and
 - extension of the SSDA pathway is crucial to the successful implementation of the TOD program.
- All of the recommendations put forward by this submission need to be adopted to not only ensure the economic feasibility of the project but also enable any residential development being realised at Westfield Hornsby.
- Resolving the issues raised within this submission will ensure that the DPHI has considered the realities of development on the site, given the market realities and existing development complexities.
- Scentre Group is committed to working collaboratively with the DPHI, Hornsby Council, and other stakeholders to ensure the successful delivery of the TOD program.

Please contact either me or David Hoy, Group Director on 0418 655 998 if you have any questions but our client otherwise looks forward to discussing this submission in greater detail.

Yours sincerely,



Jessica Widenstrom
Associate Director
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From: Planning Portal - Department of Planning and Environment
<noreply@feedback.planningportal.nsw.gov.au>
Sent: Friday, 9 August 2024 8:50 AM
To: DPE PS ePlanning Exhibitions Mailbox
Cc: DPIE PA Systems Productivity Policy Mailbox
Subject: Webform submission from: Proposed pathway changes to support Transport Oriented Development
Attachments: 09082024-shelter-nsw-submission-to-dphi-accelerated-precincts-eie.pdf
Follow Up Flag: Follow up
Flag Status: Flagged

Submitted on Fri, 09/08/2024 - 08:40

Submitted by: Anonymous

Submitted values are:

Submission Type

I am submitting on behalf of my organisation

Name

First name

John

Last name

Engeler

I would like my name and personal contact details to remain confidential

No

Info

Email

admin@shelternsw.org.au

Suburb/Town & Postcode

2010

Please provide your view on the project

I object to it

Submission file

[09082024-shelter-nsw-submission-to-dphi-accelerated-precincts-eie.pdf](#) (195.01 KB)

Submission

Shelter NSW supports the urban renewal of transit centres in ways that make them more inclusive. Unfortunately, Shelter NSW will be lodging an objection to the overall EIE and individual Tier 1 Accelerated Precincts currently on exhibition. We commend the NSW Government for ensuring that regulated and genuinely affordable rental housing will be a part of any new, well located housing supply. We noted that done well, and at scale, this could be a game changer for NSW communities and especially low-medium income renters.

While Shelter NSW understood that the exact details of the affordable housing requirements might vary from the precinct to precinct, we have been very concerned to see potential rates as low as 3% being formally considered by DPHI.

In an overall sense, we are concerned that apparent disparities and inconsistencies (across the Tier 1 precincts) potentially reflect a lack of common principles and coherent approach. With the absence of anything from DPHI to explain its approach, the level of required contributions often appears to be arbitrary, not linked to the specific locational value uplift and changes to the planning controls.

There is a lot at stake. At its least ambitious just 2,835 affordable rental dwellings might be delivered across the precincts versus 6,190 at the Department's high-end but versus the 9,323 we and the broader community might have expected to secure (if a 15% or higher rate was to be applied).

Summary of our concerns:

- A public and high-profile announcement of up to 15% affordable housing rates was part of the 'density deal' sold to the broader community
- Proposing a range of affordable housing contributions for an individual precinct is poor practice and already sending confused signals to the market
- The lowest common denominator should be avoided – if the higher affordable housing rates have already been deemed 'feasible' by DPHI it should be adopted (why is this subject to consultation or lobbying efforts?).
- In the case of a 15% rate not being committed to, there needs to be a clear provision for the ramping up of these contribution rates over say a three year period and according to a published schedule
- There needs to be explicit consideration of the existing low-cost housing (and households) that will be displaced by development in some of these precincts especially in Bankstown and Homebush.
- Lack of clear policy and practice expectations guiding the development of TOD Affordable Housing Contribution Schemes (AHCSs) threatening to undermine the translation of stated policy intentions into affordable homes.
- Any resulting affordable housing (and tenancies) should be managed by registered Not-For-Profit Community Housing Providers (not property developers which can be registered as CHPs).

I agree to the above statement

Yes

9 August 2024

Mr Andre Szczepanski
Director Assessment and Systems Policy
Department of Planning, Housing and Infrastructure
Via DPHI submission portal

Dear Mr. Szczepanski,

RE: Explanation of Intended Effect (EIE) for Transport Oriented Development (TOD) accelerated precincts.

I am writing to you regarding the above proposal which is currently on public exhibition. Unfortunately, **Shelter NSW cannot support the overall EIE or the precinct-specific proposals (in their current forms) and will therefore, be submitting an objection to this overall EIE as well as the proposals for: Homebush, Macquarie Park, Kellyville/Bella Vista, Bankstown, Crows Nest and Hornsby Tier 1 Accelerated Precincts.**

Shelter NSW is the State's peak housing advocacy and policy body. We are a not-for-profit organisation working to ensure policies, practices and legislation recognise the dignity of all individuals through quality, secure, accessible and genuinely affordable housing. Our advice is grounded in evidence and research and is always independent. We are particularly concerned for lower income people, especially renters right across NSW who struggle with 'rental stress' and insecurity.

At Shelter NSW we believe that growth should be fair and inclusive – improving the life of all people; built on the foundation of a secure home for all.

Shelter NSW supports the urban renewal of transit centres in ways that make them more inclusive. In early December 2023, the NSW Government announced the long-anticipated Transport Oriented Development (TOD) program, intended to drive significant increases in housing supply around transport hubs in Greater Sydney, the Central Coast, Illawarra and the Hunter.

Prior to this, Shelter NSW had partnered with the Planning Institute of Australia (NSW) and within the Sydney Alliance calling for substantial proportions of affordable rental housing to be required within any future upzoned transport precincts (under a Mandatory Inclusionary

Zoning MIZ framework); and for that affordable housing to be required to be in perpetuity, managed by not-for-profit community housing providers.

To ensure an effective response to local communities we called for master planning and co-operation between levels of Government.

We commend the NSW Government for ensuring that regulated and genuinely affordable rental housing will be a part of any new, well located housing supply. We noted that done well, and at scale, this could be a game changer for NSW communities and especially low-medium income renters.

We acknowledge that while housing supply is currently constrained (by broader economic conditions) in all likelihood the cyclical housing market will swing back. We want to ensure that when it does, housing supply, especially in denser urban environments is accompanied by an equally strong growth in genuinely affordable and accessible housing (secured and regulated for low-medium income earners).

Since the NSW Government announcements about the overall TOD program (Tiers 1 and 2) we have learned more about the Department of Planning, Housing and Infrastructure (DPHI)'s overall approach and more detail about individual precinct proposals.

We understand that the Tier 1 Accelerated Precincts are Government-led rezonings within an area up 1,200 metres around identified high growth 'priority transport' hubs. Key housing requirements originally announced were for up to 15% 'affordable housing', managed by registered community housing organisations, to be held 'in perpetuity'.

While Shelter NSW understood that the exact details of the affordable housing requirements might vary from the precinct to precinct, we have been very concerned to see potential rates as low as 3% being formally considered by DPHI.

In an overall sense, we are concerned that apparent disparities and inconsistencies (across the Tier 1 precincts) potentially reflect a lack of common principles and coherent approach. With the absence of anything from DPHI to explain its approach, the level of required contributions often appears to be arbitrary, not linked to the specific locational value uplift and changes to the planning controls.

The table below (prepared by Shelter NSW assembled from DPHI data) indicates the various affordable housing rates being considered for each precinct. We have noted the use of ranges (per site) as well as the differences between each of the precincts.

Affordable Housing (AH) in 7 x Accelerated TOD precincts in Sydney					
Kellyville & Bella Vista, Hornsby, Macquarie Park, Crows Nest					
Bankstown, Homebush & Bays West (2025)					
Precinct	Total dwellings	AH -Low end (dwellings)	%	AH -High end (dwellings)	%
K & B	20,700	620	3.00%	1,650	7.97%
Hornsby	5,000	250	5.00%	500	10.00%
Mac Park	4,600	460	10.00%	690	15.00%
Crows Nest	3,255	325	9.98%	490	15.05%
Bankstown	12,500	375	3.00%	1,250	10.00%
Homebush	16,100	805	5.00%	1,610	10.00%
Total	62,155	2,835		6,190	

Source DPHI website

At its least ambitious just **2,835** affordable rental dwellings might be delivered across the precincts versus **6,190** at the Department's high-end but versus the **9,323** we and the broader community might have expected to secure (if a 15% or higher rate was to be applied).

Our key concerns with these proposals:

- **A public and high-profile announcement of up to 15% affordable housing rates was part of the 'density deal' sold to the broader community** – the low rates being considered undermine the general promise and delivery of the TOD program
- **Proposing a range of affordable housing contributions for an individual precinct is poor practice** and already sending confused signals to the market (with flow on impacts into local communities already subject to property developer 'doorknocking')
- **The lowest common denominator should be avoided** – if the higher affordable housing rates have already been deemed 'feasible' by DPHI it should be adopted (why is this subject to consultation or lobbying efforts?).
- In the case of a 15% rate not being committed to, there **needs to be a clear provision for the ramping up of these contribution rates over say a three year period** and according to a published schedule. This is consistent with the proposal to do this with the Tier 2 TOD program (though we note, with concern, that the NSW

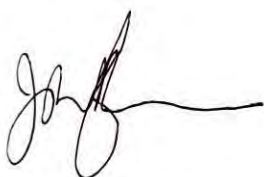
Government has not yet published the schedule).

- There **needs to be explicit consideration of the existing low-cost housing (and households) that will be displaced** by development in some of these precincts. For example, in Homebush and Bankstown. The latter has been a long-held concern for Shelter NSW with the [Canterbury-Bankstown LGA](#) and corridor been long-targeted for housing growth. For more information, I refer you to our published article: [Density Done Well - Not all TODs are Equal - Shelter NSW](#) and specifically this image: [TOD-SEPP-Affordable-Housing.pdf \(shelternsw.org.au\)](#)
- **Lack of clear policy and practice expectations guiding the development of TOD Affordable Housing Contribution Schemes (AHCSs)** threatening to undermine the translation of stated policy intentions into affordable homes.
- **Any resulting affordable housing (and tenancies) should be managed by registered Not-For-Profit Community Housing Providers** (not property developers which can be registered as CHPs).

Shelter NSW is also encouraging the NSW Government to look to the future and its legacy. Specifically, we are calling for affordable housing contribution rates to be scaled up from 15% up for Years 4, 5, 6 and beyond, to be applied to the current and any future TOD Accelerated Precinct. Early announcement of this (in 2024) would provide certainty to the market, community and future-proof the housing supply of the TOD program. Importantly, it would enable Greater Sydney and NSW to join the ranks of other global jurisdictions like London, where such requirements are understood and routinely delivered on.

We ask that you give serious consideration to the observation we have made and concerns we have raised. Please do not hesitate to contact us if we can be of assistance.

Yours sincerely,



John Engeler

Chief Executive Officer, Shelter NSW



9 August 2024

Mr Andre Szczepanski
Director Assessment and Systems Policy
Department of Planning, Housing and Infrastructure
Locked Bag 5022
Parramatta NSW 2124

Online: <https://www.planningportal.nsw.gov.au/draftplans/exhibition/proposed-pathway-changes-support-transport-oriented-development>

Re Submission regarding the Explanation of Intended Effect: Pathway changes to support Transport Oriented Development

Thank you for the opportunity to provide a submission regarding the Explanation of Intended Effect: Pathway changes to support Transport Oriented Development (TOD) in the TOD Accelerated precincts.

The Southern Sydney Regional Organisation of Councils Inc (SSROC) is an association of twelve local councils in the area south of Sydney Harbour, covering central, inner west, eastern and southern Sydney. SSROC acknowledges the traditional custodians of the land on which we work and live, the peoples of the Darug, Dharawal and Eora Nations.

SSROC provides a forum for the exchange of ideas between our member councils, and an interface between governments, other councils and key bodies on issues of common interest. Together, our member councils cover a population of about 1.8 million, one third of the population of Sydney, including Australia's most densely populated suburbs. SSROC seeks to advocate for the needs of our member councils and bring a regional perspective to the issues raised.

1 Understanding

The NSW Government has released the Explanation of Intended Effect (EIE): Pathway changes to support Transport Oriented Development in the TOD Accelerated precincts. The EIE was on public exhibition from 9 July 2024 to 9 August 2024.

The proposed changes include introducing a temporary State Significant Development (SSD) pathway for residential development with a value of over \$60 million in the TOD Accelerated precincts.

It is proposed that this pathway would be in place until November 2027, with consents granted under the TOD category to also be time-limited to encourage proponents to begin works within two years.

Several special provisions are proposed to support the TOD rezoning process and streamline all residential development in the TOD Accelerated precincts. These are:

- exemption from in-fill affordable housing provisions
- exemption from low-and mid-rise housing reforms
- exemptions from certain concurrence and referral requirements, and
- an alternative design excellence pathway.

2 The TOD Program

The TOD Program, announced in December 2023 as part of the broader NSW housing response, will deliver a large volume of new dwellings in areas that leverage existing transit infrastructure investment, reflecting the NSW Government's commitment to supporting growth around transport hubs.

It identifies eight TOD Accelerated Precincts in high growth areas near transport hubs in Greater Sydney as State-led rezonings.

Land within 1,200 metres of 8 rail and metro stations will be rezoned by the NSW Government to allow for more new and affordable homes.

The 8 accelerated precincts are:

- Bankstown
- Bays West
- Bella Vista
- Crows Nest
- Homebush
- Hornsby
- Kellyville; and
- Macquarie Park

Three of the accelerated precincts are located within SSROC.

The EIE outlines proposals for:

- Exempting the TOD accelerated precincts from the in-fill affordable housing bonuses under Chapter 2 of the Housing SEPP.
 - As Floor Space Ratios (FSR) and height bonuses provided by Chapter 2 of the Housing SEPP are proportional to the affordable housing provided by a development, this exemption would allow proponents to seek additional height and/or FSR without the requirement to provide affordable housing (that would otherwise apply).
- Exempting the TOD accelerated precincts from the low and mid-rise housing reforms, which expanded permissibility of housing types in station and town centre precincts as well as providing related planning controls.
 - The EIE states this is intended to “ensure the most appropriate outcomes for the areas identified in both the [low and mid-rise housing reforms] and the accelerated TOD rezonings... The intention is to reduce duplication and maximise housing potential for lots identified in both ...”. The low and mid-rise housing reforms propose non-refusal standards for particular development, which would not apply in the TOD accelerated precincts.

- Exempting local and regionally significant development within the TOD accelerated precincts from certain concurrence and referral requirements that are not considered “high-risk”.
 - Department of Planning, Housing and Infrastructure (DPHI) is presently developing risk criteria to determine which concurrence and referrals could be switched off in the TOD accelerated precincts, and seeking feedback from stakeholders, councils, agencies and the development sector. The intention is to “switch off” concurrences and referrals that duplicate considerations carried out at a rezoning stage, or that are irrelevant. This proposal is clearly directed at reducing DA assessment timeframes – the EIE states that delayed concurrences and referrals can add up to an additional 55 days to assessment timeframes.
- Creating an alternative design excellence pathway for developments in the TOD accelerated precincts that would have otherwise required a design competition.
 - The NSW Government Architect is developing this pathway – the EIE foreshadows it being a design review process. Again, this proposal is directed to reducing timeframes for the preparation and assessment of DAs. The need to undertake a design competition lengthens preparation time, as a proposal with detailed supporting documents cannot be put forward until the design is settled via the competition.

3 General Comments

SSROC welcomes the opportunity to provide a submission to the DPHI EIE: Pathway changes to support Transport Oriented Development in the TOD Accelerated precincts.

In principle SSROC is supportive of reducing timeframes for the preparation and assessment of DAs. However, many of the proposals contained in the EIE are only very high-level statements of intent and lack the necessary detail to adequately assess their effectiveness. It will be vital that local councils are consulted before the detailed arrangements are finalised.

4 Issues and Recommendations

SSD category for TOD accelerated precincts

To support the TOD program, DPHI is proposing to establish a new temporary State Significant Development (SSD) category for residential development valued over \$60 million located within the eight designated TOD Accelerated Precincts. The pathway will remain in place until November 2027, aiming to encourage lodgement of development applications (DA) within the five-year housing accord period.

As a principle, SSROC objects to the continued trend by successive State Governments to remove local councils from the assessment process by lowering SSD thresholds. The assessment of all applications should remain the responsibility of councils as the holders of local knowledge and the long-term interests of the TOD precincts and the surrounding communities.

Our councils are generally supportive of measures to deliver more housing, but this needs to be done with due regard for the strategic plans that have been agreed upon by councils, their communities and the NSW Government.

This EIE proposal is of particular concern to councils because the low threshold value assigned to determine what is “state significant” means that many applications will be determined by a state government approval pathway, bypassing local community participation and diminishing the role of local government and planning panels in the decision-making process.

This proposed provision further removes decision-making from councils and their communities. Councils point to frequent instances of inadequate consideration of local planning, such as the provision for local infrastructure and consideration of local infrastructure contributions, when development is assessed under this pathway.

A local DA pathway allows for appropriate conditions of consent to be applied to address and mitigate any local impacts.

If an SSD pathway is to be adopted, Councils must remain a key stakeholder in the assessment of such applications to ensure locally specific standards or outcomes are maintained.

Exemption from in-fill affordable housing provisions

DPHI is proposing to exempt development in TOD accelerated precincts from the in-fill affordable housing provisions within Chapter 2 of the Housing SEPP. The provisions provide a floor space ratio bonus of 20-30 percent and a height bonus of 20-30 percent for projects that include at least 10-15 percent of gross floor area as affordable housing.

SSROC councils have been concerned about the complexity, confusion and unintended consequences of multilayered provisions between the various planning instruments that apply in TOD precincts.

SSROC is supportive of TOD precincts being exempted from the in-fill affordable housing provisions of State Environmental Planning Policy (Housing). Bonus Gross Floor Area and Building Height provisions should not be available in precincts that are subject to master planning and where maximum densities and envelopes were determined by a detailed strategic planning and urban design process.

It is requested that DPHI confirm how other precincts that have been the subject of detailed master plans can be exempted from the in-fill affordable housing provision of the Housing SEPP.

SSROC is not supportive of the affordable housing infill provisions (on the basis that permanent height and density bonuses should not be awarded for temporary affordable housing). SSROC supports the exemption from these provisions in TOD accelerated precincts, particularly as the precincts will require a certain quantum of affordable housing provision in perpetuity.

A clear framework for affordable housing provision in both the TOD accelerated precincts and Tier 2 precincts must be prioritised. In precincts where affordable housing contribution schemes have not yet been developed, rezonings are being progressed with indicative rates of affordable housing. However, there is little evidence of how these have been derived. A robust, transparent and replicable method for determining contribution rates (and increasing them over time) is critical to ensure contributions are maximised in line with the development uplift proposed.

It is recommended that DPHI urgently provide their precinct teams with a model affordable housing contribution scheme and template for establishing compliant schemes in the accelerated precincts, so schemes commence with the upzonings.

In addition, the NSW Government's commitment to delivering 30% social and affordable housing on surplus government sites needs to be upheld, noting that there are several government land parcels within the Accelerated TOD precincts.

Exemption from low and mid-rise housing reforms

The low and mid-rise (LMR) housing reforms propose expanded permissibility of housing types and related planning controls in station and town centre precincts.

While the proposed changes have not yet been fully introduced, councils are concerned about complexity and confusion if the proposed changes apply in TOD precincts.

For example, the Homebush Accelerated Precinct and the North Strathfield TOD precinct both apply to land in North Strathfield. It is requested that the mapping layer associated with the Housing SEPP be updated to illustrate the North Strathfield TOD no longer applying to land within the Homebush Accelerated TOD (i.e., on the western side of the rail line).

The commitment in the EIE to fully assess the interrelation between the LMR housing reforms and accelerated TOD rezonings to reduce duplication and maximise housing potential is welcome.

However, the EIE contains no detail on how this will be done and what the impact will be. In the absence of any meaningful explanation of intended effect, any changes must be undertaken in close consultation with the relevant councils.

Exemptions from certain concurrence and referral requirements

SSROC understands there is potential to streamline local and regionally significant development within TOD accelerated precincts from concurrence and referral requirements.

The EIE proposes that concurrence and referral requirements that are not considered to be high risk be exempted, with the exemption established for a period of five years.

Individual councils will be best placed to advise on exemptions appropriate to the TOD precincts in their area.

The EIE does not state which concurrence and referral requirements will no longer apply. It is therefore difficult to confirm whether the exemptions will have a material impact on the assessment of State Significant Development Applications. It is vital that the parameters of high and low risk are further defined.

In the removal of concurrences and referral requirements, DPHI must be satisfied that relevant issues will be addressed by development controls applying to each TOD area or through the imposition of appropriate conditions of development consent.

Again however, the EIE does not contain any detail of the requirements that will be considered, nor explanation of intended effect of this proposal, and so cannot reasonably be commented on.

As a result, it is critical that:

- State Government agencies receive general notifications and referrals of the state significant development, with an invitation to review and give concurrences
- councils have the opportunity to review and endorse any exemptions proposed

- there is flexibility to review exemptions during the five-year period, should feedback indicate the level of risk has changed, and
- the rationale (including risk assessment) underpinning specific exemptions is clearly documented and publicly available.

As a consequence, the proposed risk criteria need be developed with input from both state agencies and local councils.

For clear accountability and public transparency, it is recommended that a *Risk Register* for managing exemptions be maintained for referrals and concurrences that are not sought in each Accelerated precinct. This should also include the hazards and detrimental impacts that need to be considered in conjunction with the risk likelihood.

An illustrative example of this is outlined below.

Risk	Risk rating	Impacts/Hazard	Impact rating	Mitigations		Decision about concurrence and referral/ decision-maker
				Current	Proposed	

SSROC notes that the EIE asks stakeholders which concurrence and referrals could be switched off through the development process. This is somewhat alarming as the Department has only recently published a *Development Referrals Guide* (October 2023). For consistent application of the planning rules, this document should be updated to better codify common exemptions.

Alternative design excellence pathway

Councils understand the importance of timely DA assessment timeframes, however, this should not come at the expense of delivering well-designed precincts and buildings for current and future communities.

The proposal in the EIE to develop an alternative design excellence pathway where a Local Environment Plan (LEP) requires a design competition, is intended to “deliver faster DA timeframes combined with high-quality design outcomes”.

SSROC objects to the dilution or removal of design excellence competitions where they are in place. The absence of local involvement risks long term harm to the quality and liveability of TOD precincts. SSROC is therefore not supportive of moves to bypass existing design excellence pathways.

Design competitions are a well-tested and successful model for delivering a high quality of design and innovation. Competitions generate a range of responses to each design challenge, allowing the comparative evaluation of different approaches. This enables participants to analyse the relative merits of different responses to a brief and builds confidence in the selected design as the best response. For example, the Canada Bay Local Strategic Planning Statement includes an action to implement design excellence competitions and Clause 6.14 of the Canada Bay Local Environmental Plan requires competitions for buildings with a height of 28m or 8 storeys.

There are instances of architectural firms producing high quality buildings through competitive design processes and the same architects producing suboptimal buildings when directly engaged by developers. Simply including an architect on a list due to their experience preparing a high-quality building is not sufficient to ensure a good outcome.

Where a sub-par building is designed, design review panels will be put in a position of having to improve the building design as opposed to facilitating good design from the outset. It is therefore requested that Accelerated precincts be subject to competitive design excellence processes. SSROC understands this proposed new pathway is being developed by the NSW Government Architect and will involve a design review process and requirement regarding selection of architects.

It is critical that the NSW Government Architect consult closely with councils in the development of the design excellence pathway. Many councils have extensive experience working with design panels to deliver high quality development tailored to local circumstances.

If the proposed Design Review process is adopted it is recommended that all applications be considered by the State Design Review Panel on at least one occasion and be returned to that panel if amendments are required to the application to meet the Design Excellence Standard.

5 Conclusion

Thank you for the opportunity to provide a submission regarding the Explanation of Intended Effect: Pathway changes to support Transport Oriented Development, in the TOD Accelerated precincts.

SSROC member councils cover a large part of Greater Sydney and include three of the Accelerated TOD precincts. SSROC notes that many of the proposed changes require further work to develop policies and processes to implement them. DPHI must consult further with councils as these are progressed. Our councils pride themselves on providing orderly, well considered place-based planning for their communities. This submission advocates for this to continue by promoting council led master planning and development approvals to achieve expeditiously the NSW Government's goal of density done well.

In order to make this submission within the prescribed timeframe, it has not been possible for it to be reviewed by councils or to be endorsed by the SSROC. I will contact you further if any issues arise as it is reviewed. If you have any queries, please do not hesitate to contact me or Mark Nutting, SSROC Strategic Planning Manager on 8396 3800, or ssroc@ssroc.nsw.gov.au.

Further consultations around the detail of the proposed housing reforms as they are refined will be essential. These should occur as soon as they are available for consideration by councils and at the regional level, by their regional organisations like SSROC.

Yours faithfully

A handwritten signature in black ink, appearing to read "H Sloan".

Helen Sloan
Chief Executive Officer
Southern Sydney Regional Organisation of Councils

Mr Andre Szczepanski
Director Assessment and Systems Policy
Department of Planning, Housing and Infrastructure
Locked Bag 5022
Parramatta NSW 2124

9 August 2024

Strathfield Council's Submission
Explanation of Intended Effect – Pathway changes to support Transport
Oriented Development

Dear Mr Szczepanski,

Thank you for providing us with the opportunity to comment on the Explanation of Intended Effect (EIE) – Pathway changes to support Transport Oriented Development (TOD) which aims to streamline the delivery of dwellings in the TOD Accelerated Precincts.

Please note that due to the timeframe given for feedback on the EIE, Council staff had not been able to present our submission to Council. Strathfield Council's reporting framework is fixed, and a limited time frame of 4 weeks means that Council officers could not comprehensively review significant policy while meeting internal reporting deadlines. Therefore, this document is an interim submission. A final submission will be forwarded to the DPHI following the Council meeting on 13 August 2024.

We have reviewed the information and in principle support the intent of the EIE and the DPHI's commitment to *implementing streamlined processes for development in the TOD Accelerated Precincts*. Strathfield Council has consistently advocated for a robust policy framework to increase the supply and delivery of new housing near existing transport corridors, community services and open spaces.

However, Council staff are concerned with some of the aspects of the proposed changes where specific information has not been provided for Council to understand

the impact of the changes. We have provided a response to each change proposed by the EIE as follows:

1. State Significant Development Category for TOD Accelerated Precincts

Strathfield Council remains committed to the delivery of new housing in a considered and sustainable way and supports density done well if future urban renewal precincts can deliver a well designed, active, vibrant and livable neighbourhood near transport, supported by local services. Council is also committed to working closely with our community to ensure good outcomes are delivered in new neighbourhoods.

However, we do not support the introduction of the temporary SSD category as we do not believe that it in its current form will accelerate approvals or streamline the delivery of dwellings, especially given the inadequacy of the Design Guide, which lacks detailed provisions and clarity for guiding future development. This issue is also outlined in our separate submission on the EIE for the Homebush TOD rezoning proposal.

With a good understanding of the local context and issues, Councils are best placed to assess and determine applications for new residential development in the Homebush TOD precinct to ensure that new housing is delivered with good outcomes for future residents and the broader community.

Instead of reducing Councils' role in the assessment process, the DPHI should work to ensure Council's assessment teams are adequately equipped and resourced to manage and deliver determinations for new residential developments in a streamlined way.

It is recommended that a comprehensive review of the EP&A Act and an update to Regulation 2021 be undertaken to refine the DA submission and assessment process, which would be a more effective way to determine development applications in a timely manner.

Council is also seeking more information on the methodology for establishing the threshold of the \$60 million for TOD Accelerated Precincts. This trigger is inconsistent with the Capital Investment Value (CIV) of \$75 million already established for residential development under the Housing SEPP (Infill affordable housing).

2. Exemption from infill affordable housing provisions

Strathfield Council supports switching off the provisions of Chapter 2, Part 2, Division 1 of the Housing SEPP (infill affordable housing floor space ratio and height of building bonuses) in the TOD Precincts. Council supports the delivery of affordable housing in the Precinct; however, the affordable housing should be delivered within

the proposed building envelopes, must remain in perpetuity and be managed by a registered Community Housing Provider.

3. Exemption from low-and-mid-rise housing reforms

Prior to finalising the rezoning of the Homebush TOD Precinct, its relationship with the low-and-mid-rise (LMR) housing reforms must be reviewed to ensure consistency between both sets of development controls.

Consideration should also be given to the controls applicable in Accelerated Precincts and those proposed by the Low and Mid Rise (LMR) to ensure that the development scale can transition appropriately from one density zone to another. Any review of the impact of the LMR provisions should incorporate feedback from Councils.. Strathfield Council would have no objection to switching off the LMR provisions in the Homebush TOD Precinct where appropriate.

4. Exemptions from certain concurrence and referral requirements

Council is seeking further clarification and guidance on which concurrence and referral provisions are proposed to be exempted in the TOD Precincts. This information must be provided to Council following discussions with the relevant agencies and other stakeholders to ensure that relevant conditions or requirements are included in development consents.

Determination of risk is not always apparent at the application stage. There is a concern that, for example, if matters are deferred for consideration at the construction stage, this will result in unforeseen amendments to building design.

Prior to determining any applications are low-risk and exempted from concurrence and referral requirements, the DPHI should seek feedback from Councils, stakeholders and agencies to reach a consensus on which referrals could be switched off.

If certain concurrence and referral provisions required by any other EPI or Act are exempted, DPHI must ensure that the EPI or Act is updated to reflect this change, particularly for local development, to ensure that there are no inconsistencies to avoid any delay in processing DAs.

Council is seeking clear guidance on the matters which can be exempt from concurrence and referral. Determination of risk is not always apparent at the application stage and there is concern that if matters are deferred for consideration at construction stage, for example, this will result in unforeseen amendments to building design.

As an alternative to removing certain concurrence and referral requirements, all referral agencies may be legislated with a maximum response time of no more than

20 business days to expedite the process. Currently Strathfield Council is currently holding applications awaiting determination due to the failure of a number of NSW Government concurrence agencies to return a timely referral.

5. Alternative design excellence pathway

Council supports proposed changes that will strengthen the design excellence provisions in Strathfield LEP 2012 and this should be consistent with best practice to ensure new development delivers the highest standard of architectural and urban landscape design. The Design Excellence provision must be reviewed in collaboration with Councils to ensure that it is practical.

It is recommended that any application assessed through the SSD pathway must receive at least one round of review by the State Design Review Panel (SDRP). If the Panel's feedback recommends a further review of the design amendments, the application should be returned to the SDRP for final consideration. This is to ensure the integrity of the design process.

Additional information is also required on the criteria for which Design Excellence standards should apply. This should be captured via mapping (for prominently located sites) and height standards.

Further, the definition of Design Excellence should be more expansive than the one proposed in the EIE. The City of Sydney LEP 2005 condition provides an appropriate model.

Other matters - referral fees for Strathfield Council

It is both expected and necessary that Strathfield Council is a key referral agency through the assessment of SSD applications. This will include reliance upon planning and technical staff to provide comments on the acceptability of proposals, including those providing public benefits in the form of road widening, open space provision and others.

The SSD referrals will have a direct impact on resources within Council; therefore, it is requested that an appropriate referral fee be paid to Council to acknowledge the contribution from Council staff. Furthermore, it is requested that Council be able to apply charges to applicants, as per our Fees and Charges, for matters such as the negotiation, preparation of Planning Agreements and the like, which require specific legal input or technical expertise.

Conclusion

As outlined above, Strathfield Council is not opposed to developing a robust planning framework that provides opportunities for the delivery of housing supported by adequate infrastructure, as long as this framework will not compromise the quality of places and buildings.

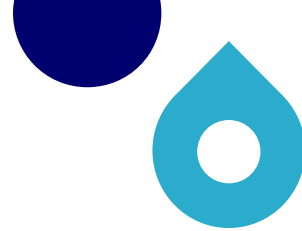
We would welcome the opportunity to work collaboratively with the DPHI to deliver the capacity for future housing through streamlining assessment and ensure that we can continue responding to the needs of our community (both current and future) as part of the urban renewal of the Homebush Precinct.

If you have any questions regarding this submission, please do not hesitate to contact Dylan Porter, Manager, Planning & Place on 9748 9999 or dylan.porter@strathfield.nsw.gov.au

Regards,

 9.8.24

Clare Harley
Director Planning & Environment



9 August 2024

Andre Szczepanski

Director Assessment and Systems Policy
Department of Planning, Housing and Infrastructure

RE: Explanation of Intended Effects – Pathway changes to support Transport Oriented Development

Dear Andre,

We are writing to you about the recent proposal by the Department on the *Explanation of Intended Effects (EIE) – Pathway changes to support Transport Oriented Development*. We understand that to ensure development works are being delivered more rapidly in the selected eight accelerated TOD precincts, several changes and provisions are proposed to streamline residential development within the precincts. This proposal would result in the following key changes:

- The introduction of a temporary State Significant Development (SSD) category (in effect until November 2027) for residential developments valued over \$60 million within accelerated precincts.
- Concurrence and Referral process (CNR) changes that would see local and regionally significant development applications (DAs) that are not considered 'high-risk' no longer being referred to agencies for review (for a five-year period).
- Affordable housing provisions for infill development including an additional 20-30% bonus to both FSR and Building Height for residential flat buildings and shop housing projects that dedicates at least 10-15% GFA for affordable housing supplies.

We have reviewed the EIE proposal and provide the following comments based on the available information.

Concurrence and Referral process change

We note that the significant uplift and acceleration in growth proposed within the TODs plus the cumulative increase in growth proposed during the National Housing Accord period under wider acceleration, or policy changes are not yet fully defined in terms of detailed growth location¹. This growth could significantly impact Sydney Water's ability to maintain services to our existing customer base and provide services to future customers. We therefore would deem the above developments as "impactful" to Sydney Water under Section 78 of the Sydney Water Act.

Specifically, Sydney Water needs to consider the impact of growth in relation to the impact on our existing and proposed assets – including, but not limited to our localised trunk and lead-in assets as well as larger treatment, pumping station and reservoir capability. We

¹ Referencing Low and Mid-rise locations across the LGAs which have not been fully geographically defined and will need to be assessed at the DA stage in relation to location within Sydney Water's catchments. See also Appendix 1 which relates to Sydney Water's response to the Low and Mid-rise policy dated 1/03/24.

therefore request that the CNR process not be switched off for local and regionally significant DAs, especially during the National Housing Accord period, and that Sydney Water remains a statutory referral agency.

Development applications received through the CNR process are important to us in understanding the growth landscape and anticipated development timeframes. It enables us to assess risk to our current assets especially where developments may be proposed to build over or adjacent to our critical assets.

By keeping track on the nature and quantity of new DAs being proposed as early as possible through CNRs, the growth information we obtain is also utilised to review and refine staged servicing opportunities to support new housing growth. CNR information helps us monitor the cumulative impact of growth on our systems and ensures our existing and future customers can have access to safe and reliable water supplies.

Sydney Water must also consider employment growth and the impact this has on cumulative water and wastewater demands around or within the TOD areas. Commercial growth can display high water demand profiles, such as data centres. Therefore, the TOD areas may have additional demand that has to be assessed in conjunction with housing demand.

In-fill Affordable Housing bonus FSR

We seek clarity on whether the bonus FSR has already been accounted for in the published Sydney Housing Supply Forecast (SHSF) numbers or whether this initiative will increase the proposed dwelling numbers during the Housing Accord period. If the bonus FSR is not already included in the SHSF, we would like to understand if any further information can be provided on DPHI's anticipated yields or locations for this.

Collaboration

We welcome the opportunity to meet with DPHI to discuss this EIE. We support DPHI and the Government's initiatives to address the current housing landscape and acknowledge the importance in improving how development applications are processed to enable the demand. However, we request that all DAs within the accelerated precincts continue to be referred to Sydney Water. If we do not receive impactful CNRs this may potentially cause constraints within our systems, cause delays later in the development process and impact plans for sustainable growth within and beyond the Housing Accord period.

Should DPHI require further information, please contact the Growth Planning Team at urbangrowth@sydneywater.com.au.

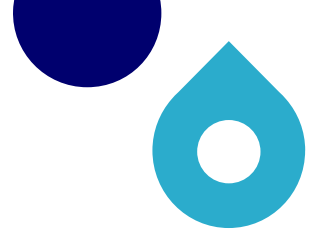
Yours sincerely,



Cassie Loughlin

Commercial Growth Manager
Growth and Development

Enclosed: Sydney Water response to Low and Mid-rise policy 01/03/24



1 March 2024

Low and Mid Rise Housing
NSW Department of Planning, Housing and Infrastructure
Locked Bag 5022
Parramatta NSW 2124

Email: lowandmidrisehousing@planning.nsw.gov.au

Sydney Water comments on the proposed changes to create low and mid-rise housing

Sydney Water is writing to you with regards to the Explanation of Intended Effect: Changes to create low and mid-rise housing. The proposed reforms seek to:

- Allow dual occupancies in all R2 low density residential zones across NSW.
- Allow terraces, townhouses and 2-storey apartment blocks *near transport hubs* and town centres in R2 low density residential zones across the Six Cities Region
- Allow mid-rise apartment blocks *near transport hubs* and town centres in R3 medium density zones across the Six Cities Region.
- The reforms are intended to take effect at the end of June 2024.

Growth data and Staging.

Sydney Water supports government-backed growth initiatives within our area of operations and endeavours to provide services in a timely and prudent manner, delivering cost effective water and wastewater infrastructure whilst not negatively impacting the environment or our current service levels. To do this, we require early engagement with the Department particularly when planning reforms are introduced with the potential to result in significant growth, such as the above.

Fast tracking this reform has not provided Sydney Water with sufficient information nor time to undertake a review of the potential impact of the growth across our reservoirs, treatment plants, trunk mains or our local area scheme plans. The growth to be permitted as part of the proposed reforms will require us to investigate asset amplifications essential to service new development, and whether new assets will also be required to service growth.

Sydney Water strongly supports the utilisation of latent capacity in its systems as a cost effective and expedited approach to delivering homes, and while infill growth can be accommodated across many of our existing systems, capacity is not universally available, and investment will be required in parts of Sydney to support the initiative. Additionally, this new growth uplift is not factored into our current capital expenditure programme. Sydney Water therefore requests the following information to support a whole of government approach to meeting housing targets:

Sydney Water Corporation ABN 49 776 225 038
1 Smith Street, Parramatta, NSW 2150 | PO Box 399, Parramatta, NSW 2124
Telephone 13 20 92 **Media (24/7)** 8849 5151 sydneywater.com.au



- A robust breakdown of specifically when and where this growth is to occur, and formally requests a spatial layer showing all areas the proposed reforms will impact. Being able to overlay the above information with our catchment and servicing plans will be beneficial in enabling Sydney Water to review these considerations against our plans as soon as possible.
- The corresponding anticipated ultimate and annual growth staging so that we can assess the short, medium and long-term implications of this growth across each LGA. This will assist us in identifying opportunities or priority catchments to review.
- Further clarity on the definition of suitable development types “near transport hubs” and how this applies spatially. Can the Department provide the parameters of how this has been assessed and how this growth relates to the prioritisation of the TOD sites?
- All growth forecasts should be issued via the Department of Employment and Population Land Use Forecasting team (EPLUF) as the single source of data route we currently employ.

Impactful development under the Sydney Water Act 1994, Section 78.

Sydney Water seeks clarification as to how the NSW government will manage the short to medium term impacts of these proposed reforms.

Under the Sydney Water Act 1994, Section 78, all consent authorities should notify Sydney Water of development and building applications that would:

- increase demand for water or for wastewater to be removed,
- damage, interfere or adversely impact our operations.

As growth numbers, staging and specific locations impacted by this reform are currently unknown, Sydney Water requests that all developments relating to the proposed reform (including dual occupancies within Sydney Water’s servicing area) be subject to a Development Application and not complying development. This will enable us to not only assess the impacts of these reforms on our systems to plan for future growth but to also ensure that our customers and stakeholders understand immediate servicing issues.

Sydney Water recommends that any applications falling into the new criteria be identified via the Development Application process and referred to Sydney Water via the NSW Planning Portal, for a minimum of 4 years whilst we review the uplift and timescale impact and are given sufficient time to plan for reform.

Priority Sewerage Programs (PSPs)

Sydney Water is concerned by the apparent blanket uplift of the reform in particular relation to the Priority Sewerage Program (PSP) areas.

The PSPs were initiated by the NSW Government in the 1990s and delivered improved wastewater services to selected existing, but previously unsewered, towns and villages in environmentally sensitive areas. These schemes factored in existing development and allocated an agreed capacity for new growth. Scheme boundaries and design allowances for these PSP schemes were determined based on land zoning and community consultation. A design allowance of 10% was applied to most of the PSP schemes during the design to cater for growth. Since the delivery of the schemes, capacity has been taken up through infill development within serviced areas. (See Appendix 1 for information on the schemes).

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The remoteness of many PSP villages meant that there was substantial cost involved in the provision of these wastewater services. Further upgrades or expansions to the schemes are likely to be costly.

Sydney Water has spoken with Councils in PSP areas, and we note that PSP schemes are not built to support uncontrolled, or ad-hoc additional growth and the proposed reforms could result in the doubling of wastewater connections in these environmentally sensitive areas. In many of these areas, wastewater may already be at capacity, resulting in environmental incidents and disruption.

Sydney Water therefore requests that all areas serviced by PSP schemes be exempt from this reform. If not, Sydney Water requests consultation with government on funding routes for PSP upgrades and, at a minimum, a temporary moratorium on uplift in these areas until the risk can be fully evaluated and costs and timescales understood.

Sydney Water welcomes further discussion with the Department on the proposed reforms to create low and mid-rise housing.

If the Department would like further information regarding PSP capacity, please contact urbangrowth@sydneywater.com.au.

Yours sincerely,



Charlotte Alexander

Head of City Growth and Development
Sydney Water
1 Smith Street, Parramatta, NSW 2040

Appendix 1: List of PSP schemes.

Since the 1990s, Sydney Water has provided improved wastewater services to nearly 11,000 homes and businesses in 33 urban villages. The villages were serviced with pressure sewerage and/or gravity wastewater systems over two stages.

Villages	Council
Stage 1	
The Oaks, Oakdale and Belimbla Park	Wollondilly
Coalcliff, Stanwell Park, Stanwell Tops and Otford	Wollongong
Jamberoo	Kiama
Mulgoa, Wallacia and Silverdale	Penrith and Wollondilly
Mount Ku-ring-gai Industrial Estate	Hornsby
Brooklyn and Dangar Island	Hornsby
Mount Victoria, Blackheath and Medlow Bath	Blue Mountains
Stage 2	
Agnes Banks and Londonderry	Penrith and Hawkesbury
Glossodia, Freemans Reach and Wilberforce	Hawkesbury
Hawkesbury Heights and Yellow Rock	Blue Mountains
Appin	Wollondilly
Cowan	Hornsby
West Hoxton	Liverpool
Bargo and Buxton	Wollondilly
Wilton Village and Douglas Park	Wollondilly
Galston and Glenorie	Hornsby and The Hills

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23 August 2024

Mr Andre Szczepanski
Director Assessment and Systems Policy
Department of Planning, Housing and Infrastructure
Via: portal upload.

RE: Proposed pathway changes to support Transport Oriented Development EIE and accelerated precincts.

Dear Mr Szczepanski,

The Urban Development Institute of Australia NSW (UDIA) is the peak industry body representing the leading participants in urban development across NSW. UDIA invests in evidence-based research that informs our advocacy to state, federal and local government, so that development policies and critical investment are directed to where they are needed the most. Together with our over 450 member organisations representing developers, consultants, state agencies and local councils, we shape the places and cities where people will live for generations to come, and in doing so, we are city shapers.

Executive Summary

UDIA appreciates the opportunity to provide feedback on the 'Pathway changes to support Transport Oriented Development Explanation of Intended Effect (EIE) and the draft rezoning proposals for the seven TOD accelerated precincts. While UDIA welcomes the creation of a dedicated pathway for the eight announced Transport Oriented Development (TOD) accelerated precinct sites, we caution that a number of measures included in both the EIE and draft rezoning proposals for the TOD accelerated precincts could impact project feasibility, undermining the Government's desire to see significant housing delivered in these areas. Of particular concern are the following:

- Very high requirements for Affordable Housing which must be delivered in perpetuity which is a departure from the model used in the Affordable Housing Bonus provision in the Housing SEPP, where developers only need to provide stock for 15 years.
- Relatively low increases in yields in these areas, which are insufficient to support development feasibility in the current economic and high construction cost environment.
- Proposed planning controls that include significant requirements for non-residential floor space in many areas where commercial markets are already oversupplied, which will unnecessarily sterilise residential development.

UDIA strongly recommends that in addition to the proposed rezonings and planning pathway changes, that the Government also establishes a whole-of-government mechanism to support the efficient delivery of the precincts. The delivery of 47,800 higher-density homes in these eight accelerated precincts will require a proactive coordination role. While the Department of Planning, Housing and Infrastructure (DPHI) has initiated rezoning and master planning, we see several key challenges will emerge when transitioning from planning to actual delivery due to various issues. These include:

- **Coordination Challenges:** There is a lack of cohesive governance and accountability for TODs, making it difficult to coordinate across agencies and provide infrastructure.
- **Planning System Issues:** The current planning system delays delivery, raises costs, and fails to maximize TOD opportunities.
- **Community and Development Barriers:** TODs are failing to create well-designed places delivered in partnership with developers, and face development feasibility barriers.

To that end, UDIA has developed 'NSW TOD Accelerated Precincts, From Planning to Delivery' which provides a roadmap and makes 17 recommendations to maximise the contribution of TODs to housing supply, improve community outcomes, and support long-term housing needs across NSW. We have included a copy at APPENDIX A. While the EIE is focused on planning pathways and processes, as our TOD Accelerated Precincts Report demonstrates, the curation and delivery of these sites is arguably as important as getting the right planning assessment and approvals pathways in place. As such, we strongly encourage the NSW Government to consider adopting the recommendations made in the report. This report forms the basis of our submission on

how TODs in the accelerated precincts should be delivered, however we have also responded to the specific themes calling for feedback in the EIE which follow.

A temporary SSD pathway for residential building over \$60 million

UDIA welcomes any additional opportunities to access the SSD pathway as long as there is capacity in place within DPHI to undertake timely assessments. While the Department has committed to a faster assessment and decision making process, given the significant scale of capital investment that will be required to unlock these precincts, it is recommended that an indicative approval timeframe is provided at application to provide more certainty for developments.

Moreover, TOD areas are the subject of significant infrastructure investment and have been identified for more intense development in previous strategic planning. Accordingly, the EIE should make clear that where a proponent complies with the planning controls set by the Department, that objection by a Council or local community should not trigger a referral to the Independent Planning Commission for assessment.

By the Government's own admission, the precincts will be developed over 10-15 years and while some sites are already owned by developers, there will still need to be significant land consolidation of sites which are upzoned but are not currently held by developers. This means there may be limited development activity taking place in these precincts within the two-year period under which the SSD pathway remains open. UDIA strongly recommends a longer period is allowed to access the SSD pathway and that it remains open to any DA lodged prior to the end of the Accord period – i.e. July 2029. This will allow a longer period of time for land to be consolidated and applications to be lodged.

These precincts are of significance to the NSW Government and are reliant on infrastructure provisioning to support their successful delivery. Oversight from central government is necessary to ensure the TOD areas deliver on their intended purpose, which is housing and investment in high-quality, high-density environments. Forecast expenditure for various line agencies (such as health, education, transport, and economic development) should be detailed in relation to changes in density within these precincts. To that end, a centralised Government agency that is solely dedicated to delivery within the TOD precincts is absolutely required and expanded upon in our report (APPENDIX A). This should ensure that assessments and approvals are undertaken

for these precincts in a timely manner and moreover, disputes should be prioritised at both agency level and in the Land and Environment Court to ensure the state has the best chance to deliver housing required in these areas.

Recommendations

- Provide a realistic approval turnaround timeframe of between 60–90 days for proponents using the State Significant Assessment pathway in these accelerated precincts.
- Create a dedicated TOD Delivery Unit to ensure the TODs are successfully delivered and meet the Government’s mandate.
- Restrict referrals to Independent Planning Commission (IPC) where projects comply with the relevant planning controls.
- Switch off all concurrence and referrals where the proposed development is consistent with the planning controls set.
- SSD pathway should be extended to five years to July 2029 to align with the Housing Accord.

Exemption from infill affordable housing provisions
--

UDIA supports the intent of a number of policies the NSW Government has announced aimed at increasing height and density such as the Low and Mid Rise and Transport Oriented Development reforms, however the current economic climate the sector is operating in, is among the most challenging in a generation, meaning delivering new apartment projects in many locations is not feasible in the current market. This means that policies to increase density in the apartment sector may no longer operate as a direct incentive to facilitate more development, in particular where there is a requirement for affordable housing to be provided at the same time.

The proposed percentage for affordable housing in each of the Accelerated Precincts ranges from 3% to 15% of the total GFA and is proposed to be applied to the whole of the building (the gross GFA), including non-residential components. Any levy tied to affordable housing should only relate to the floor space associated with residential, not as a percentage of total GFA for mixed use. It also appears these requirements will apply to all sites in the TOD precincts, not just those benefiting from increased height or density.

Feedback from our members is that the high Affordable Housing Contribution, coupled with its application to the total GFA inclusive of residential and non-residential, will render many sites unfeasible for development. The affordable housing component must be proportional to the actual increase in residential yield on any site, with the range for contributions starting at 0% and going up to no more than 15% where there has been substantial uplift in height and permissible GFA/FSR and it can be confirmed this level of contribution is feasible.

UDIA and its members are concerned that no financial feasibility analysis has been exhibited with EIE which justifies the affordable housing rates proposed are feasible. We would strongly encourage the Department to release the financial feasibility analysis that was undertaken for each Precinct, before final zoning decisions are made for these precincts.

UDIA has previously and consistently supported the infill Affordable Housing bonus provisions of the Housing SEPP as good public policy. Allowing for additional height and FSR in exchange for providing 10-15% of the total development floorspace to a registered Community Housing Provider (CHP) for 15 years, and helping developers account for the rental income discount through capital gain uplift over a defined period, is a good incentive that can be worked into feasibility studies in the planning phase (although we note that during these challenging economic conditions, this policy is unlikely to tip a unfeasible project into feasibility).

We are therefore concerned at the decision to exclude the TOD Precincts from the Affordable Housing bonus provisions of the Housing SEPP. In some cases this means sites are worse off after the introduction of the TOD SEPP where they do not receive at least at 30% increase in floor space ratio. Sites outside of the TOD precinct can achieve up to 30% uplift and only need to provide the affordable housing product for 15 years – in the Accelerated TOD Precincts some sites have no uplift (or less than 30% uplift) and are expected to fund up to 15% affordable housing in perpetuity. The relatively low increases in yields in these areas are insufficient to support development feasibility in the current economic and construction cost environment. If the State wants more affordable housing delivered at scale, it needs to allow the infill provisions to apply in these areas, and not remove any height and GFA limitations when affordable housing is delivered, in order to further incentivise industry to develop this tenure type.

UDIA is therefore seeking clarity on the definition of “perpetual” for any affordable housing stock provided under the EIE. The EIE suggests the new stock which is affordable housing must be provided to a CHP and delivered ‘in perpetuity’ yet there is no clear

definition of what is required. For example, can the developer collect the discounted rent, or does the CHP? Who holds title on the completed housing stock, the developer or the CHP? As the EIE is drafted it appears the title on the affordable housing stock must be provided to a registered CHP for affordable housing in perpetuity. With some precincts requiring affordable housing contributions of 10–15%, it will be impossible to deliver feasible projects if the stock must be given to a CHP at no cost, or if the developer is unable to collect rent.

There is also no detail on the ability to provide affordable housing contribution as a monetary payment as opposed to physical provision which would streamline the process. We note that many local councils allow a monetary payment to be made in lieu of the provision of physical housing stock and in some cases, especially where the AH contribution under the EIE is at the lower end of the range and a small number of AH dwellings delivered, it may be more efficient to allow a developer to make a cash contribution. This would allow funds to be pooled over time and CHPs invited to tender to use those funds to deliver entire buildings as affordable housing, rather than accepting smaller numbers of affordable housing units throughout the much larger private market development.

Finally, the EIE is vague on the affordable housing provisions and how they relate to existing provisions. UDIA contends the new provisions in the EIE should override current and future LEP provisions to avoid double dipping and further impacting development feasibility.

Recommendations:

- DPHI should release the financial feasibility assessments underpinning the proposed re-zonings, including the analysis used to support proposed non-residential ratios and affordable housing contributions in each precinct.
- The Affordable Housing Bonus provisions of the Housing SEPP should continue to apply and affordable housing rates should be maintained as they currently exist in the Housing SEPP.
- The approval pathway should allow monetary contributions to the State in lieu of the provision of affordable housing.
- Calculations of any Affordable Housing contributions should only be based on the residential floorspace component of the building.
- To promote feasible affordable housing supply in TOD precincts, the TOD pathway policy should make any affordable housing height and GFA exempt.

- The affordable housing component must be proportional to the actual increase in residential yield on any site (non-residential floor space must be excluded), with the range for contributions starting at 0% and going up to no more than 15% where there has been substantial uplift in height and permissible GFA/FSR.
- The new policy, once implemented, must replace any existing LEP affordable housing provision.

Exemption from certain concurrence and referral requirements

UDIA is very supportive of minimising reliance on concurrence and referral (C&R) requirements wherever possible and the commitment to switch off C&Rs in the accelerated TOD precincts is welcomed. Moreover, UDIA is supportive of this exemption working as a pilot which is expanded wherever possible as a means of delivering more housing in a timely manner.

To minimise delays in housing delivery, it is crucial to both reduce the number of required referrals and speed up their processing.

The EIE proposes to exempt C&R requirements that are not considered “high-risk”. The TOD 1 areas have been the subject of significant scrutiny, analyses and strategic planning. The TOD Plans should represent a whole of Government policy position and as a general rule, UDIA believes Agencies should not be required to be consulted with again where the development proposed is consistent with the final planning controls that are set. As such UDIA proposes C&Rs should be switched off for all circumstances except where there is a risk to human life. Where the proposed development is inconsistent with the planning controls, consultation with the relevant agency could occur, but these must be made with a strictly enforceable timeframe for response. Where there are disputes between agencies on C&Rs we recommend a resolution mechanism is established either through the Cabinet Sub-Committee on Housing or via the Coordinator General for Infrastructure to step in and make a decision. Failing this, a presumption of concurrence should be put in place where stipulated timeframes are not adhered to.

Recommendations:

- Concurrence and referrals should only apply to areas that pose a risk to human life or where the development proposed is inconsistent with the final planning controls that are set. All others should be exempt.

- Any referrals or concurrences which are required must be made with a strictly enforceable timeframe for response and with the presumption of concurrence where an agency does not respond in the nominated timeframe.
- A resolution mechanism is established where there is disagreement about C&Rs, either through the Cabinet Sub-Committee on Housing or via the Coordinator General for Infrastructure, providing a step in power to make a decision.

An alternative design excellence pathway

UDIA supports an alternative design excellence pathway to ensure a consistent approach across the precincts, it does however need to be simple, clear and consistent so that it can be applied at scale. Expensive and lengthy design excellence processes result in exorbitant fees and longer developer holdings costs. This must be kept in mind when creating any alternative. At this time, there has been limited information provided other than that the design excellence pathway will be developed by the Government Architect. UDIA suggests that further engagement on this pathway will be required prior to finalising it, to ensure that it achieves the objectives of faster DA timeframes whilst ensuring high-quality design outcomes are maintained. An important consideration will be to ensure the process of seeking input from architects, designers and planners doesn't just add undue time or create a situation where the Design Pathway outcome conflicts with other advice. Many UDIA members have raised concerns about the current State Design Review Panel process which can often delay a project because of lack of ability to get on the meeting agenda, and as such there is a need to ensure that Design Review Panels are held regularly and are properly resourced so that these don't become a bottleneck in the planning process.

Recommendations

- Further consultation is undertaken on the final form of the Design Excellence Pathway.
-

Other Matters

General comments on planning controls in the Accelerated Precincts

Imposition of non-residential minimums

Many areas that have received additional residential Height and FSR, have also received a corresponding increase in non-residential minimum FSR requirements up to 3:1. Non-residential minimums create market inefficiencies that drive upward pressure on the price of housing. When market dynamics aren't responded to in the production of residential and non-residential stock, there will be a deficit in demand for one.

Furthermore, in many of the accelerated precincts including Crows Nest, St Leonards and Macquarie Park, there are already significant commercial office vacancies. There is therefore no need to introduce minimum non-residential requirements when the stated intention of the accelerated precincts is the delivery of residential housing in a high-quality, high-density environment. There is a large opportunity cost of not maximising housing delivery in these locations, when there is no need for additional non-residential stock. Accordingly, we would strongly recommend this need to deliver housing is called out as the primary policy driver explicitly in the SEPP or relevant statutory instrument which gives effect to the new planning pathway. We also recommend the requirement for a non-residential minimum is removed altogether. Retaining significant requirements for non-residential (particularly in Crows Nest and Macquarie Park) not only contradicts the intended outcome of housing close to transport and other amenities, but essentially quarantines development on these sites, as they become unfeasible with the forced commercial component. Without the removal of the non-residential minimums, the only way to tip the residential components of these developments in these precincts into being feasible, is to raise the cost of the residential dwellings to cover the cost, which only serves to put upward pressure on housing prices.

No feasibility assessment to justify the increase in non-residential minimums

Furthermore, no feasibility studies have been exhibited with the EIE to show how the market would respond to an increase in non-residential development in the accelerated precincts. Given the current state of the commercial market, this additional non-residential FSR will, in our view, render these sites unfeasible.

Recommendation

- That the requirement for a minimum level of non-residential development is removed.

Comments on specific Accelerated Precincts

Relatively low increases in height and FSR which are insufficient to support development feasibility in the current economic and construction cost environment.

Several sites at Crows Nest show a significant increase in height, however due to the existing buildings located on many sites, they will not be redeveloped. Examples include;

- 220 Pacific Highway: The proposed rezoning shows the building height control increased from 16m to 59m (approximately 19 levels), with no FSR control. Whilst this sounds like a significant uplift, there is currently a 17 storey (approximately) strata titled building on the site.
- 599 Pacific Highway: The proposed rezoning shows the building height control increased from 40m to 64m (approximately 20 storeys), with no FSR control. A 20 storey strata titled building already exists on the site.
- 14 Atchison Street: The proposed rezoning shows the building height control increased from 49m to 95m (approximately 30 levels), with no FSR control. The existing strata titled 30 storey building on the site means that the existing use is its highest and best use.

Much smaller areas rezoned than was first announced – Example Cross Nest

When the TODs were first announced towards the end of 2023, the State Government advised that the rezoning catchment would be a 1.2km radius from the new Crows Nest metro station, which equates to an area of 4.52km² of land. The documents placed on public exhibition in July 2024 have significantly reduced the focus area for accelerated rezonings down to an area of approximately 0.27km² or just 6% of the original proposed area. Further high-level analysis of the focus area for accelerated zoning has been undertaken comparing the LEP maps in the Urban Design Report prepared by SJB to the current zoning controls:

- The majority of the western portion of the focus area for accelerated rezoning is zoned E2, which does not permit any residential uses. Any increase in height or FSR in these E2 areas does not result in any additional housing supply.
- Many of the lots that have received additional residential Height and FSR, have also received a corresponding increase in non-residential minimum FSR requirements up to 3:1. Given the current state of the commercial market, this additional non-residential FSR will likely render these sites unfeasible.
- Proposed rezoned R4 zoned land within 100m of the Crows Nest train station and adjoining MUI zoned land have a proposed height control of 29m, but an FSR of only 2:1, which given the proximity to the Metro is extremely low, particularly when you consider that Train Stations under TOD Stage 2 would provide higher residential density with a height control of 22m (for residential flat buildings) and an FSR of 2.5:1.
- All existing R3 & R4 zoned land within 400m or 800m of the Crows Nest or St Leonards train stations have received no increase in density. The Urban Design Report prepared by SJB notes that some of these areas may also be subject to changes under anticipated housing reform controls and therefore rezoning may not be required. We are not aware of any housing reform controls that would increase the densities for these areas.

The proposed plan offers extremely limited opportunities for new housing supply compared to the State Governments initial announcement last year, which is further reduced by rezoned sites having already been developed to their maximum potential, as outlined above. For these reasons we do not see the proposed addition of 3,255 new dwellings coming even close to being achieved by the proposed rezonings.

Recommendation

- Crows Nest is so flawed that it should come off exhibition, be redesigned in line with the recommendations above, additional rezoned areas added and then be re-exhibited with the Bays West exhibition.

Some areas have seen potential downzoning where new height controls can't be realised

There are areas around Kellyville Station where heights have been increased but FSR reduced, which would result in a loss of developable floor areas. One example from a member who has a site with the prior affordable housing bonus resulting in close to a 4:1 FSR (with 87,000m² GFA). With the new FSR limits of 2.2 -1 the site now has a GFA achievable of 48,000m². The result is that the yield is almost halved.

Recommendation

- The realisable GFA in each of the accelerated precincts needs to be retested to ensure that where heights have been increased, an unintended consequence of a site being constrained has not been realised by the unaltered or altered FSRs.
- UDIA would recommend having an uncapped FSR (given the setback controls and the ADG will control the form of the building).

Conclusion

UDIA wishes to be part of the ongoing conversation to ensure NSW has the best chance it can at delivering the homes it so desperately needs. UDIA appreciates this opportunity to offer our comments, and we would like to work closely with DPHI in the continued role out of the TOD precincts more broadly.

If you or your team have queries about the content of this submission or wish to discuss it in more detail, please contact UDIA NSW Director of Policy, Harriet Platt-Hepworth on 0474 772 291 or at hplatthepworth@udiansw.com.au

Kind regards,

A handwritten signature in black ink, appearing to read 'Stuart Ayres', with a long, flowing horizontal stroke extending to the right.

Stuart Ayres
Chief Executive Officer
UDIA NSW

Appendix A: NSW TOD Accelerated Precincts, From Planning to Delivery

Executive Summary

The NSW Government is focusing on achieving an ambitious housing target of 377,000 new homes in the next five years, including a bold reform agenda around Transport-Oriented Development (TOD). This includes the delivery of 47,800 higher-density homes in eight TOD Accelerated Precincts, to be led by the NSW Government. As a necessary first step, the Department of Planning, Housing & Infrastructure (DPHI) has focused on rezoning and master planning these Accelerated Precincts. Less clear is how the NSW Government will progress them from planning to delivery, noting that TODs suffer from a range of delivery issues, which include:

- A lack of coordinated governance around TODs, accountability and responsibility, and capacity and capability for delivery, all of which create difficulties in coordinating across many agencies, especially for infrastructure provision.
- An unsupportive planning system that delays delivery, increases costs, fails to maximise the opportunities from TODs and is not outcomes focused.
- Failing to create great places designed and delivered in partnership with developers and local communities.
- Development feasibility barriers (UDIA NSW has discussed this issue in our recent Making TODs Work research report).

In addition, the current list of eight TOD Accelerated Precincts must not be a one-off. To maintain housing supply and tackle the housing supply crisis in the medium and long term, a pipeline of ongoing TODs needs to be developed. This pipeline should build on and improve the development process of additional new TODs, including policies, strategies, methodologies, and optimised planning and delivery pathways.

To support an ongoing TOD program, this paper makes several recommendations to the NSW Government grouped within three broad areas for action:

1. Strengthen TOD governance for delivery, including creation of a dedicated and empowered TOD delivery function, tasked with coordinating existing and new TODs, and a single accountable Minister responsible for TOD delivery and removing barriers to housing supply.
2. Enhance the planning system around TODs, including developing an 'Expected Development pathway' for developments in accordance with the precinct master plan, resolving infrastructure planning and contributions as part of the upfront rezoning, and other planning efficiencies.
3. Optimize the potential of TODs and create a further pipeline of Accelerated Precinct TODs to support long-term housing supply and affordability across NSW.

By implementing the recommendations in this report, the NSW Government will set up TOD Accelerated Precincts to maximise their contribution to housing supply while creating great places for communities. This will help address the current housing crisis while building long-term community support for densification across NSW to support a growing population.

Summary of Recommendations

All of these recommendations outlined below relate to TOD Accelerated Precincts.

Section 1 – TOD Governance:

1. Create a TOD delivery function within the NSW Government that is accountable for successful delivery of all TOD Accelerated Precincts.
2. Appoint a single Minister responsible for TOD delivery.
3. Implement standardised principles or rules at TODs that support housing supply and affordability.
4. Develop and implement a strategy for building capacity and capability for TOD development and delivery.
5. Appoint an Advisory Panel of global and Australian experts in TODs.
6. Develop a framework for delivering TODs based on global experience.
7. Experiment with alternative forms of stakeholder engagement that focus on the design and amenity of TODs instead of height and density.

Section 2 – Streamlining planning for TODs

8. Streamline the NSW Planning System for TODs, including providing an 'Expected Development' pathway.
9. In TODs, deal with agency concerns as part of master planning and remove DA requirements for referrals unless it is outside the agreed-upon parameters in the master plan.
10. In TODs, reduce DA reporting requirements by undertaking reports at a precinct level as part of master planning.
11. All TODs should have industry-specific Secretary's Environmental Assessment Requirements (SEARs) to remove the need for project-by-project SEARs.
12. Establish planning controls in a TOD parallel to the master plan.
13. Allow State Significant Development Approvals (SSDA)s to be processed in parallel with the master planning.

Section 3 – Optimizing the potential of TODs, over time

14. Undertake a detailed analysis of each site in the TODs to understand the barriers to reaching their potential and seek to remove them.
15. Identify the regulations that most restrict yield on TODs and undertake a financing/affordability cost-benefit analysis to decide whether to keep them.
16. Decide on the re-zoning radius of TODs based on transport accessibility and plan to increase transport accessibility to expand the radius.
17. DPHI should begin a transparent process for building a pipeline of TODs.

Background

Introduction to Transit-Oriented Development

Transit-Oriented Development (TOD) is a planning and urban design principle focused on high-density development close to transit nodes. It encourages the use of public and active transport and reduces the need for private commuter transport, such as cars.

Although the idea has a long history and is found in different ways in many forms of urban development, American urbanist Peter Calthorpe first used this terminology in the early 1990s to promote more sustainable forms of urban development and said a TOD area is 'a mixed-use community within an average 800 metre (or 10-minute) walking distance of a transit stop and core commercial area'.

Key characteristics of places designed on TOD principles include:

- A range of high and medium-density residential developments, typically dominated by apartments but with a mix of scales and forms responsive to the local context.
- Have good access to high-frequency public transport (typically rail but also potentially rapid bus & ferry transit) and high-quality pedestrian and cycling networks.
- Are linked by these transport networks to places with a high concentration of jobs and services – either major urban commercial centres or key education and health precincts.
- Critically, depend on the redevelopment of fragmented, privately held land in a coordinated and well-incentivised way.

TOD initiatives are most common in modern cities in North America, Latin America, and Asia, where new or existing rail infrastructure is not fully developed. In contrast, in older European or Asian cities, where urban infrastructure serviced existing dense urban environments, TOD programs try to retrofit density into places where it has not always existed – for instance, station precincts surrounded by low-density single homes or land used unproductively for car parking.

Whilst the NSW Government's focus on TODs is historically significant in scope and significance, TODs have been included in all recent strategic plans and many examples of development in Sydney are TOD in character or apply TOD principles.

Throughout the 2000s, metropolitan centres like Chatswood, Parramatta, Burwood and Rhodes were identified for significant growth, primarily due to their connectivity via the heavy rail network. In recent years, the Priority Precincts program has focused on rezoning existing centres for higher-density development. However, many of these precincts have not performed as planned due to uncertain planning processes, poorly implemented design principles and the complexity of governance for delivery.

That is why the current focus on the TOD Program by the NSW Government is so significant and why it is so critical to get delivery right.

The TOD Program is designed to address housing shortages by delivering additional housing supply near 45 identified transport hubs. There are two parts to the program:

- Part 1: TOD Accelerated Precincts (the focus of this report): Rezoning the land within 1,200 metres of eight stations within Greater Sydney to deliver high and mid-rise housing.
- Part 2: New Planning Controls: Introducing the Transport Oriented Development State Environmental Planning Policy (TOD SEPP) to allow more mid-rise housing within 400 metres of 37 stations across NSW.

In the TOD Accelerated Precincts, DPHI will undertake master planning and technical studies for each precinct and lead accelerated rezonings (informed by master plans) for all eight sites. A new State Significant Development Assessment pathway (triggered by development capital value over \$60M) will be in place until November 2027. Councils will assess developments for less than \$60M. DPHI is committed to assessing applications within 90 days.

Basis for our recommendations in this Report

This report has been prepared by UDIA Urban Renewal, BTR, TOD and Local Centres Committee members with experience across development, design,

planning, and precinct delivery. This report focuses on the TOD Accelerated Precincts and the need to maintain a future pipeline of similarly scaled precincts where large landholdings and infrastructure investment can substantially contribute to housing supply and economic growth. Whilst the 'New Planning Controls' precincts are also critical to NSW's growth; their urban development pattern and model are substantially different to the TOD Accelerated Precincts necessitating a different approach and focus to achieve success.

The key questions that have framed this research and recommendations are:

- What does best practice delivery, planning and governance look like for TOD Accelerated Precincts?
- What are the optimal planning pathways and key obstacles to accelerate TOD delivery in NSW?
- How can the NSW Government, working with councils and the private sector, avoid the mistakes of past precincts, and ensure delivery mechanisms to accelerate the housing completions necessary to meet the National Housing Accord target?

In response, our report focuses on three areas for consideration by the NSW Government:

- Proposing enhanced TOD delivery governance, including a dedicated state led TOD delivery function tasked with coordinating the successful delivery of the initial eight and future TODs reporting to a single accountable Minister. To meet its objectives, the TOD delivery function should create a delivery framework based on lessons from TODs globally.
- Streamlining the planning processes around TODs, including developing an 'Expected Development pathway' for developments in accordance with the approved precinct master plan and resolving infrastructure planning and contributions as part of the upfront rezoning. This should include advanced industry, community, and stakeholder engagement approaches to move beyond objections to height to prioritize community requirements and design quality at TODs.
- Optimising the housing potential and outcomes of TODs at each location and ensuring a pipeline of future TODs.

Section 1 – TOD Governance

Achieving successful delivery of the TOD Accelerated Precincts is critical to tackling the housing affordability crisis. In some quarters, there is the misconception that doing high-quality master planning of a TOD is sufficient to deliver good outcomes. However, the experience in NSW and around the world is that whilst high-quality master planning is essential to delivering successful TODs, it is not sufficient. TODs are delivered over a long period, often up to twenty years. The delivery of TODs needs to be managed throughout this period to solve problems, remove barriers to success and make changes in response to changing markets and circumstances. A local example that exemplifies this is Zetland, where the City of Sydney has curated the precinct through a place-based governance framework and leveraged developers' contributions to create a high-amenity precinct.

Successful delivery management of TODs requires:

- Robust delivery governance, clear accountabilities and responsibilities for planning and delivery.
- Appropriate capacity and capabilities.
- Creating processes that support the key elements that enable TODs and their communities to thrive over time.

1.1 Accountability and Responsibility

To succeed, TODs need effective collaboration with a wide range of stakeholders, including government agencies, local councils, and developers, over a sustained period. Experience in NSW and around the world has demonstrated this does not happen organically; mechanisms need to be put in place to facilitate this collaboration, and where consensus cannot be achieved, decisions must be made to enable delivery. Where accountability and responsibility are lacking, issues arise in a variety of ways:

1. *Overall ownership of and responsibility for TOD delivery is unclear* following DPHI rezoning and master planning. During the early development of a TOD, when the master planning is being undertaken, there is clear ownership of

the TOD. However, once the planning is done, TODs often stall, with no clear accountability and responsibility for delivery. Consequently, TODs can fail to meet their objectives and create the great places envisioned in the master plan.

2. *A need for infrastructure and amenity coordination.* The successful creation of TODs requires many agencies to come together to deliver an integrated and holistic TOD that supports the growing population, including planning, transport, schools, hospitals, local Councils, and treasury. This requires aligning priorities across the agencies and making trade-offs to match available funding and leveraging government land to benefit the entire precinct. Unfortunately, the structures and processes to align agencies around a 'place' have historically been missing. Current NSW Government processes are not designed to support a place-based approach to infrastructure, with each siloed agency having a separate business case for their specific interests and priorities. This makes infrastructure coordination very difficult and slows down delivery.
3. *Uncertainty over infrastructure funding.* The sources of infrastructure funding for a TOD are often varied and include council funding, local and state infrastructure contributions, works in kind, and state and federal funding. With clear accountabilities, identifying infrastructure priorities, timings, and funding sources is easier. For example, infrastructure funded by local contributions often suffers from only being delivered once the contributions have been paid and the infrastructure can be fully funded. The result is that infrastructure is frequently delivered many years later than required, undermining community acceptance of TODs.
4. *Dispersed ministerial accountabilities.* Government agencies must not be the only ones brought together to deliver TODs successfully; Ministers must also coordinate to prevent agencies from being pulled in different directions.
5. *Maintaining focus over time.* The NSW Government's focus on delivering a TOD can reduce once it moves into the planning approval/assessment

stage, which is usually run by local government. Whilst not an issue where councils have the capacity, capability, and willingness to deliver TODs, for too many Councils, this is not the case. In those cases, the NSW Government needs to retain an oversight role.

6. *Political pressures in local constituencies* can result in reduced housing supply and associated amenities when influential community groups pressure their local MPs to water down TOD proposals, particularly regarding height and density. Local MPs can lobby the Planning Minister to scale back TOD plans. Whilst political lobbying and community interest groups are a reality of our political system, it is essential that the opportunities of TODs are optimized in all locations – based on place and community requirements rather than political pressure.
7. *Councils take different approaches to TODs.* The current TOD program demonstrates wide differences in whether councils support TODs. Most have welcomed TOD Accelerated Precincts and will work constructively to deliver them. Unfortunately, some councils are less supportive.
8. *Inflexible approaches to development feasibility.* Developers need to generate a financial return to deliver housing at TODs. This is often driven by the banks, who require a certain level of return to reduce risks before providing finance. There are many complexities around feasibility, such as when the land was purchased and at what price, changes to construction costs, infrastructure contributions, land fragmentation etc. However, if a significant site in a TOD is not delivered due to feasibility concerns, it can undermine the whole precinct.

The NSW Government has encountered all these challenges in its efforts to deliver precincts over many years. It has tried various methods to improve delivery, including recently, the appointment of the CEO of Infrastructure NSW to act as the Coordinator-General for infrastructure in Western Sydney and elsewhere to facilitate the alignment of government infrastructure agencies. Given the challenges of infrastructure coordination, UDIA has welcomed this

announcement. Over the years, the NSW Government has used many models and governance arrangements to try and improve the delivery of precincts:

Delivery Authorities

The NSW Government has used delivery authorities like the Barangaroo Delivery Authority and Sydney Olympic Park Authority to create and deliver precincts. However, the delivery authority model has had mixed success, with the Western Parkland City Authority recently being restructured and its scope narrowed.

Cabinet Sub-committee

The NSW Government has sometimes had cabinet subcommittees focusing on housing delivery. These have been relatively successful at coordinating government activity. However, they have tended to become watered down over time as government priorities have shifted.

The 2000 Sydney Olympics

During the NSW Government's preparations for the Olympics in 2000, to speed up decision-making and improve coordination, an Olympic Coordination Authority (OCA) was created by amalgamating the divisions within five State Government agencies responsible for delivering the venues, reporting to one Olympics Minister.

In addition, a second agency, the Olympic Roads and Transport Authority (ORTA) was established with three state agencies involved in coordinating the delivery of transport services for the Olympics, again reporting to the Olympics Minister.

Key governance arrangements for the Olympics included:

- A single Minister responsible for delivery.
- Merging agencies or divisions within agencies to support delivery.
- Providing planning powers to the Minister (delegated to the agency), including a rapid approval pathway where development was aligned with the precinct plan, subject to a design review.

The Growth Centres Commission (GCC)

The Growth Centres Commission was constituted on 1 July 2005 as a development corporation under the Growth Centres (Development Corporations) Act 1974 to support development in the North West and South West growth centres. A key objective of the commission was to speed up the development of the growth centres. Key governance arrangements from the Growth Centres Commission included the following:

- As with the OCA, the Minister responsible for the Commission had consent authority over development in the growth centres and delegated it to the Commission.
- A collaborative ethos with a focus on delivery. The collaborative planning the Commission undertook with local Councils exemplified this.
- The Commission had the power to be the water authority in the growth centres. This meant it had the option of building its own water infrastructure and potentially bypassing Sydney Water if it would be a roadblock to development. This did not turn out to be the case, but the power was helpful in discussions about the provision of water infrastructure with Sydney Water.
- Creating a bespoke infrastructure contributions framework for the growth centres.
- Focus. The Commission had a limited number of areas to focus on.
- A Board providing external expertise and advice.

Councils

The NSW Government has had limited resources to rezone precincts. Therefore, it has been inclined to do a rapid rezoning and then leave implementation to councils.

State-led intervention in planning requires the Planning Department to take the lead in the rezoning process in place of the relevant council. There are different examples of how the state and local governments work together, but typically, the state government dominates and leads the process. Councils may actively participate, participate passively, or choose not to participate altogether.

In the past, this has meant the following:

- Key issues deferred past the rezoning (like contributions plans) are delayed, and few dedicated resources are available to deliver.
- Councils can frustrate the objectives of a precinct rezoning, e.g. by setting unrealistic local Development Control Plan (DCP) controls, slowing development applications, or not providing adequate resources for implementation.
- If precinct rezonings do not lead to desired development outcomes, there is no means of evaluating or revisiting how planning controls or other interventions could be adjusted.

These issues impacted St Leonards and Crows Nest, where the NSW Government finalised the strategic plan, but gave responsibility to proponents and councils to bring forward site rezonings. This created a slow and uncertain process that has undermined the precinct's strategic intent and delivery.

Another example is Macquarie Park, where regular changes to the strategic vision for the precinct over the past 15 years, have undermined landowner certainty, diminished market confidence, and caused pressure for intensive development outcomes. Currently, the state government and local council remain at odds, and without a clear governance model moving forward, the precinct is unlikely to reach its potential.

A key lesson for moving forward is that the NSW government needs to consider implementation as part of the precinct planning process and should include:

- Identifying a framework with multiple models for the government's involvement in TOD Accelerated Precincts and how it will work with Councils.
- Identifying discrete elements or parts of the process that councils can be fully responsible for, consistent with the precinct planning (i.e. the role of the City of Sydney in implementing the Pyrmont Peninsula Place Strategy).
- Considering how to manage councils opposing Development Applications (DAs) without merit, following controversial precinct rezonings, pushing projects down uncertain, expensive and unnecessary Independent Planning Commission (IPC) decisions.

- Developing precinct tracking mechanisms so the NSW Government can evaluate implementation and make necessary adjustments.
- Resolving infrastructure planning and contributions as part of the master plan will ensure that development is not later held up by uncertainty.
- Supplementing the expertise of government to build capacity and capability.

Considering these examples, UDIA has identified several governance elements that need to be put in place to support the delivery of TODs:

1. *A Sub-committee of Cabinet* that monitors TOD progress and can make decisions that cannot be resolved elsewhere. The NSW Government has already recognised the need for a cabinet sub-committee for housing delivery, and TOD delivery should be a regular part of this committee's agenda. In addition, this committee should review and recommend the densities around TODs, and any proposed changes to these densities should be referred to the sub-committee for a view.
2. *A single, accountable Minister* responsible for TOD delivery (post planning) and maximising housing and placemaking outcomes at TODs. Whilst the master planning of TODs sits with the Minister for Planning, it is just as important that the delivery of TODs is also the responsibility of one Minister, empowered to manage competing interests and delivery complexities and, if required, instruct agencies.
3. *An empowered and funded government agency* (a whole new entity or part of an existing entity) is responsible for coordinated and streamlined TOD delivery, with powers to coordinate with other agencies and make changes to reflect local conditions. This TOD delivery function should be flexible with how it works with councils on TOD delivery. Where a council wishes to take ownership of a TOD, is supportive of the master plan and has the capacity and capabilities to do it, the TOD should be handed over, but with ongoing delivery monitoring by the TOD delivery function. Where a council is not supportive of a TOD, the TOD delivery function should remain in complete control of the TOD, while still appropriately consulting with the

local council. The TOD delivery function should include the following powers and responsibilities:

- Responsibility for all TOD Accelerated Precincts and is focused on their coordinated delivery.
- The ability to amend the master plan (over time).
- TOD delivery, including resolving problems such as:
 - Fragmented land, including considering options such as reducing parking and servicing requirements that exacerbate the problem, tax incentives for consolidation or compulsory acquisition.
 - Local infrastructure delivery
 - Feasibility issues
 - Bringing forward housing within the Housing Accord period.
- Creating a cross-agency team, with key agencies, such as Transport and Sydney Water, seconding people into the team to provide support.
- Where possible, looking to transition TOD delivery to councils.
- Create local stakeholder committees, including developers, landowners, council, etc.

These three critical elements of TOD governance – a TOD delivery function, a single Minister, and a Cabinet subcommittee – should improve the level of accountability and responsibility to support the successful delivery of an ambitious TOD Program. However, additional capacity and capability must be developed to ensure success (see next section).

Recommendation – Create a TOD delivery function within the NSW Government that is accountable for coordinating the successful delivery of all TOD Accelerated Precincts.

Recommendation – Appoint a single Minister responsible for TOD Accelerated Precinct delivery.

Another of the areas for improvement in TOD delivery in NSW is the tendency to determine a separate planning pathway for each individual TOD. Standardised planning principles or rules around TODs would streamline and accelerate

delivery. Minneapolis in the US (see box B) has done this to great effect, significantly improving housing supply and affordability in less than four years. Although exactly copying Minneapolis would be inappropriate in the NSW context, some rules could be translated across, for example, defining density minimums around Accelerated Precinct TODs. The key is standardising rules supporting housing supply and affordability across all accelerated precinct TODs.

Recommendation – Implement standardised rules at Accelerated Precinct TODs that support housing supply and affordability.

1.2 Creating capacity and capability

Creating TODs that are vibrant, well-connected, and balanced in terms of residential and employment land uses, while delivering a high amenity level is a complex endeavour that requires collaboration between the public and private sectors. Successful examples from around the world demonstrate that when local or State governments take a deliberate, proactive, and integrated approach, the results can lead to thriving communities. In contrast, when governments and the private sector do not collaborate effectively, governments tend to impose elements into a master plan that damage the precinct. For example, crude requirements for mixed-use have been known to create poorly located commercial premises that remain vacant and harm the place-making of the area, whilst parking maximums in places like Chatswood are making the apartments unsellable and preventing development.

A significant risk to the successful delivery of the initial TOD Accelerated Precincts is the lack of interdisciplinary expertise required to lead and deliver highly complex transit-oriented renewal projects within state and local government. Few agencies, councils, or individuals have the cross-cutting capabilities needed across transport, urban planning, development feasibility, and financing, plus the expertise to negotiate, collaborate, engage effectively with stakeholder groups, and integrate all to drive agreed-upon outcomes for each location.

Competition for a limited pool of experienced professionals and expertise has resulted in talent across relevant NSW Government agencies being stretched, and many smaller local councils across Sydney also having limited TOD delivery capability.

The NSW Government must also prioritise the development of essential cross-disciplinary TOD delivery capabilities to integrate development programs across state agencies, local and state government, private sector, and disciplines. This could be led by the TOD delivery function as discussed above and could include initiatives such as state-developer working groups for persistent challenges (such as development feasibility), cross-government secondments, forming shared project offices between local and state governments, bespoke cross disciplinary training, etc.

Building capacity and capability will require several years to develop. Therefore, additional measures are needed in the short term to supplement the skills and experience available to the NSW Government and local councils. These measures could take various forms, such as directly employing consultants and contractors in the TOD delivery function while permanent employees build up their skills and experience. Using consultants can be expensive, and the public service does not have a sound record of passing skills from consultants and contractors to permanent employees.

An additional approach would be creation of an expert independent advisory panel with global and Australian expertise in TODs, including construction, development, planning, delivery and management. This panel could undertake several roles:

1. Providing advice on creating and delivering TODs to Ministers and public servants.
2. Advising on funding and partnership structures.
3. Championing TODs in the community.
4. Sharing knowledge and expertise with the TOD delivery agency.
5. Scrutinising TOD plans and delivery progress.
6. Problem-solving delivery challenges.

7. Working with public servants to develop the policies and processes to get the TOD delivery function up and running and set it up for success.
8. Challenging existing BAU processes that have proved ineffective.

Recommendation – Develop and implement a strategy for building capacity and capability for TOD Accelerated Precinct delivery.

Recommendation – Appoint an advisory panel of global and Australian experts in TODs.

1.3 Creating the processes that enable TODs to thrive.

International experience has identified several facets that help TODs to become the great places we need to aspire to:

1. *Flexibility Over Life of the TOD*: Any precinct plan must be able to evolve over its lifetime.
2. *Integrated Planning and infrastructure coordination*: A holistic view of urban planning that includes housing, transportation, and amenities.
3. *Regulatory Frameworks*: Implementing deliberate policies and regulations that support the desired outcomes of urban development.
4. *Affordability*: Ensuring a mix of housing options to cater to different income levels.
5. *Community Engagement*: Involving local stakeholders, including residents and businesses, in the planning process to ensure that the place meets the community's actual needs.
6. *Performance Targets*: Setting clear performance targets for liveability outcomes.
7. *Public-Private Partnerships (PPPs)*: Engaging with the private sector to leverage additional expertise, efficiency, and funding (see box A).
8. *Transparent and Accountable Systems*: Implementing transparent processes and accountability mechanisms to track progress and ensure responsible use of resources, including local contributions.

9. *Legal and IT Frameworks*: Establishing robust (but simple to implement) legal and IT systems to support public investment planning, allocation, and implementation.
10. *Capacity Building*: Investing in human resources and capacity building to improve the skills and capabilities of those involved in infrastructure planning and delivery.
11. *Place-Based Vision*: Developing a clear, strategic vision specific to a region's needs that can be easily translated into more defined district/precinct needs.
12. *Sustainability*: A focus on creating environmentally friendly and energy-efficient buildings and neighbourhoods. For example, Barangaroo.
13. *Innovation*: Utilising new technologies and innovative practices in urban development.

In short, NSW needs to develop and implement processes to deliver successful TODs. Fortunately, NSW can draw on significant resources to create those processes. These include the [Victorian Planning Authority's Guidelines](#), the IMF's [Public Investment Management Assessment](#) (PIMA) framework, and the [World Bank's Infrastructure Governance Framework](#).

Implementing a solid but pragmatic framework that integrates the above elements can help avoid the legacy shortfall and backlog of many TOD challenges such as misaligned infrastructure, land fragmentation, dissatisfied communities and meeting ambitious housing targets. Establishing and overseeing the framework would sensibly be another role for the TOD delivery function.

Recommendation – Develop a framework for delivering Accelerated Precinct TODs based on global experience.

A further area for particular focus in NSW is community engagement. Precinct planning in Sydney over the past decade has often come undone at the stage of formal community consultation. Here are a few examples:

- The Rhodes priority precinct was first announced in 2015, exhibited thrice in 2017, 2018 and 2020, and finalised in 2021.
- The Parramatta North precinct spent 10 years being passed between council and state, unexpectedly excluded from CBD rezoning in 2022 and the 2024 rezoning has reduced development scale, trying to resolve issues that should have been addressed earlier which will likely result in multiple projects not proceeding.
- The Sydenham to Bankstown line. In response to community sentiment, the NSW Government backed down on a corridor strategy. The council then moved forward with more intense master plans for key stations. Nearly ten years later, the TOD program may now achieve a mid-rise plan for a number of further stations.
- Waterloo Estate – a deeply engaged local community was involved in an extensive and repetitive consultation process where the community felt it was not listened to.

The Government's intent for a precinct and the community's aspirations are often misaligned. The Government releases plans for high density in a local area, with the community reacting to refute or disagree with the premise of higher density.

Traditionally, stakeholder consultation has focused too much on heights and whether a community wants a TOD and not enough on its design and the community infrastructure required. Alternative engagement models with communities and other stakeholders should be explored to enable much higher levels of involvement in the design of a TOD and the trade-offs involved to achieve optimal community outcomes.

Recommendation: Experiment with alternative forms of stakeholder engagement that focus on the design and amenities of TODs instead of height.

Section 2 – Streamlining Planning for TODs

Getting the right governance around TODs is essential for success, but more is needed. We also need to consider how to achieve the following:

- TOD Accelerated Precincts planning can be improved; and (in Section 3);
- How the benefits of TOD Accelerated Precincts can be maximised; and
- How TOD Accelerated Precinct delivery can be optimised over a time horizon of twenty years.

2.1 Improving TOD Accelerated Precincts Planning

The current TOD planning process has several problems that, if rectified, could significantly speed up housing supply and deliver better place outcomes.

The NSW Planning System is widely acknowledged as having its challenges. It is expensive to administer (causing resourcing issues for assessing DAs), costly to navigate, slow, and unpredictable. Left as it is, the system will significantly hinder good TOD Accelerated Precinct outcomes, reducing housing supply, slowing delivery, and delivering sub-optimal place-based outcomes. In short, the NSW Planning System needs to be adjusted to achieve the outcomes aspired to and possible with TODs.

The planning reform for TOD Accelerated Precincts should draw lessons from the Olympics and Queensland, where consultation occurs as part of the master planning. An 'Expected Development' pathway that provides deemed approval for a DA within the master plan, subject to the design (via an efficient design review process), would significantly improve TOD delivery, housing supply and place-based outcomes.

Recommendation – Streamline the NSW Planning System for TOD Accelerated Precinct, including providing an 'Expected Development' pathway.

Once Master planning is complete, developers must submit Development Applications (DAs) for their projects. Their DAs are referred to government agencies for consideration in this process. Referrals can cause two issues. First, government agencies are often slow to consider referrals. Second, new issues arise that, for some reason, were not included in the master plan, even when the DA aligns entirely with the outline set out in the master plan.

Any strategy for improving referrals needs to take a multi-pronged approach, including:

- Reducing the number of referrals.
- Speeding up referrals.
- Reducing the number of new issues that arise from referrals.

To reduce the number of referrals at the DA stage, agencies should submit their issues and resolve them (even if the government agrees to ignore the agency concerned) as part of the master planning process, and DAs no longer need to be referred to an agency if it aligns with the masterplan.

Recommendation – In TOD Accelerated Precincts, ensure that agency concerns are addressed as part of the master plan and no longer require referrals as part of a DA unless it is outside the agreed-upon parameters in the master plan.

The reports required to support a DA are extensive, time-consuming, and costly, and when considered at a TOD level, they are incredibly inefficient. For example, every DA has to provide traffic reports and social impact assessments, creating an extensive duplication of work for each DA. Undertaking these studies as part of the master plan should remove the need for them to be undertaken by any DA that complies with the master plan's parameters. Even where a DA is outside the master plan parameters, the reporting requirements should be significantly reduced, given the previous work undertaken.

Recommendation – In TOD Accelerated Precincts, reduce DA reporting requirements by undertaking reports at a precinct level as part of master planning.

The Secretary's Environmental Assessment Requirements (SEARs) specify what issues must be addressed within an Environmental Impact Statement (EIS), which can be costly and time-consuming. However, these requirements can also be reduced by the upfront preparation of what are known as industry-specific SEARs, which remove the requirements for SEARs on a project-by-project basis. Creating

industry-specific SEARs for all TOD Accelerated Precinct would help streamline the development process.

Recommendation – All TOD Accelerated Precincts should have industry-specific SEARs to remove the need for project-by-project SEARs.

As part of creating the planning framework around a precinct, once the master plan is complete, sites cannot come forward until the planning controls are established. However, there can be a lengthy delay before this occurs, delaying housing supply and reducing feasibility. If planning controls were established in parallel with the master plan, delivery delays could be significantly reduced.

Recommendation – Establish planning controls in TOD Accelerated Precincts parallel to the master plan.

Should an 'Expected Development' pathway not be available, an alternative way to improve housing delivery would be to undertake a State Significant Development Application (SSDA) process in parallel with the master planning.

Recommendation – Allow SSDAs to be processed in parallel with master planning.

Section 3 – Optimising the potential of TODs, over time.

Given the importance of TOD Accelerated Precincts for delivering housing and reshaping our cities, it is essential to optimise each TOD's potential. Reducing a TOD's potential causes several significant issues beyond reducing the total quantum of housing provided.

Firstly, reducing the yield on sites makes them less feasible and less appealing to invest in and slows down land acquisition, development, and housing supply.

Secondly, much of the amenity available in a TOD heavily depends on the scale achieved. Facilities like childcare centres, coffee shops, restaurants, etc., depend

on sufficient patronage. The less density, the less viability of those amenities, and placemaking outcomes are compromised.

The first challenge to be addressed in maximising the potential of TODs is to ensure high-quality data on precinct yield. The current TOD Accelerated Precincts target is 47,800 new homes over 15 years. However, this number is likely to be dragged down by sites that:

- Require amalgamation to achieve their potential.
- Are unable to transact due to developers and landowners being unable to agree on a price.
- Have yield & feasibility challenges.
- Are located in a sub-market without the capacity to absorb all the new homes.

The NSW Government should examine each TOD in detail to identify obstacles to achieving their potential and, where necessary, make changes to get as close as possible to 47,800 new homes. Interventions could include incentives to encourage amalgamation and early transactions and support for feasibility. The government's adoption of the UDIA's proposal to pilot purchasing homes to support pre-sales is an excellent example of where the government can deliver affordable housing while supporting market housing. Finding solutions to ensure TODs are delivered should be the new role of the TOD delivery division and the TOD advisory panel.

In some cases, TODs have significant land fragmentation. If not managed, this can hinder the delivery. For example, Leppington is often pointed to as an example of where fragmentation has prevented the successful delivery of the TOD.

Currently, LEP controls have some incentives to encourage amalgamation, such as requiring minimum lot areas. However, consideration needs to be given to what happens if these are insufficient and further measures are required. These could come as three approaches:

1. *Reduce the need for amalgamations.* On some sites, there is an option to reduce the need for amalgamations, such as by removing the need for parking. For example, in town centre/high street locations the need to deliver minimum parking spaces can hinder development as basements need to be of a certain size and configuration to enable circulation, plant and ramps, waste etc. Removing the need for parking or requiring a maximum rate removes the need to amalgamate 3 or 4+ properties to make the basement work.
2. *Providing time-limited incentives.* It might be appropriate to provide additional incentives to amalgamate land on some sites, such as reducing infrastructure contributions on an amalgamated site for up to a fixed period, say two years.
3. *Retain incentives which are working well.* For example, along Liverpool Road in Ashfield (see below) where developments on 6-10m wide, properties are being renewed as shop top housing. LEP controls incentivise amalgamation by requiring minimum lot areas or site frontages to enable residential flat development to be delivered.



Image source: Google Maps – Street View, accessed 22 August 2024.

4. Where incentives are not working, the NSW Government should consider compulsory acquisition where the site is critical to TOD delivery and

outcomes. In some circumstances, the government may profit on a site that has been compulsorily acquired, if the amalgamation of lots makes the whole of greater value than the sum of the parts. In these circumstances, any profits should be used to provide infrastructure in the TOD program.

Recommendation: Undertake a detailed analysis of each site in the TOD Accelerated Precincts to understand the barriers to reaching their potential and seek to remove them.

Existing government regulations also limit the potential of sites. Although they have been created with good intentions, the costs against the benefits have often not been adequately analysed. Examples of regulations that should be examined include:

- Restricting building heights based on ensuring solar access for open spaces. The current regulations should be reviewed to consider whether the current balance between sun and shade is appropriate for NSW's climate.
- Restricting building height to create a bell-curve skyline. Other successful cities have used alternative approaches. For example, the relationship between buildings in Manhattan and Central Park in New York does not follow a bell-curve typography.
- Apartment Design Guide (ADG) direct sunlight requirements need to be updated. This policy unintentionally skews the distribution of apartments in favour of smaller apartments at the expense of families, as developers have to maximise the number of apartments with access to direct sunlight. This requirement could be replaced with an approach based on access to daylight, allowing more flexibility.

Recommendation: Identify the regulations that restrict yield on TOD Accelerated Precincts and undertake a cost-benefit analysis to decide whether to keep them.

Currently, for TOD Accelerated Precincts, the NSW Government has taken a one-size-fits-all approach to the radius of rezoning, loosely based on the ability to walk to the station in a TOD. Whilst this is a good start, to maximise the potential of each TOD moving forward, the government should take a more context-specific approach to the re-zoning area. Specifically, where TODs have higher levels of accessibility by bike, bus or light rail, then the radius should be expanded. In addition, transport planning should look to upgrade the accessibility of TODs through improved infrastructure and services, supporting an expansion of the radius.

Recommendation: Decide on the re-zoning radius of TOD Accelerated Precinct based on transport accessibility and plan to increase transport accessibility to increase the radius.

UDIA warmly welcomes the government's approach of creating TOD Accelerated Precincts. However, eight Accelerated Precincts are just the beginning of what is required to supply housing and livability in NSW in the medium term; these will need to be supplemented with additional TOD Accelerated Precincts.

The NSW Government needs to develop a continuous pipeline of TODs so that when the master planning of the current eight is completed, the master planning of additional TODs can commence. To support the pipeline, the NSW Government should undertake a detailed analysis of the next set of TODs with the highest potential. Given the controversy over the selection of the existing TODs, this should be a more transparent process, clearly setting out the criteria by which the next set of TODs will be selected. These criteria will probably include consideration of existing master planning being underway, infrastructure availability, and yield potential.

Recommendation - DPHI should begin a transparent process for building a pipeline of TOD Accelerated Precincts.

Conclusion

The NSW Government's policy on TOD Accelerated Precincts is a significant step forward. However, to create great livable places and maintain community support for TODs, NSW needs to get better at delivering them and learn lessons from other jurisdictions that have developed more mature TOD capabilities. This needs to include:

- Improving the governance of TODs, including creating a function dedicated to TOD delivery and with the powers to resolve the most difficult barriers to success, such as coordinating infrastructure agencies and priorities.
- Developing the capacity and capability to support TOD delivery in both the state and local governments.
- Enhancing TOD processes and frameworks, such as leveraging skills and capital through private sector partnerships.
- Improving planning processes to reduce costs and speed up delivery.
- Maximising the potential of individual TODs and building a pipeline of TOD Accelerated Precincts.

The TOD Accelerated Precincts are key to supporting NSW's housing supply and affordability. By adopting the recommendations in this report, UDIA NSW believes we will set the state up for ongoing success in meeting the state challenging housing targets and ensuring great places for our communities.

Appendix

Box A – Partnerships

The success of the Transport Oriented Development reforms in Sydney will be dependent on successful industry and development partnerships.

There is a long history of successful public-private partnerships (PPPs) in Australia, and they are proven around the world as effective structures for transit infrastructure funding and associated urban development. PPPs and development partnerships have been used on the four integrated station developments on the soon-to-open City and Southwest Metro line, as well as at many other Metro and transit developments around Sydney.

However, to date, they have been delivered site-by-site, with each site led by one of many state government departments or local governments and each having its own financing, funding, and partnership structures. London has been exploring a different approach.

Case Study – Places for London Partnership



Image Source: [Places for London - New London Architecture \(nla.london\)](https://nla.london/)

Places for London is Transport for London's financially independent property company. It has a £2 billion property portfolio and is targeting the creation of 20,000 new homes and 600,000 square feet of new workspace across London in the next ten years. Their delivery programmes include a Property Partnership Framework (which has also been adopted for use by the Greater London Authority), direct development, site-specific partnerships, and a build-to-rent portfolio.

There are 13 companies and consortia signed up to the Places for London development framework, creating joint ventures with leading developers in multi-site arrangements which are more efficient than procuring partners on a site-by-site basis and which allows targeted partnerships at scale, based on the preferred market and expertise of each partner.

Box B – Multiple housing and affordability measures – Minneapolis, Minnesota



Image Source:

https://en.wikipedia.org/wiki/Minneapolis%E2%80%93Saint_Paul#/media/File:2008-0712-MPLS-pan00-mp-edit.JPG

Minneapolis, a growing American metropolis of over 3 million citizens, has demonstrated an effective policy response to its housing crisis. The *Minneapolis 2040 Plan*, introduced in 2020, included wide-ranging reforms across 100 policy areas, with four critical housing and affordability reforms demonstrating early results in rents stabilising despite population growth and inflation and a higher rate of housing supply than other comparable cities. The four key reforms included:

1. Eliminating parking minimums

In 2021, parking minimums were eliminated from Minneapolis zoning codes, allowing developers to determine optimal parking requirements for each site based on the appropriate land cost, proximity to transit and customer base. To date, this has resulted in an overall reduction of average parking spots per unit and a redistribution of parking-to-unit ratios, with some developments retaining

relatively high parking levels, offset by increased apartment numbers with little or no parking.[1]

Considered with other US cities that have eliminated or reduced parking minimums, such as San Francisco, New York City, Buffalo, Seattle and Cincinnati, this has proven to be a simple way to encourage urban construction by reducing construction costs and improving feasibility whilst mitigating emissions and creating more compact and sustainable urban form.[2]

2. Creating density minimums near public transit stations, with higher standards near popular transit hubs and even higher ones downtown

Like Massachusetts and Connecticut, Minnesota established policies for density minimums near high-use transit corridors and with higher standards near popular transit hubs and even higher ones downtown. This reflects growing recognition of the environmental and economic benefits of transit-oriented development, plus their ability to increase housing supply and expand the demand for public transport.² As a relatively non-contentious measure, this is considered likely to have contributed to Minnesota's growth in housing supply.

3. Abolishing single-family zoning (the first city in the US to do so)

A significant policy change was the banning of single-family zoning (previously disallowed in 70% of Minneapolis, and with a long racist history in the US, essentially 'exclusionary zoning') and the legalisation of duplexes and triplexes – allowing 'gentle density across' the metropolitan area, plus allowing apartments and condos in commercial zones.²

Interestingly, and like Sydney, much of the media and local opposition focused on this policy rather than Policy 2 (increased transit density). Legislating Policy 3 has proved problematic despite cross-partisan support and a highly representative support coalition of social justice, community, housing, pro-density supporters and commercial groups. The bills, known as the 'missing middle bill' and the 'multi-housing bill' were initially defeated (and are now in amendment) due to strong local council resistance, particularly in the outer suburbs due to concerns on how required upgrades to infrastructure would be funded, and the loss of public participatory processes to streamline processes. [3],[4]

4. *Increasing investment in various affordable housing projects, both public and private.*

Increased public investment has resulted in increased rebate assistance for lower-income residents, plus an expanded stock of publicly owned homes and extended durations for affordable units remaining below market rates.²

[1] [Ending minimum parking requirements was a policy win for the Twin Cities • Minnesota Reformer](#)

[2] [The Way Out of the Housing Crisis: How Minneapolis Stabilized Rents – Brown Political Review](#)

[3] [Cities, suburbs helped ensure housing density measures' defeat \(minnpost.com\)](#)

[4] <https://www.minnpost.com/state-government/2024/02/why-a-sweeping-housing-density-bill-opposed-by-minnesota-cities-suburbs-has-broad-support-in-the-legislature/>

9 August 2024

Mr Andre Szczepanski
Director Assessment and Systems Policy
Department of Planning, Housing and Infrastructure
Locked Bag 5022
Parramatta NSW 2124

Dear Mr Szczepanski

Re: Response to the EIE: Proposed pathway changes to support Transport Oriented Development

Urban Taskforce welcomes the commitment of the NSW Government to increase housing supply and feels that the TOD program, both Tier 1 and Tier 2 TODs will be significant contributors to this goal.

However, members have advised that they are both concerned and disappointed in the proposed T1 TOD pathway changes detailed in the EIE documents but are keen to work DPHI to resolve these matters before any changes are finalised and implemented.

The concerns related to the proposed changes to the pathway, detailed in the TOD pathway EIE, are exacerbated by what members feel is the unambitious scope for additional housing supply contained in the relevant precinct EIEs (and associated documentation) will be detailed in our submission on the EIE documents.

In dealing with the EIE on the proposed planning pathway for T1 TODs, the first among many concerns is the proposal to include the very high affordable housing contributions provided in perpetuity, based on what appears largely unverified set of random assertions of feasibility. This alone significantly undermines the prospect of delivering housing supply in many of these well-located areas.

The percentage of yield to be dedicated for affordable housing in perpetuity is based on the total yield of the build (including the non-residential GFA).

Our members advise that the increases in yield proposed are, in many cases, not sufficient to keep pace with increases in the cost of construction, let alone afford the proposed new affordable housing tax which ranges from precinct to precinct (and in some cases, site to site) from 3% of total GFA to 15% of total GFA.

In areas like Macquarie Park, Crows Nest/St Leonards and Hornsby, there are a massive number of properties that have not been examined, either because they were outside the scope of work planned by DPHI, or for some, because they had

recently had SSD determinations on applications. No effort appears to have been made to understand if those sites could support further increases in height or density. This conservative approach is reflected through the entire suite of documents.

The government's announcement was for the precincts, bounded by a 1.2km radius of the transport node, to be rezoned.

Instead, what has been exhibited is little more than a "bring-forward" of existing rezoning work undertaken by DPIE or local Councils. Urban Taskforce has concerns that DPHI or Councils will now use the fact that this TOD rezoning work has been done to refuse to consider other proposals within the precinct. This outcome must be avoided.

The TOD planning pathway EIE is unclear on the relationship between existing LEP affordable housing provisions and this new proposed affordable housing tax. It is clear that any affordable housing bonus associated with the infill affordable housing section of the Housing SEPP are to be switched off, but not clear on whether the local LEP provisions are similarly switched off.

While there is urgency embedded in the proposed changes with fixed timeframes for the activation of DA consents, there is no similar provision proposed for the Government and its agencies. The flagging of changes to referral and concurrence provisions is welcome, but no details have been made available.

This is one of the most important areas for reform and the lack of detail on this reflects a concerning obsession from DPHI on regulating the private sector, rather than improving the performance of government.

To overcome Councils and others that may seek to frustrate the intentions of the government in delivering housing supply in well located areas serviced by transport infrastructure, the SEPP should include specific reference to the primacy of this objective.

More broadly, as noted above, Urban Taskforce welcomes the commitment of the NSW Government to increase housing supply through the TOD program. However, we seek clarity from government on the longer-term approach. We believe that there is scope for a sustainable long-term rolling program of many more TODs across the Metro, heavy rail and light rail networks, both existing and proposed.

A sustained program of identifying future TODs would support longer term investment programs by developers and would underpin a coordinated approach to ensuring adequate infrastructure capacity was in place to facilitate development feasibility and project delivery in a timely manner.

There are more than 300 stations on the rail network, and all to varying degrees, offer the opportunity for more housing in the medium to longer term.

Transparency about ongoing commitments to future TODs would assist in providing developer certainty and would enable sufficient time for well-considered planning frameworks to be put in place.

We urge Government to work with industry on creating a comprehensive and transparent program to ensure housing supply over the short and long term. This **work could be integrated with the DPHI's renewed emphasis on the Urban Development Program.**

Details of our comments on the TOD Planning Pathway EIE can be seen below along with associated recommendations.

Affordable Housing

When considering affordable housing contributions from the development of housing, context is critical.

Aside from the widely recognised increases in construction costs, ASIC data reveals that the property development and construction sector is massively over-represented (almost one in three of all liquidations) in their listings of insolvencies and companies placed into administration.

The idea of developers rolling in rivers of gold is simply a myth, and the development of policies like the provision of up to 15% of GFA to affordable housing in-perpetuity can only be considered if this myth is ignored.

Many developers are currently being forced to diminish their anticipated margins (those used in feasibility analyses to justify bank loans) to keep their builders afloat, for fear that once skilled builders are lost to the industry or the State of NSW, they will not come back.

The increases in height and density associated with a range of new planning policies (Low and Medium Density Housing Reforms; Tier 1 and Tier 2 TOD reforms; Affordable Housing height and density bonus provisions in the Housing SEPP) were seen as a way of restoring profits to the sector and thus flow on to banks releasing capital for construction activity.

One of the biggest constraints on housing feasibility has been the application of new affordable housing taxes in precincts where the government has proposed uplift (increased height or density).

This **"quid-pro-quo" proposition worked in the case of the** infill Affordable Housing bonus provisions of the Housing SEPP which were added to the Housing SEPP. In that case, applicants could apply for an additional 20-30% in additional height and FSR, provided 10-15% of the total yield was made available to a registered Community Housing Provider (CHP) to manage the property for 15 years in return for the payment of a fee.

The rent collected by the CHP (at a discount to market rent in accord with the details contained in the Housing SEPP) is paid to the developer. Then, all going well,

the developer has a choice after 15 years to sell the property, or to continue to rent the property.

The capital gain over those 15 years assists the developer to pay for the discount from the market rent during that 15-year period.

For projects with a value of over \$75 million, a new State Significant Development assessment approval pathway was established.

While to date there have only been 6 applications lodged through this pathway, and 5 of those have been opposed by Councils (Councils oppose affordable housing which does not bode well), it is understood that there are more in the pipeline showing at least some degree of efficacy in terms of a contribution to housing supply generally, and affordable housing in particular.

Affordable Housing “In Perpetuity”

The EIE on the proposed planning pathway for Tier 1 Transport Oriented Development precincts takes a very different approach to that described above, and this makes all the difference to the feasibility of development and the prospects for the success of the policy when it comes to housing supply.

The wording on “affordable housing in-perpetuity” contained in the EIE is vague.

Does the developer collect the cashflow in the form of the discounted rent, or does the CHP? Does the developer continue to hold title on the completed housing stock, or is title passed to the CHP?

In the current wording of the EIE, it appears to state that the mandated percentage of new housing stock be handed over to a registered CHP for affordable housing in perpetuity, but the mechanisms for achieving this are very unclear. Any lack of clarity is seen by developers and financiers as akin to risk. Risk adds to financing costs (higher interest rates on borrowings) or causes delay.

In the case of the 8 Tier 1 TOD precincts (now 7 due to the amalgamation of Kellyville and Bella Vista into a single precinct) the affordable housing contributions (expressed as a percentage of gross GFA, including non-residential floor space) proposed, in perpetuity, are massive.

1. Kellyville & Bella Vista: 3% - 8%
2. Hornsby: 5% - 10%
3. Macquarie Park: 10% - 15%
4. Crows Nest: 10% - 15%
5. Homebush: 5% - 10%
6. Bankstown: 3% - 10%

The current EIE appears to apply the new affordable housing tax to all properties in the relevant defined TOD precinct, whether or not they are beneficiaries of uplift.

Urban Taskforce recommends that the affordable housing contribution be directly proportional to the uplift and be applied for 15 years, in the same way as the infill affordable housing provisions of the TOD SEPP apply. Having a single set of provisions on affordable housing makes for a simpler system to analyse, to administer and to deliver, thus reducing confusion, complexity, disputes and misinterpretation.

In dealing with the City of Sydney, which has always preferred affordable housing contributions in-perpetuity, even Clover Moore advises that 2.5% - 3% is the most you can expect on this basis.

Consistent with this, if affordable housing is to be provided in perpetuity, it should be by way of a transfer of title to a CHP and be capped at 3%.

Any uplift in zoning must be seen as a contribution to feasible housing supply in the context of the housing supply and affordability crisis.

While, (as noted above) the EIE is highly ambiguous, the contributions proposed are **"in perpetuity"** which range from 3% to 15% will make all the rest of taxes applied by the State Government look relatively insignificant. This is a **"hand the keys over"** tax. It means that the value of the contribution must be measured against the sale price, not the construction value (as is the case for infrastructure contributions).

Case study 1

New Affordable Housing tax will increase the cost of a typical 2-bedroom apartment by over \$200K

The value of a 15% affordable housing contribution (in perpetuity) on a residential apartment building containing 100 apartments, based on a modestly appointed 2-bedroom apartment (80-85 sqm) in a nominated Tier 1 TOD precinct locations, is circa \$1.2 million before this new tax is applied. That represents a new tax of $15 \times \$1.2 \text{ million} = \18 million .

That assumes that there is demand for a development of a 2 bedroom apartment at that price. In many of these precincts, that is not affordable, therefore the development is not feasible, even before the new Affordable Housing tax is applied. In other locations, the cost of land and levies will make the same price needed for a feasible development such higher than this.

Nonetheless, this hypothetical case would see 15 apartments (15% of the 100 apartments built) dedicated to a CHP in-perpetuity for the purpose of providing affordable housing supply.

This is assuming a conservative (low) construction cost and a modest land price.

If the total yield before the new tax was going to generate $100 \times \$1.2 \text{ million} = \120 million .

The loss of \$18 million in gross revenue must be recouped from the other 85 market sales.

This is a massive imposition of the feasibility of any project, with or without any bonus in yield.

That pushes the price of apartments that will be sold to the market up from \$1.2 million to \$1.411 million. An increase in the cost of new homes of \$211,000.

A \$211,000 new tax on housing, just because of this affordable housing in-perpetuity provision.

The assumptions underpinning case study 1, above, are conservative in terms of its pricing of construction. The above assumes a construction cost of \$675,000, a land price of \$225,000 per apartment, local Infrastructure contributions of 3% or \$20,250, interest on pre-construction costs of \$60,000, holding costs, the price of an SSD application and associated consultants' reports of \$60,000 per apartment and a Housing and Productivity Contribution (tax) of \$10,000.

Total cost of delivering a standard 2-bedroom apartment is circa \$1,050,000. A bank would not lend any proponent finance unless the proposed sale price is \$1.2 million per 2 bedroom apartment.

The 'in-perpetuity' affordable housing provisions proposed will not provide affordable housing. In fact, Urban Taskforce fears that in many locations, they will block the private sector from providing any housing, resulting in upward pressure on prices coming as a result of supply failure.

Further, there is a lack of clarity as to how the proposed affordable housing contributions relate to existing affordable housing provisions within Council LEPs. Do they override the local provisions, or are they in addition to the local provisions?

The EIE is not clear on how the SEPP changes will relate to Section 7.32 of the EP&A Act 1979. It is important that this is clear, and it is also important that there be only one set of affordable housing provisions applying.

Non-Residential Minimums

DPHI commissioned Atlas Economics to undertake an Economic Impact Assessment for the proposed rezoning at Crows Nest. This Report states that the feasibility of providing additional commercial floor space is reducing.

"Overall, there is a significant amount of vacant floorspace across Crows Nest/St Leonards, in the order of 95,000 sqm."

Atlas Economics, p15, Crows Nest State-led Rezoning – Economic Impact Assessment, July 2024

This is partly due to the post COVID reduction in office accommodation demand; partly due to the strong growth in commercial floor space (arguably a flood) in precincts like Parramatta, St Leonards and North Sydney, rendering requirements for non-residential floor space and zoned commercial areas in the Macquarie Park and Crows Nest TOD precincts redundant and counterproductive.

Non-residential minimums create market inefficiencies that drive upward pressure on the price of housing. When market dynamics aren't responded to in the production of residential and non-residential stock, there will be a deficit in demand for one. The lack of sales or rental yield of one side (in this case non-residential floor space) will need to be made up through higher prices from the sales of the stock on the other side (residential).

So why have the non-residential minimum requirements been maintained? Worse, why has the commercial floor space obligation been reduced on the Metro site (owned by the Government) but not every other site in the precinct?

The selection of sites for additional yield appears to have excluded all sites that have been recently rezoned, despite the fact that these rezonings have resulted in little if any actual development in these areas.

Other sites, well within the 1.2km radius for the State-led rezoning work, have not been looked at – this is particularly the case in St Leonards.

The strategic planning team that has undertaken this work appears to have adopted a highly conservative approach.

One of the reasons that the Macquarie Park precinct has not been developed is the unrealistic emphasis on commercial (non-residential) zoning, in an area where there is no demand for this land use type along with an existing flood in supply.

The private sector spends considerable resources on market analysis to understand what the demand for residential and non-residential will be in the future. They then design the building in accord with the relevant controls to ensure they meet the market and can produce a feasible development on the relevant site.

The Affordable Housing Contribution percentages is proposed to be applied to the whole of the building (the gross GFA), including non-residential components. This further reduces the residential yield for development proponents and stops credit issuance at the feasibility stage.

There are already empty commercial buildings in Macquarie Park, Crows Nest and St Leonards so any obligation to provide additional commercial floor space reduces the feasibility of development. This is noted in the Atlas Report referred to above.

The fact that this commercial floor space is also taxed in the form of an affordable housing contribution is outrageous and is strongly opposed.

A more fitting approach would be to require the activation of street frontages. This would keep urban streetscape vibrant and allow the market to respond to what is needed.

Urban Taskforce recommends that any affordable housing levy should be based only on the residential component of a building development.

Affordable Housing should be Height and GFA exempt

To provide a genuine stimulus for the delivery of affordable housing, it should be excluded from the GFA and height calculations for the building.

This is a simple planning change which would genuinely benefit the feasibility of including affordable housing in proposed developments.

Affordable Housing Contributions Recommendations

- 1: The **TOD pathway changes should remove the 'in-perpetuity' clauses from the** affordable housing provisions completely. The 15-year period provisions that apply to the infill Affordable Housing provisions of the Housing SEPP should be used as the basis for Tier 1 TOD accelerated precincts.
- 2: Any affordable housing levy to be applied must be proportional to the increase in actual increase in residential yield on any site, so any range for contributions must start at 0% and go up to no more than 15% for 15 years where there has been substantial uplift in height and permissible GFA/FSR.
- 3: If contributions are made through an Affordable Housing Scheme, and are in-perpetuity, those contributions should be capped at 3%.
- 4: Calculations should not be based on the gross yield of a building development which contains prescribed non-residential minimum floor space controls. Affordable Housing contributions should be based on the uplift in residential GFA.
- 5: The relationship between any affordable housing provision under this policy with any existing LEP affordable housing provision must be made clear. The new policy, once implemented, must replace any existing LEP affordable housing provision.
- 6: To promote feasible affordable housing supply in TOD precincts, the TOD pathway policy should make any Affordable Housing Height and GFA exempt.
- 7: The TOD Pathway changes should be adjusted to align with commercial feasibility studies. These studies should test the viability of proposed land-uses and prescriptive ratios for non-residential land uses. Active street frontages should be applied through ground floor and podium commercial zoning only. Other floors should be mixed use to allow for maximum flexibility.

The Primacy of Housing Supply should be written into the SEPP

The EIE's proposed policy is unambitious in its scope for reform.

With other states forging innovative plans and policies to generate improved efficiency, stimulate the private sector and drive housing supply, the crisis we face in NSW requires a bolder approach to reform than that proposed in this TOD pathway EIE.

Case Study 2

Queensland SDAs

Queensland has areas designated "State Development Areas".

Once designated a State Development Area, the need for reanalysis through the DA assessment process is removed. This, along with the involvement of the Co-ordinator General, results in a significantly improved assessment and approval performance. If the project has met a set of standard rules – you get an approval.

This culture is one that can be usefully adopted in driving reform through the T1 Accelerated Precinct planning reforms.

The TOD Planning Pathway must include a clear signal to local governments, consent authorities, Courts, communities and development proponents, that housing needs happen and faster than ever before.

The NSW Government should include an explicit provision in the changes to the SEPP to give primacy of the need to supply housing.

Such an explicit statement would result in the Courts immediately considering this against all other planning controls. This is particularly important when dealing with non-statutory planning controls like the DCP/ADG controls.

An example of this approach being used was in the case of the 'State Environment Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007', known as the 'Mining SEPP', where clause 12AA states the requirement for the significance of the resource (and the economic benefits of developing the resource) to be the 'primary consideration' in the development approval process.

The Government should therefore be embedding this urgency into policy reform through this process. This change would deliver both an imperative for decision makers and have a direct impact on increasing housing supply outcomes.

Primacy of housing supply must be written into the SEPP - Recommendation

8: that 'primacy for the need for housing supply' should be explicitly included in the SEPP changes associated with the TOD pathway reform.

The Use-it or lose-it timeframe provisions are too short

Property developers have been subjected to a heavy emphasis on "*use it or lose it*" when it comes to SSDA approvals in T1 TOD precincts in the EIE documents. But the balance is wrong. The same imperative for urgency must apply to all aspects of the assessment and approval process. At present, this reciprocal obligation on government and its agencies is missing from the EIE documents.

For example, the SSDA T1 TOD Precinct Planning Pathway is only open until 2027.

Page 5 from the EIE states: *"It is proposed that this pathway would be in place until November 2027, with consents granted under the TOD category to also be time limited to encourage proponents to begin works within two years"*.

The proposed time limits are not practical and not realistic.

The November 2027 date is too soon. If the intent is to encourage more housing to address the housing crisis, then they need to ensure the TOD changes are in place for longer. The Assessment authority and Government Agencies need to ensure that the SSDAs are being assessed and determined rapidly – referrals are delivered promptly and there needs to be a fixed time frame for Determination.

The life of a DA should be maintained at 5 years for substantial commencement as **per industry norm**. **There are many external factors that are outside a Developer's control** that may prevent Developers from commencing works promptly (eg. higher interest rates/finance costs, higher construction costs, financing approvals). Two years is not a practical timeframe for resolving all these matters and could result in considerably fewer applications being lodged (given the substantial cost of the preparation of a SSD application).

The property development community will typically aim to commence works as early as possible to minimise Holding Costs, so if developers or builders could commence works within 2 years, they would. However, there are many external parameters that affect the ability to commence works. Importantly, this includes having finance in place; the **financier's** conditions precedent are satisfied, sufficient presales are in place, and there is the availability of builders.

<u>The Use-it or lose-it timeframe provisions are too short - Recommendation</u>
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9: The five years for the activation of a DA should be maintained. To cut this period short will increase risk for development and reduce application numbers.
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Negative Uplift contrary to Ministerial Directions

When a new Affordable Housing Tax is levied upon a site, there will need to be sufficient increases in permissible yield to ensure feasibility of development. If not, this is an effective down-zoning and thus inconsistent with the Local Planning Direction 6.1 Residential Zones.

Direction 6.1 (2)(b) states:

A planning proposal must, in relation to land to which this direction applies: not contain provisions which will reduce the permissible residential density of land.

Establishing a provision in a SEPP which applies a new contribution scheme without increasing the yield of the site, sufficient to feasibly develop that site, is arguably contrary to this Ministerial Direction.

Negative Uplift contrary to Ministerial Directions - Recommendation

10: No changes should result in the downzoning of any land.

Build-to-Rent Housing

Under the proposed precinct changes, the portion of permissible residential development that must be BTR is, in many cases, too high. This is exacerbated by further requirements for minimum non-residential floor space.

Urban Taskforce supports a market-based approach with greater flexibility in zoning.

This enables a fast response to changes in market demand. The absence of this flexibility has resulted in a dismally slow response to the post-COVID environment, and this is a factor which should be considered in this round of policy change.

Although the recent changes allowing BTR development in commercially zoned areas are supported, the extensive planning by DPHI staff results in significant delays for minimal housing yield. Combined with the new Affordable Housing contributions tax, rising construction costs, the Housing and Productivity Contributions tax, and cumulative local infrastructure costs from Sections 7.11 and 7.12, these pathway changes are unlikely to achieve their intended goals.

Combined, these imposts will severely reduce the uptake of development opportunities unless meaningful contribution relief is provided or more heights and densities are allowed.

The EIE does not assist with student housing or BTR near Universities. With a considerable factor in shortages in housing supply being the re-population of our universities with fee paying overseas students, this surely must be considered, if not in this policy, then separately.

BTR Housing and Commercial Zoning - Recommendation

11: Implementing a market-based approach with greater zoning flexibility, making developments more feasible in all TOD locations.

12: Include provisions in the TOD Program to support student housing near universities.

Conflicting planning controls contradict intent of TOD precinct planning policy

The intention of the new TOD pathway to allow greater housing yield around T1 TODs are effectively undermined by many contradictory planning regulations and local development controls. The benefit of an SSD assessment is that local DCP controls are switched off and the assessment is a broad merit-based assessment.

Even when maximum heights and FSR's are aligned, the local controls for setbacks and overshadowing, for solar access and separation of buildings often undermine the theoretical permissible density. If strictly applied, many sensible housing proposals can fall short.

Urban Taskforce does not advocate for the abolition or removal of these controls. What Urban Taskforce suggests is there must be flexibility to allow non-compliance to be measured against the need for affordable housing and housing supply more generally.

This is precisely the basis of merit-based assessments – a mechanism to balance competing imperatives through an SSD assessment pathway.

Conflicting planning controls contradict intent of TOD precinct planning policy - Recommendation

13: The TOD pathway should be explicit in providing for merit-based DCP/ADG non-compliance allowances that provide flexibility where imperatives run counter to the delivery of housing.

Referrals and Concurrences

The suggestion in the EIE that there is a need to reduce the large and wide volume of concurrences and referrals to state government agencies for DAs within T1 TOD precincts is very welcome.

There are two main factors when discussing referrals and concurrences from the perspective of least time and resource impact on housing delivery: how many are required and the speed of their return.

In the same vein that DPHI is now pushing for urgency when it comes to lodging applications and the commencement of construction, there needs to be a time limit on referrals that continue to be required. Furthermore, the SEPP should allow landowners and developers who are “ready to go” to progress through planning proposals phases without hold up.

The EIE on the pathway changes for TODs seeks to place an imperative of the NSW development community to progress with alacrity from DA approval to the start of construction then the delivery of completed housing stock. However, the EIE proposed no commensurate obligation on NSW Government agencies when it comes to referrals and concurrences.

While it is unlikely that TfNSW (the worst offender when it comes to timely provision of advice or any concern for the feasibility of housing development) will agree to most applications being **deemed** “low risk”, traffic and transport impacts should be assessed against a strict timeline with a presumption of concurrence should the time limits for response be passed.

As proposed, redundant and “low-risk” referrals and concurrences should be removed. It is also vital for the efficacy of this policy that any required referrals are stipulated upfront by DPHI (in the case of SSD applications) or Council staff.

Any referrals which are required must be backed up with a timeline that must be enforced with the presumption of concurrence. The planning system often ties itself in knots when, on the one hand, it develops a set of standard conditions of consent, but on the other hand, it invites agencies to give concurrence post-approval.

Any conditions applied by any third party must have a statutory timeframe for compliance (to stop that agency effectively frustrating housing supply in these designated T1 TOD precincts) and must be made with a view to prioritising housing supply and affordability.

The processes involved for the future of referrals and concurrences from State Government agencies should be trailed and regularly reviewed to ensure the correct specialists are consulted without burdensome irrelevant checks.

Referrals and Concurrences - Recommendation

14: **Restrict referrals and concurrences to “high risk” areas only** and make every effort to reduce the number and scope of these referrals.

15. Concurrences and referrals should be advised to the applicant up front, along with the scope of the referral. Once referred, the scope should not be changed (added to) by the authority.

16: Apply a strict timeframe with a default to concurrence if the timeframe for the referral is not met.

17: Establish a protocol for resolving matters of dispute over scope of consent conditions to involve senior representatives of DPHI, the Co-ordinator General for Infrastructure (Tom Gellibrand) and the relevant agency.

Streamlining Planning

While the recent focus on SSDA pathways, including that proposed through the T1 TOD assessment pathway, is welcome, Urban Taskforce members have noted the repeated problem of multiple pre-lodgement scoping meetings for SEARs with new additional conditions given at each meeting, reflecting a lack of clarity from DPHI staff.

Urban Taskforce is advised that with adequate forethought, many of the “additional requirements” brought up in the second or third meeting could easily have been given in the first meeting, or in fact not included at all.

It would be useful for DPHI to outline, up front, what studies and reports they do not require for each precinct. This could be caveated with notes of occasional requirement for those studies because of a site-specific need, however these site-

specific reports should also be demanded upfront - ie. DPHI will not require an explanation of X unless Y condition is present.

In London, the Government has applied a system of guaranteed planning turnaround (DA assessment and determination) of 12 weeks. This stands in stark contrast to the 36 weeks currently needed in Sydney after a SSDA is lodged. The Starmer Government has produced an entire Planning Policy Framework document which includes major change after only 4 weeks in power.

The NSW Government should take a leaf from the Victorian planning system and **establish a "fast lane" for assessments and approvals**. Such a fast lane should also be established in the NSW Land and Environment Court so matters that are disputed can be resolved quickly (with an applicable fee to cover the bring-forward costs to the Court should the applicant choose the fast-track path).

The notion of 'fast lane for approvals' is not new, nor complex. Capitalising on the urgency on developers has always existed, however in this time of housing crisis, the urgency should be reciprocated on the **government's** side. There is an opportunity to further streamline the housing pipeline through the reduction of duplicated approvals and State Significant Development Applications.

If a DA already has consent, but the site could support a significant uplift, any reports should be focussed on the marginal impact to reduce the cost of applications and improve assessment times. Members have expressed concern over the level of planning assessment experience and competence amongst the SSDA assessment team at DPHI. While it is understood that many of these staff are new to their roles, they have the eyes of the nation focussed upon this.

There is a need for additional resources to provide leadership, oversight, consistency and cultural change. Simply relying on the work done by predecessors, as appears to be the case with these accelerated TOD precincts, will not deliver the results that are hoped for in terms of housing supply.

Streamlining Planning - Recommendations

18: The establishment of an optional **'Fast track' lane in the Land and Environment Court** to resolve disputes, for a bring-forward fee.

19: Consistent with the bold approach to housing supply taken in the UK, DPHI should strengthen the proposed TOD Pathway Changes, their intention and the primacy of housing supply.

20. DPHI should strengthen its senior level support for the SSD assessment team, particularly in the early pre-SEARs phase, but also through out the assessment of the application to drive a culture which supports housing supply.

21: The new TOD pathway amendments should include provision for Cabinet oversight to resolve disputes over referrals and concurrences from agencies.

Design Excellence Alternatives

There is some merit in the changes to the use of design competitions as proposed in the pathway changes to support TODs EIE, however, these changes should not be limited to a select group of architects.

In the view of Urban Taskforce, becoming a Registered Architect in NSW is a high enough bar to jump. The changes, as proposed, give unnecessary power and influence to a small number of AIA judges who are not part of the public service.

Being a Registered Architect with experience in the relevant building type should be qualification enough and it is unwarranted to leave it to a select number of architects.

Without an example framework for implementation, these Design Excellence Alternatives should be trialled in an area where it is required. There should be regular reviews for the **program's** functionality, productivity and efficiency.

No details have been provided on the criteria for assessment. No appeal mechanism has been established. This will place considerable focus, attention and pressure of the decision of the NSW Chief Government Architect.


Design Excellence Alternatives - Recommendation

22: The TOD SEPP should be amended to allow Registered Architects with experience in the design of the relevant building type to be eligible for Design Excellence Alternative designation, and the Design Excellence Alternatives should be trialled before their broad implementation with regular reviews being planned and met.

Conclusion

Should any Committee member wish to discuss matters relating to this submission, please contact me on 0429 460 863 or via email.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Tom Forrest', with a stylized flourish at the end.

Tom Forrest
Chief Executive Officer

Appendix A - Full list of Urban Taskforce Recommendations

Affordable Housing Contributions Recommendations

1: The TOD pathway changes should remove the 'in-perpetuity' clauses from the affordable housing provisions completely. The 15-year period provisions that apply to the infill Affordable Housing provisions of the Housing SEPP should be used as the basis for Tier 1 TOD accelerated precincts.

2: Any affordable housing levy to be applied must be proportional to the increase in actual increase in residential yield on any site, so any range for contributions must start at 0% and go up to no more than 15% for 15 years where there has been substantial uplift in height and permissible GFA/FSR.

3: If contributions are made through an Affordable Housing Scheme, and are in-perpetuity, those contributions should be capped at 3%.

4: Calculations should not be based on the gross yield of a building development which contains prescribed non-residential minimum floor space controls. Affordable Housing contributions should be based on the uplift in residential GFA.

5: The relationship between any affordable housing provision under this policy with any existing LEP affordable housing provision must be made clear. The new policy, once implemented, must replace any existing LEP affordable housing provision.

6: To promote feasible affordable housing supply in TOD precincts, the TOD pathway policy should make any Affordable Housing Height and GFA exempt.

7: The TOD Pathway changes should be adjusted to align with commercial feasibility studies. These studies should test the viability of proposed land-uses and prescriptive ratios for non-residential land uses. Active street frontages should be applied through ground floor and podium commercial zoning only. Other floors should be mixed use to allow for maximum flexibility.

Primacy of housing supply must be written into the SEPP - Recommendation

8: that 'primacy for the need for housing supply' should be explicitly included in the SEPP changes associated with the TOD pathway reform.

The Use-it or lose-it timeframe provisions are too short - Recommendation

9: The five years for the activation of a DA should be maintained. To cut this period short will increase risk for development and reduce application numbers.

Negative Uplift contrary to Ministerial Directions - Recommendation

10: No changes should result in the downzoning of any land.

BTR Housing and Commercial Zoning – Recommendation

11: Implementing a market-based approach with greater zoning flexibility, making developments more feasible in all TOD locations.

12: Include provisions in the TOD Program to support student housing near universities.

Conflicting planning controls contradict intent of TOD precinct planning policy - Recommendation

13: The TOD pathway should be explicit in providing for merit-based DCP/ADG non-compliance allowances that provide flexibility where imperatives run counter to the delivery of housing.

Referrals and Concurrences – Recommendation

14: Restrict referrals and concurrences to “high risk” areas only and make every effort to reduce the number and scope of these referrals.

15. Concurrences and referrals should be advised to the applicant up front, along with the scope of the referral. Once referred, the scope should not be changed (added to) by the authority.

16: Apply a strict timeframe with a default to concurrence if the timeframe for the referral is not met.

17: Establish a protocol for resolving matters of dispute over scope of consent conditions to involve senior representatives of DPHI, the Co-ordinator General for Infrastructure (Tom Gellibrand) and the relevant agency.

Streamlining Planning – Recommendations

18: The establishment of an optional ‘Fast track’ lane in the Land and Environment Court to resolve disputes, for a bring-forward fee.

19: Consistent with the bold approach to housing supply taken in the UK, DPHI should strengthen the proposed TOD Pathway Changes, their intention and the primacy of housing supply.

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Design Excellence Alternatives – Recommendation

22: The TOD SEPP should be amended to allow Registered Architects with experience in the design of the relevant building type to be eligible for Design Excellence Alternative designation, and the Design Excellence Alternatives should be trialled before their broad implementation with regular reviews being planned and met.



9 August 2024

Mr Andre Szczepanski
Director Assessment and Systems Policy
Department of Planning, Housing and Infrastructure
Locked Bag 5022
Parramatta NSW 2124

Dear Andre,

Value Advisory Partners (VAP) appreciates the opportunity to respond to the Department of Planning, Housing and Infrastructure's (the Department) request for feedback to the proposal outlined in the Explanation of Intended Effect (EIE) for *Pathway changes to support Transport Oriented Development*.

Australia and indeed much of the world is facing an acute shortage of affordable housing located where people want to live. To solving the current housing problem in Australia, which is systemic in nature, will require a range of both supply and demand side actions.

The Federal Government's National Housing Accord includes a new national target, agreed to by the Commonwealth, States and Territories at National Cabinet in August 2023, to build 1.2 million new, well-located homes over 5 years, commencing from 1 July 2024. The Accord recognises most of this supply needs to come from the market, with government playing a key role in enabling and kick-starting investment.

Value Advisory Partners is an evidence-based consultancy firm with a focus on creating better places in light of all risks, including climate change. Our results are delivered by understanding and integrating data and insights that bring together "top down" and "bottom up" perspectives from resilient infrastructure management, sustainability assessment, land use planning, infrastructure planning and delivery and placemaking and economics. Our approach makes sense of these macro and micro analyses to optimise outcomes in an environment of temporal, spatial, economic, financial and system change.

We work extensively with Commonwealth, State and local governments in Australia as well as with private sector clients to maximise and sustain the value that can be obtained from their investments.

Key points we emphasise in our submission are:

- There remains a broader opportunity to facilitate "mixed-use" outcomes within TOD precincts. This would help to ensure the character and attributes of place are enhanced for a broader group of beneficiaries, which includes existing resident populations not just future ones.
- A multi-tiered approach to define the precinct boundary for the TOD Accelerated Precincts allows for the density of development to be at different scales and heights depending on distance from the central node identified within the precinct
- Using a 'Precinct Liveability Assessment' Tool can provide insight and be an indicator into the performance of a precinct or TOD. Importantly, the assessment can be completed to show the level of changes – positive and negative – of planned or proposed actions and interventions – such as those being proposed.

- The opportunity of integrating value creation concepts and analysis into pathways for TOD development to consider the environmental, social and economic value government investment and public value that can be created beyond the core scope of a project.

The focus here is on the steps being taken by the State, supporting National Cabinet's commitment to the National Housing Accord, to address the reliable supply and availability of affordable, well located new housing.

We trust our submission is helpful to your inquiry. Value Advisory Partners would welcome the opportunity to discuss any elements of this submission with you or to present directly.

Yours sincerely



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Managing Partner

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Value Advisory Partners response to:

Pathway changes to support Transport Orientated Development

Explanation of Intended Effect

1. Background

1.1 NSW housing targets

Responding to its commitment under the National Housing Accord to deliver 377,000 new well-located homes across the state by 2029, the NSW Government has released 5-year housing completion targets for 43 councils across Greater Sydney, Illawarra-Shoalhaven, Central Coast, Lower Hunter and Greater Newcastle.

The 43 local government areas (LGA) will each be provided with a 5-year target and housing snapshot that explains how many houses are in the pipeline already and how many more are expected to be delivered. The targets prioritise more diverse and well-located homes in areas with existing infrastructure capacity, such as transport and water servicing.

1.2 Transport Oriented Development (TOD) Program

The Transport Oriented Development Program is one of several reforms for diverse low- and mid-rise homes the NSW Government is pursuing to help build up the housing pipeline and deliver more homes in more places. There are two parts to the TOD program:

1. **Part 1** is focused on **TOD Accelerated Precincts** with the aim to create infrastructure and capacity for 47,800 new homes over 15 years. Land within 1,200 metres of 8 rail and metro stations will be rezoned by the NSW Government to allow for more new and affordable homes. These 8 stations are:

Bankstown; Bays West; Bella Vista; Crows Nest; Homebush; Hornsby; Kellyville and Macquarie Park.

Attachment 1 provides a summary of the proposed zoning and policy changes for each of the TOD Accelerated Precincts.

2. **Part 2** of the program will focus on precincts that have existing infrastructure and are located within 400 metres of 31 stations identified to create capacity for 138,000 new homes over 15 years. New planning controls, delivered through a new State Environment Planning Policy (SEPP), will enable faster delivery of more housing close to jobs and amenity.

1.3 Pathway changes to support transit-oriented development – Explanation of Intended Effect (EIE)

Specially to support Part 1 of the TOD Program – TOD Accelerated Precincts - a suite of planning and policy changes are proposed with the aim to:

- Simplify planning controls within the TOD Accelerated Precincts
- Encourage applications for residential developments within the TOD Accelerated Precincts
- Streamline the development applications process
- Ensure developments within the TOD Accelerated Precincts achieve high quality design outcomes
- Encourage proponents to commence construction within two years of planning approval.

Foremost among these proposed changes is a temporary new state significant development (SSD) pathway, to be in place until November 2027, for residential development applications valued over \$60 million.

In addition, to support housing delivery and ensure the strategic intent of the TOD Accelerated Precincts is realised, a number of exemptions from provisions within the eight TOD Accelerated Precincts are proposed:

- Height and floor space bonuses and the associated SSD pathway for in-fill affordable housing will be turned off to avoid conflict with planning controls in TOD accelerated precincts. The state rezoning process will seek to maximise housing delivery including setting affordable housing requirements.
- A 5-year exemption from concurrence and referral requirements that are not considered high-risk in order to speed up assessment timeframes. High-risk concurrence and referrals will be retained to ensure safe and orderly development.
- Exemption from some low- and mid-rise housing reforms to reduce duplication and maximise housing potential.
- Introducing an alternative design excellence pathway in place of design competitions to streamline the delivery of housing while maintaining high-quality design.

1.4 Feedback to the proposed pathway changes to support transit-oriented development

The Department is seeking feedback in response to the proposed policy and suite of actions.

Value Advisory Partners' feedback and response draws from our experience over time to support governments and developers to plan for and/or deliver Transport (Transit) Oriented Development (Iskander Regional Development Authority – Malaysia; Malaysian High Speed Rail Corporation; Department of Infrastructure, Transport and Regional Development; Melbourne Metro Raul Authority; Vicinity Centres; Development Victoria; Camellia Landowners Alliance; Ministry of Transport (NZ); Wellington City Council; UDIA NSW; Metro Trains; VicRoads).

While we are not offering immediate responses to the specifics of the proposed policy and suite of actions, we feel there is value to the Department by sharing our observations of the characteristics and attributes of successful TOD's and the risks and opportunities in pursuing a TOD strategy.

2. Approach to Transport (Transit) Oriented Development

Transit Oriented Development (TOD) aims to maximise the amount of residential, business and recreational space within walking distance of public transport. It promotes a symbiotic relationship between dense, compact urban form and public transport use. TOD strategy is based on the principle of creating critical mass surrounding a transit hub, with mixed use developments capitalizing on urban designs and functional opportunities.

Further, TOD can be a major contributor to solving the serious and growing problems of climate change and global energy security by creating dense, walkable communities that greatly reduce the need for car dependency and energy consumption.

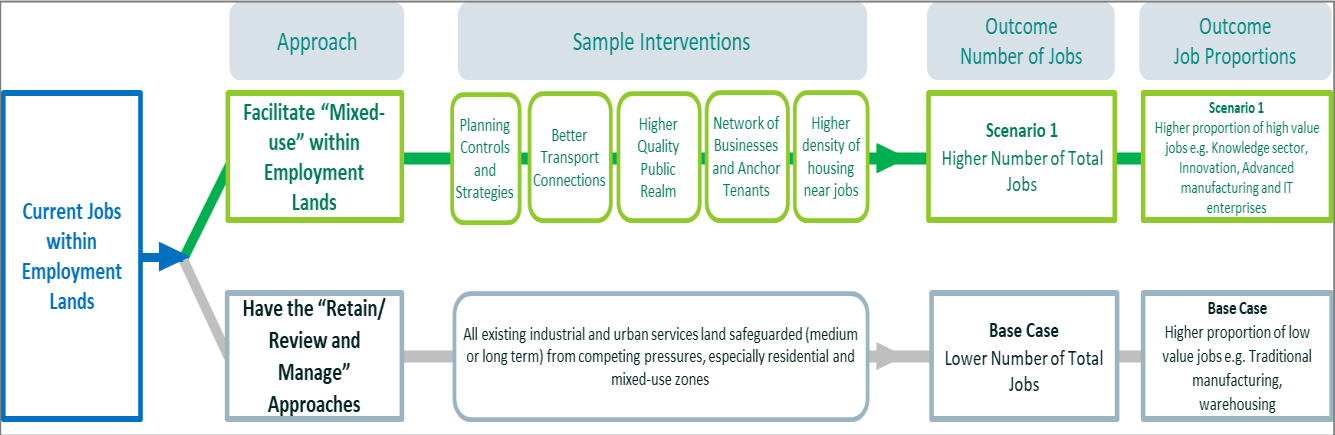
2.1 “Mixed-Use” objectives

Noting that the immediate driver of the TOD Program is to deliver new, well-located housing in the next 5 years, with the TOD Accelerated Precincts having a sharper focus on 8 key locations, **there remains a broader opportunity to facilitate “mixed-use” outcomes within TOD precincts.** The aim being to incentivise development that incorporates public realm, commercial and local community uses through interventions that include:

1. **Planning Controls and Strategies:** Changing land use; creating development plans and targeted strategies; reviewing and amending height limits and setbacks; subdividing lots for permeability and improving local accessibility.
2. **Better Transport Connections:** Linking active transport (cycling, pedestrians) to businesses; implementing public transport corridors; prioritising investments in infrastructure for active and public transport.
3. **Higher Quality Public Realm:** Improving quality of streetscape; ensuring built form history and character is utilised (e.g. Heritage control); new and enhanced public open space and parklands; facilitating critical uses such as shops and community facilities accessible by employees and residents.
4. **Network of businesses and anchor tenants:** Enticing large companies and institutions to anchor mixed-use development; creating a network of ‘seed’ or like businesses within a proximity, e.g. small-scale artisan manufacturers.

We note that the draft planning and policy changes proposed for selected of the accelerated precincts identify employment/jobs uplift along with increased dwellings. The approach in Figure 1 is from a study undertaken by Value Advisory Partners for the UDIA (NSW) to investigate the impacts and opportunities for employment land, in particular the trade-offs from retaining or preserving land designated for employment only uses compared with a mixed-use approach. This approach could be adapted for the current TOD program to identify land in the TOD precincts that can support employment creation, in particular local jobs that will serve the new populations the TOD’s will bring.

Figure 1: Impact of facilitation of “Mixed-Use” precincts to achieve greater number of employment and high value jobs



Source: Value Advisory Partners 2023

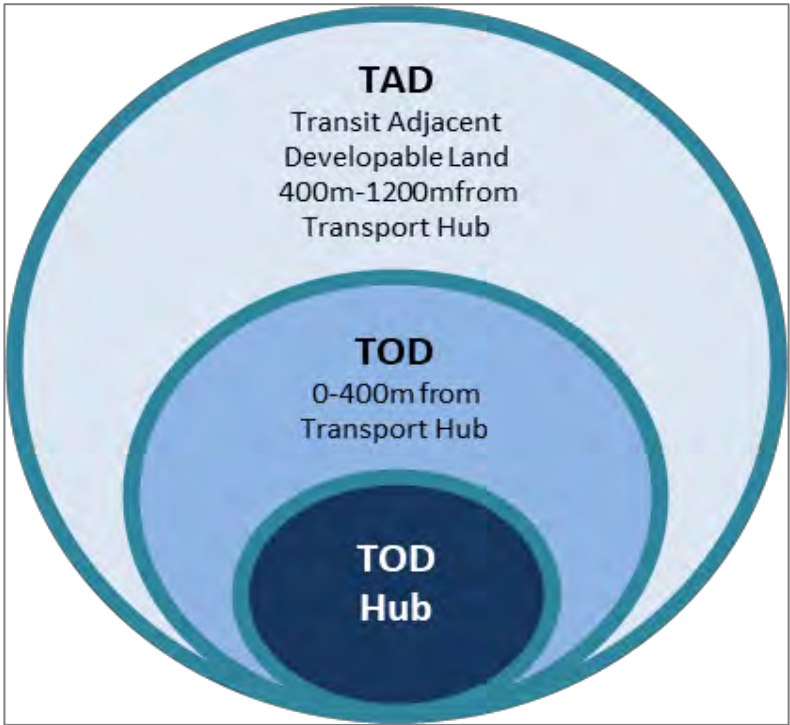
A TOD program focused on mixed-use outcomes will help to ensure the character and attributes of place are enhanced for a broader group of beneficiaries, which includes existing resident populations not just future ones.

2.2 Establishing the boundaries for the TOD Accelerated Precincts

The precinct boundaries for the TOD Accelerated Precincts are proposed to be 1,200m. This contrasts with the precincts boundaries for the stations identified for Part 2 of the TOD Program being at 400m.

A multi-tiered approach to define the precinct boundary for the TOD Accelerated Precincts could be adopted that focuses on facilitating a greater range of development outcomes within a walkable service catchment (up to 1,200m). By spatially distributing the Precincts over three radial areas (refer to Figure 2), the approach recognises and allows for the density of development being at different scales and heights depending on distance from the central node identified within the precinct, usually a train station.

Figure 2: Tiers of development located within overall Transit Orientated Development Precinct



Source: Value Advisory Partners 2024

- TOD Hub involves any catalytic or facilitated development (e.g. due to rezoning) within the transport hub site/block with direct access to transport commuting
- Transit Oriented Development (TOD) involves facilitated (e.g. due to rezoning) or market development located within 400 metres of transport hub site that can mean walking access to transport within 5 minutes (or 2-minute cycle)
- Transit Adjacent Development (TAD) involves market development located between 400 and 1,200 metres of a transport hub site (up until defined TOD precinct boundary) that can mean walking access to transport within 5-15 minutes (or 5-to-10-minute cycle)

Value Advisory Partners has worked with this more spatially nuanced definition of TOD precinct boundaries for major transport projects in Malaysia:

1. **Malaysia High Speed Rail** - connecting Kuala Lumpur and Singapore with seven new station locations along the high-speed rail corridor in Malaysia. Beyond its purpose as a transport project, MyHSR is positioned as a catalyst towards socio-economic development in Kuala Lumpur and the intermediate cities along the planned corridor, including through TOD strategies for mixed-use development.
2. **Iskander Malay Bus Rapid Transit** - The Iskandar Malaysia Bus Rapid Transit is a multi-trunk bus rapid transit network designed to improve accessibility and connectivity in the city and urban areas of Johor Bahru in the south of Malaysia. Each of the trunks, which service residential, education and tourism regions of the city, has been designed with a primary station hub, intended as a key transport node that would serve to facilitate or catalyse transport-oriented development.

Key insights from VAP's role in these engagements regarding the characteristics for a TOD strategy include:

1. **Transit supportive use** - Transit supportive uses are high pedestrian generators that directly promote greater transit ridership. They provide opportunities for multi-purpose trips that can be made as a pedestrian. Medium to high density residential, offices, high schools and colleges are significant transit supportive uses. Appropriate retail, restaurants, personal service and civic functions will support these major uses and generate activity in both peak and off-peak hours.
2. **Pedestrian connection** - High-quality, grade separated direct walk access is an important feature of successful TOD
3. **Urban design** - Transit centre is a node to a particular area as it has the capability to attract people. As a node, it should include engaging public spaces, attractive street furniture and public arts.
4. **Parking** - By design, TOD lessens the need for car usage in a station area. However, accommodating vehicles is still critical to the success of a vibrant TOD district. Therefore, convenient parking and drop-off zones need to be planned for all TODs.

Attachment 2 provides a brief case study for the key success factors and lessons learned from the Chatswood Station TOD.

2.2.1 Applying a multi-tiered boundary approach to TOD Accelerated Precincts - Bankstown

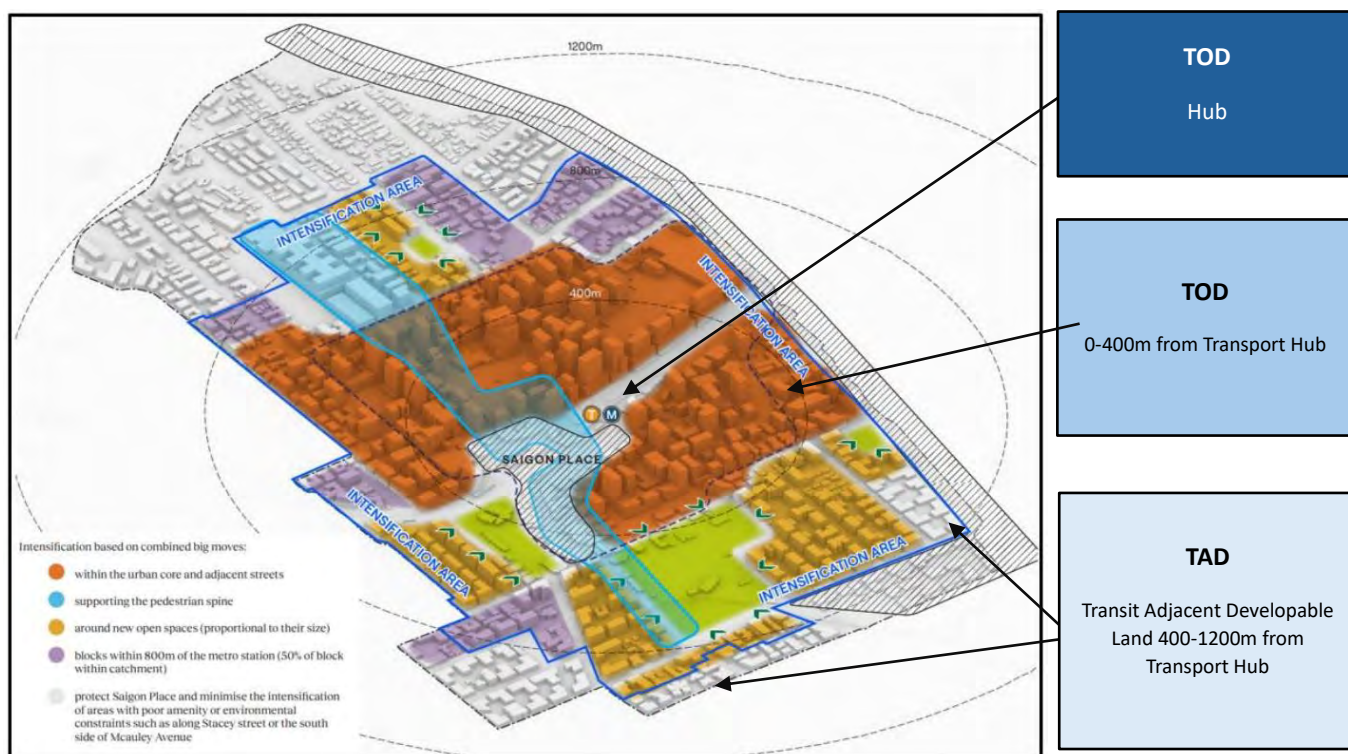
The proposed Bankstown TOD rezoning builds on the vision of the Bankstown City Centre Master Plan (2021).

Key features of the rezoning proposal include:

- Capacity for up to 12,500 new homes within the precinct close to the new Bankstown Metro station
- Mandatory affordable housing contribution of 3–10% for all new residential development in the Precinct, delivering between 375–1,250 affordable homes in perpetuity and managed by a registered Community Housing Provider
- Potential to support 15,000 new jobs in the area
- Potential for new open space, pathways and cycleways.

Figure 3 shows how a multi-tiered approach to setting the precincts boundary for the Bankstown TOD Accelerated Precinct could apply, with the attributes and features of each of the zones as follows:

Figure 3: Bankstown TOD Framework Plan



Source: *Explanation of Intended Effect: Bankstown – Transport Orientated Development Precinct*
Department of Planning, Housing and Infrastructure, 2024

- **TOD Hub**
 - Focuses on land directly surrounding the new train station located on North Terrace, Bankstown NSW.
 - Facilitated development within the TOD hub includes the introduction of the B3 Commercial Core Zone to land centred around the station (generally bound by Chapel Road, Rickard Road and Greenfield Parade) to allow for extensive commercial and high-density residential development in proximity to public transport.

- **Transit Oriented Development (TOD)**

- Facilitated changes within this area aim to support a transition to a 'high density transport orientated centre' and include:
 - Rezoning of land to accommodate R4 High Density Residential and B4 Mixed Use zone to encourage a mix of land uses at higher densities surrounding the station
 - Amendments to Floor Space Ratio's and Building Heights to facilitate more intensive development.
 - Introduction of a Minimum Non-Residential Floor Space Ratio to select sites within the TOD area to generate employment spaces within close proximity to the Bankstown Station.
 - Activation of street frontages and the implementation of a supporting pedestrian spine to assist in activating the public realm and improve walkability within the precinct.

- **Transit Adjacent Development (TAD)**

- Involves market development within a 400-1,200m radius from the new Bankstown Metro Station
- Development within this area is expected to occur at lower densities compared to the TOD and see building heights decrease as the distance to the station increases. Development is also expected to be orientated around key open spaces and active transport corridors to maintain connectivity with the new train station and facilitate high quality public realm outcomes.

3. Accelerated Transit Oriented Development: Risks and Opportunities

3.1 Identifying key gaps in liveability within TOD precincts and areas to address

The 'Precinct Liveability Assessment' can provide insight and be an indicator into the performance of a precinct and the proportion of key liveability measures currently delivered, to gain an understanding of the extent an area is effective in being thriving, vibrant and liveable for its residents and workers.

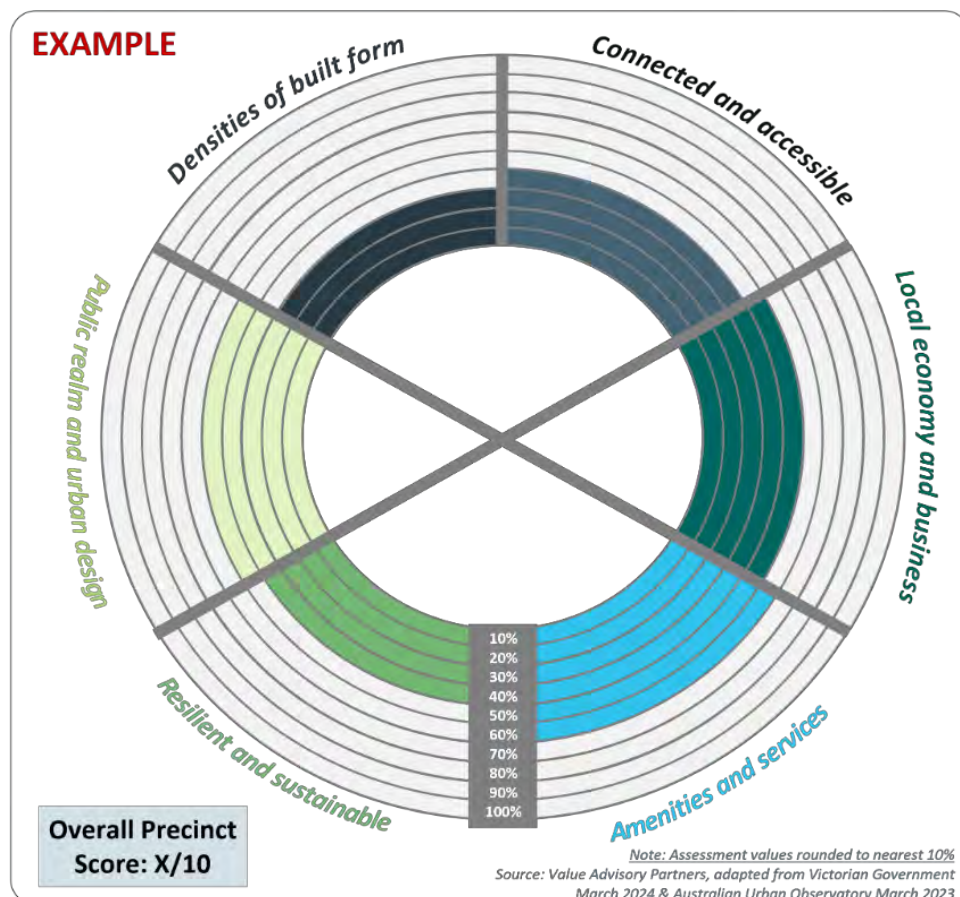
It assesses against the many of government's objective for "suburban centres to become vibrant hubs where living, working and socialising hubs, allowing people to meet the most of their everyday needs within a 20-minute walk, cycle or public transport trip from their home."

This assessment can identify key gaps in the overall liveability of a precinct, and where opportunities of adding amenity and local connectivity could occur.

Figure 4 describes the attributes that comprise the assessment and the thresholds (10% - 100%) for scoring a precincts performance:

- Connected and accessible: Immediate access to public transport; High quality pedestrian infrastructure; Safe and connected cycling routes
- Local economy and business: Employment opportunities available in range of workspaces; Commercially viable activity centre with range of businesses connected to residents and workers
- Amenities and services: Presence of education services including schools and childcare; Community facilities co-located with amenities; Presence of range of health services
- Resilient and sustainable: Presence of fresh produce and healthy local food options; Built form with high energy efficiency and building performance; Green spaces with cooling effects allowing for stormwater management and biodiversity
- Public realm and urban design: Places for public engagement including presence of arts, culture and relevant spaces; range of sports and recreation facilities and clubs; inclusion of high quality public open space
- Densities of built form: Mix of housing typologies and densities within sub-precincts; well-designed streetscapes between key nodes of activity and connectivity; affordable housing included in development

Figure 4: Example of 'Precinct Liveability Assessment' summary showing overall scores



Source: Value Advisory Partners 2024 (adapted from Victorian Government "20 Minute Neighbourhood" Framework).

Importantly the assessment can be completed as both an indicator of current performance and to show the level of changes – positive and negative – of planned or proposed actions and interventions.

Value Advisory Partners is currently applying the 'Precinct Liveability Assessment' with stakeholders of a transformational mass transit project in Victoria to understand the liveability impacts and outcomes from transit design at station nodes with precinct catchments of up to 1,600m.

3.2 Value Creation and wider benefits for multiple beneficiaries in TOD precincts

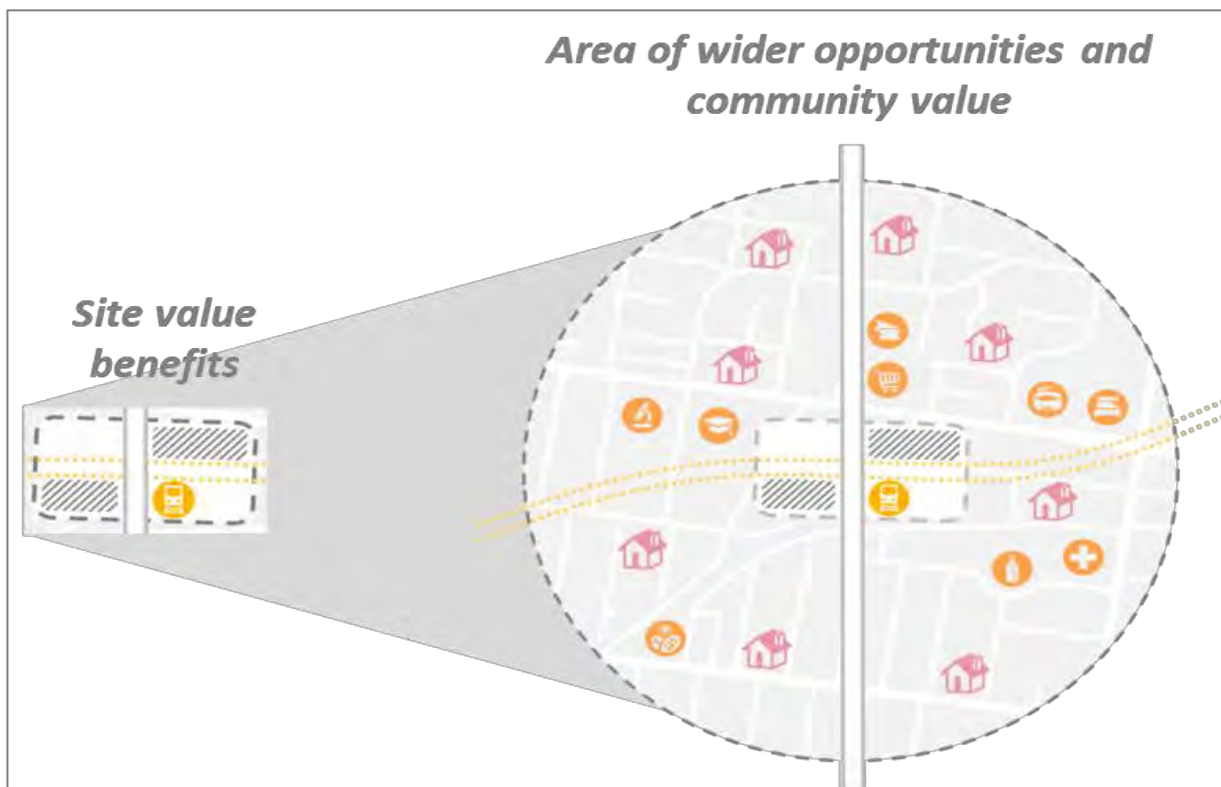
Incorporating value creation concepts and analysis into pathways for TOD development allows for further investments, beyond the core transit infrastructure, that create new and/or additional benefits for a wider range of beneficiaries. By adopting value creation principles one of the key objectives is to encourage government interventions, such as transit capital investments, to consider the environmental, social and economic value government investment and public value that can be created beyond the core scope of the project.

This can be achieved through delivery of core services including local amenities and transport connectivity by incorporating key principles:

1. Plan for maximising value to the community from the project

- Assess community needs or gaps in connectivity, services and amenity; and how these opportunities might be delivered on the project site or leveraged for delivery within the area – refer to Figure 4 for framework for a 'Precinct Liveability Assessment'
- Identify who the beneficiaries are, and equally important what disbenefits may be created
- Focus on the whole area - from the site of the infrastructure to a wider catchment.
- The diagram below shows an example of how wider opportunities can maximise value for a TOD precinct in development

Figure 5: The value creation equations

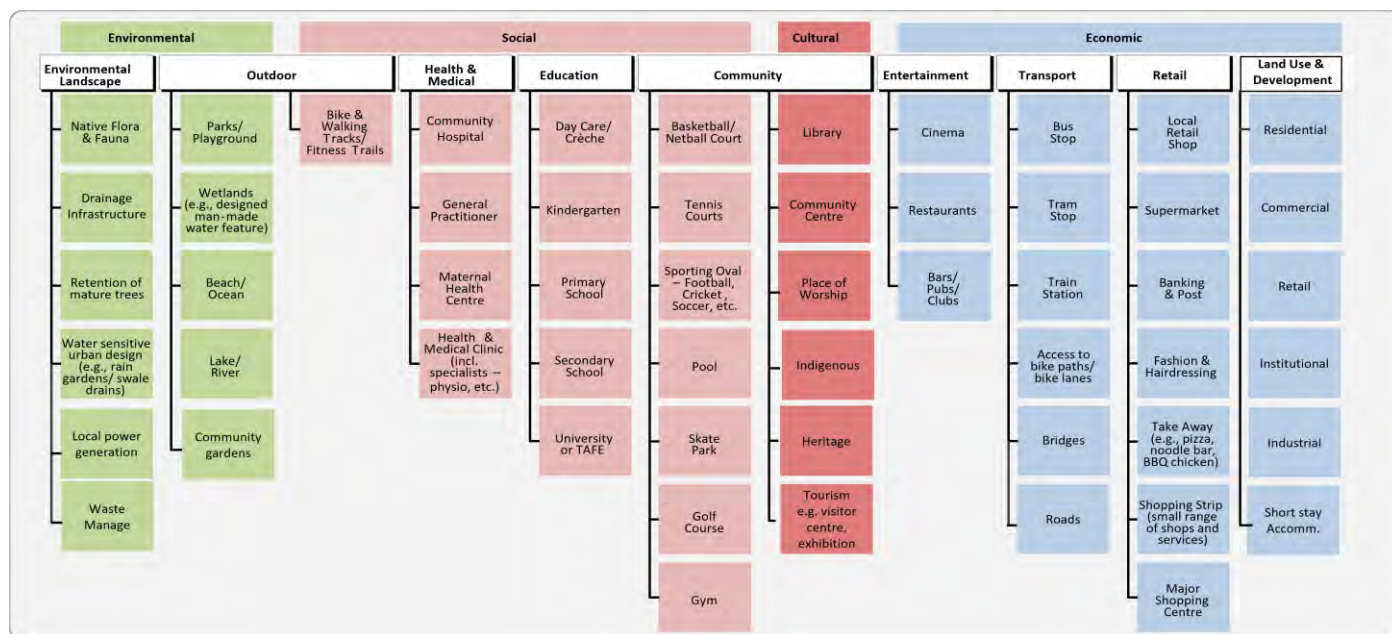


Source: Value Advisory Partners 2024

2. Quantify the value created for beneficiaries

- Links the specific infrastructure element or 'opportunity' to the benefits it creates for each relevant beneficiary.
- Examples of the wide range of environmental, social, economic and cultural value opportunities to create value are seen below in Figure 6
- The value approach begins with four critical questions: What benefits will be created? Who will benefit? Where and when the benefit will occur? And What quantity of value would be created?

Figure 6: Wide range of local opportunities potentially incorporated into TOD precinct development



Source: Value Advisory Partners 2024

4. Closing comments

Value Advisory Partners recognises the systemic nature of the challenges in front of governments, industry and the community to change the trajectory of access to affordable, well-located housing. We commend the NSW government and the Department broadly in its actions to support the National Housing Accord, and specifically for the TOD Program and within that, the TOD Accelerated Precincts.

The thrust of Value Advisory Partners feedback and response to the proposed zoning and policy changes to support activation within the TOD Accelerated Precincts is less about the specific policy and planning enablers and more directed toward the hallmarks, characteristics and liveability outcomes that are possible from well planned, design and delivered TOD's.

Key points we emphasise in our submission are:

- There remains a broader opportunity to facilitate “mixed-use” outcomes within TOD precincts. This would help to ensure the character and attributes of place are enhanced for a broader group of beneficiaries, which includes existing resident populations not just future ones.
- A multi-tiered approach to define the precinct boundary for the TOD Accelerated Precincts allows for the density of development to be at different scales and heights depending on distance from the central node identified within the precinct
- Using a 'Precinct Liveability Assessment' Tool can provide insight and be an indicator into the performance of a precinct or TOD. Importantly, the assessment can be completed to show the level of changes – positive and negative – of planned or proposed actions and interventions – such as those being proposed.
- The opportunity of integrating value creation concepts and analysis into pathways for TOD development to consider the environmental, social and economic value government investment and public value that can be created beyond the core scope of a project.

ATTACHMENT 1

TOD Accelerated Precincts – Overview

The TOD Accelerated Precincts comprise 8 priority high growth areas near transport hubs in Greater Sydney selected for accelerated rezoning. The accelerated precincts and proposed zoning and policy changes are as follows:

1. **Bankstown:**

- Facilitate rezoning to allow densification of development within an 800m of the metro station including:
 - Rezoning R3 Medium Density Residential Zones to R4 High Density Residential Zones towards the south of the precinct to allow for greater heights
 - Introduce B3 Commercial Core zone to land centred around the station to provide for extensive commercial and high-density residential development within close proximity to public transport.
 - Extension of B4 Mixed Use Zone and RE1 Public Recreation Zone to encourage activity closer to open spaces.
 - These changes are expected to facilitate 12,500 new dwellings and 15,000 additional jobs.
- Increases in Floor Space Ratios and Building Heights to facilitate more intensive development, concentrated around the precinct core and transitioning downwards closer towards the borders of the precinct.
- Selection of a number of key sites around the core and along Chapel Road identified to deliver a proposed minimum amount of non-residential floor space to generate employment spaces close to Bankstown Station.
- Activation of street frontages and the implementation of a supporting pedestrian spine to assist in activating the public realm and improve walkability within the precinct.
- Mandatory affordable housing contributions of 3-10% for all new residential development within the precinct
- Investigations aimed at strengthening Sustainability and Design Excellence within the precinct
- New subclause to allow extended operating hours and provide greater flexibility for late night operation

Figure 7: Bankstown TOD Framework Plan



Source: Explanation of Intended Effect: Bankstown – Transport Orientated Development Precinct
Department of Planning, Housing and Infrastructure, 2024

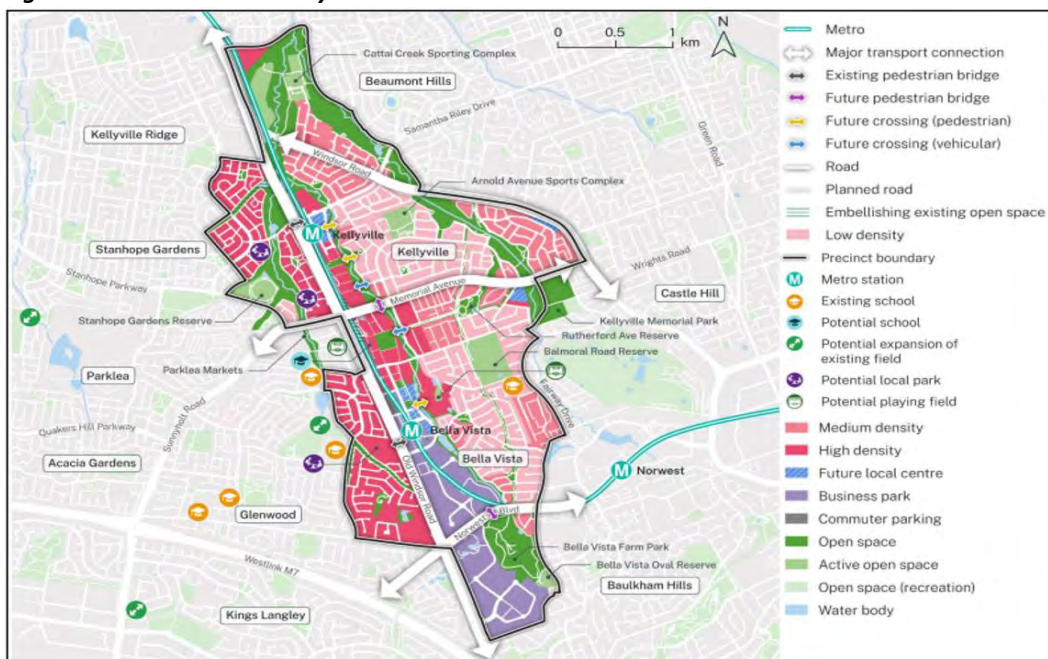
2. Bays West:

- Bays West Stage 2 Rezoning will be available for public consultation in mid-2025. Stage 1 was finalised as of 2022, however, it is expected that rezoning proposals for Stage 2 will build upon Stage 1 and aim to deliver more homes sooner within a vibrant new precinct.

3. Bella Vista and Kellyville:

- Facilitate accelerated rezoning across 4 sub-precincts within the immediate vicinity of the two nominated metro stations including:
 - Kellyville: Rezoning of existing low-medium residential land to R4 High Density Residential as well as changes to Floor Space Ratios and Building high to accommodate higher densities, allowing for 9901 potential dwellings to be developed.
 - Bella Vista: Rezoning of existing low-medium residential land to R4 High Density Residential as well as changes to Floor Space Ratios and Building high to accommodate higher densities, allowing for 10806 potential dwellings to be developed. Current commercial floorspace will also be retained to ensure the precinct remains employment focused.
 - Glenwood: Rezoning of existing low-medium residential land to R4 High Density Residential as well as changes to Floor Space Ratios and Building high to accommodate higher densities, carefully master planned around existing and new open spaces to ensure high amenity for future residents. This would allow for approximately 12603 potential dwellings to be developed.
 - Stanhope Gardens: Rezoning of existing low-medium residential land to R4 High Density Residential as well as changes to Floor Space Ratios and Building high to accommodate higher densities, allowing for 9528 potential dwellings to be developed.
- Mandatory affordable housing contributions of 3-8% for all new residential development within the precinct. No additional affordable housing incentives will be provided including infill Floor Space Ratio and Building Height Bonuses of the Housing SEPP 2021.
- Implementation of potential active transport links to support TOD Rezoning.

Figure 8: Bella Vista and Kellyville TOD Precinct Structure Plan

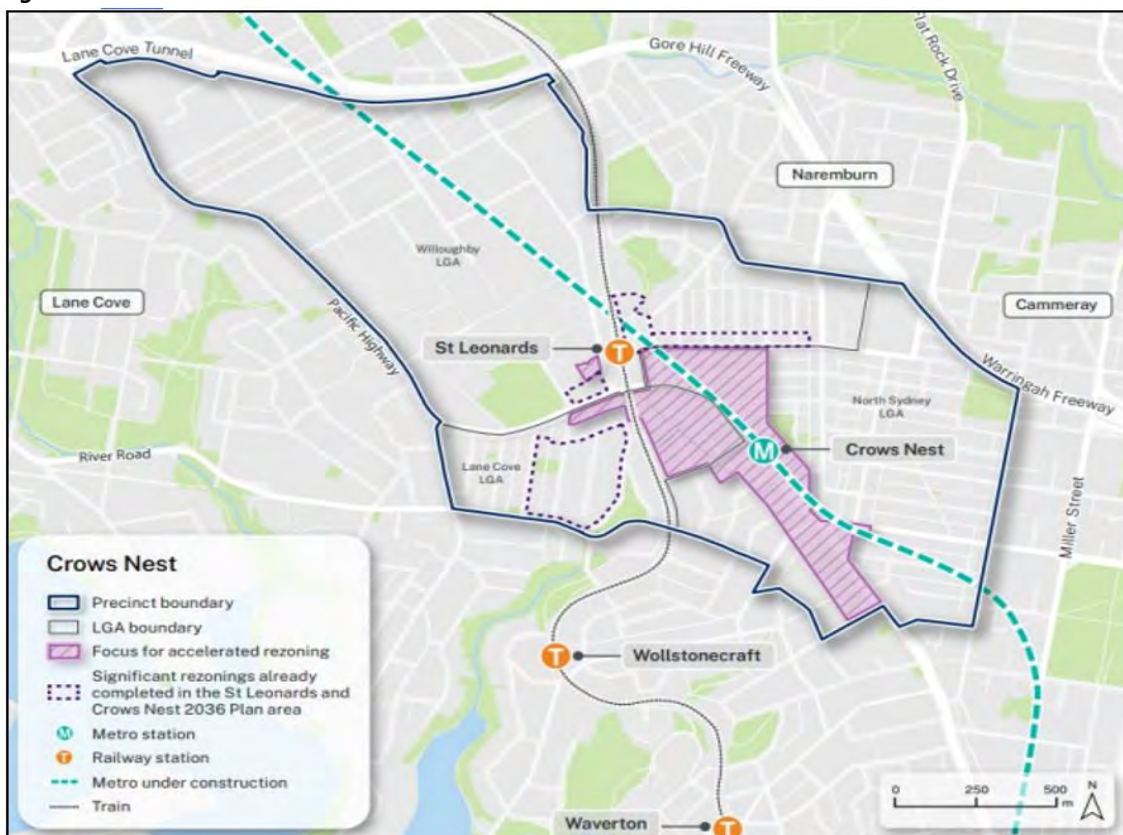


Source: Explanation of Intended Effect: Bella Vista and Kellyville – Transport Orientated Development Precinct
Department of Planning, Housing and Infrastructure, 2024

4. **Crows Nest:**

- Focus accelerated rezoning to land immediately surrounding the precinct including:
 - Rezoning portions of existing E2 Commercial Centre Zones to MU1 Mixed Use and low-medium residential and E1 Local Centre Land to R4 High Density Residential. Amendments to increase current heights and Floor Space Ratios are also proposed to allow for greater building densities to be achieved.
 - These changes are expected to enable 3255 new homes and 2600 jobs
- Amendments to minimum non-residential FSR's to various sites throughout the precinct to accommodate further employment.
- Introduction of mandatory affordable housing contributions of 10-15% for all new residential development within the precinct. Bonus FSR's and Building Height Incentives are also provided within key sites that meet the provision of 15% affordable housing. No additional affordable housing incentives will be provided including infill Floor Space Ratio and Building Height Bonuses of the Housing SEPP 2021.
- Investigation into the creation of further open space opportunities to support development uplift.

Figure 9: Crows Nest TOD Precinct

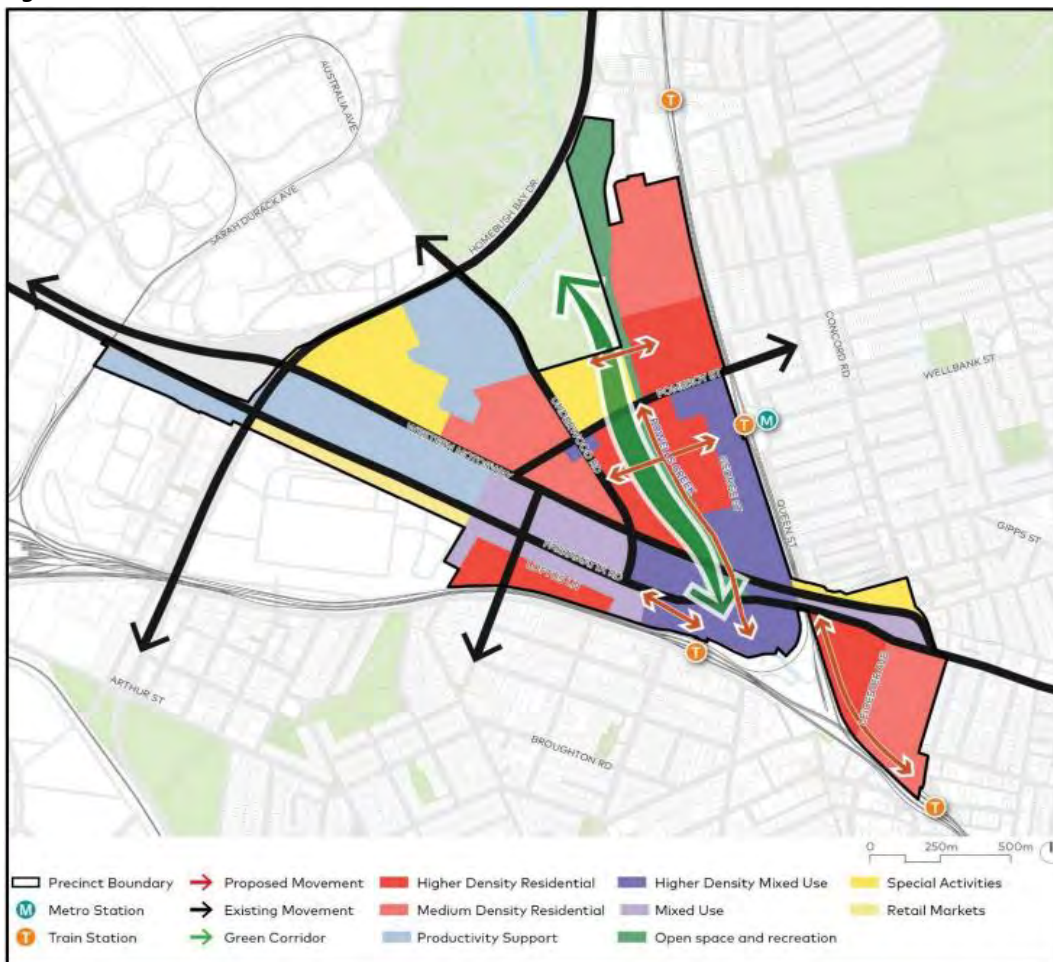


Source: Explanation of Intended Effect: Crows Nest – Transport Orientated Development Precinct
Department of Planning, Housing and Infrastructure, 2024

5. Homebush:

- Facilitate rezoning including:
 - R2 Low Density and R3 Medium Density Residential to R4 High Density Residential
 - Rezoning R4 High Density Residential zones to MU1 Mixed Use zone
 - E1 Local Centre and E2 Commercial zones and part of the R2 Low Density residential to MU1 Mixed Use zone to promote a vibrant and mixed used area
 - E4 General Industrial Zone to E3 Productivity Support Zone to enable 'Retail Premises'
 - These changes are expected to see the creation of 16100 new homes and 2670 new jobs
- Amendments to maximum Floor Space Ratio's and Building Heights across numerous sites to provide further capacity for new housing and jobs.
- Mandatory affordable housing contributions of 5-10% for all new residential development within the precinct. No additional affordable housing incentives will be provided including infill Floor Space Ratio and Building Height Bonuses of the Housing SEPP 2021.
- Investigations aimed at strengthening Open Space networks and Design Excellence within the precinct
- Activation of street frontages along key employment corridors to increase safety, amenity and walkability within the precinct.

Figure 10: Homebush TOD Precinct Structure Plan

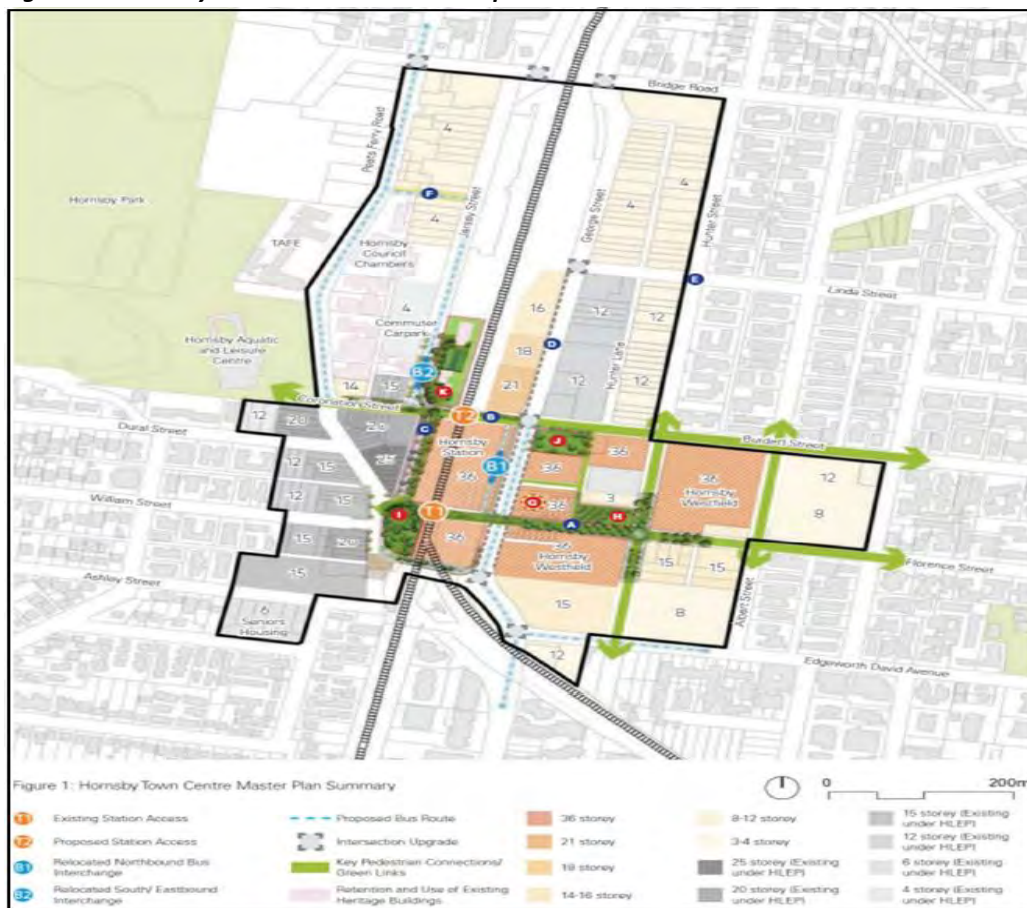


Source: Explanation of Intended Effect: Homebush – Transport Orientated Development Precinct
Department of Planning, Housing and Infrastructure, 2024

6. Hornsby:

- Facilitate rezoning including:
 - Extension of the MU1 Mixed Use Zone and remove E2 Commercial Centre Zone to facilitate a greater mix of land uses, including residential, within the precinct.
 - Extend the MU1 Mixed Use Zone over land within the Transport Corridor Area to allow for a greater mix of land uses, including residential.
- Inclusion of an Urban Design Framework to guide development within Hornsby to provide approximately 5000 new dwellings and capacity for 3450 new jobs.
- Increase allowable Floor to Space Ratio's and Building Heights to facilitate more intensive development
- Introduce a minimum non-residential FSR within the precinct to ensure commercial floor space is retained and remove the existing residential cap.
- Mandatory affordable housing contributions of 5-10% for all new residential development within the precinct. No additional affordable housing incentives will be provided including infill Floor Space Ratio and Building Height Bonuses of the Housing SEPP 2021.
- Investigations into the potential delivery of new open space networks throughout the precinct.
- Investigations into the inclusion of provisions for minimum lot sizes for the redevelopment of land within the precinct.

Figure 11: Hornsby TOD Town Centre Masterplan

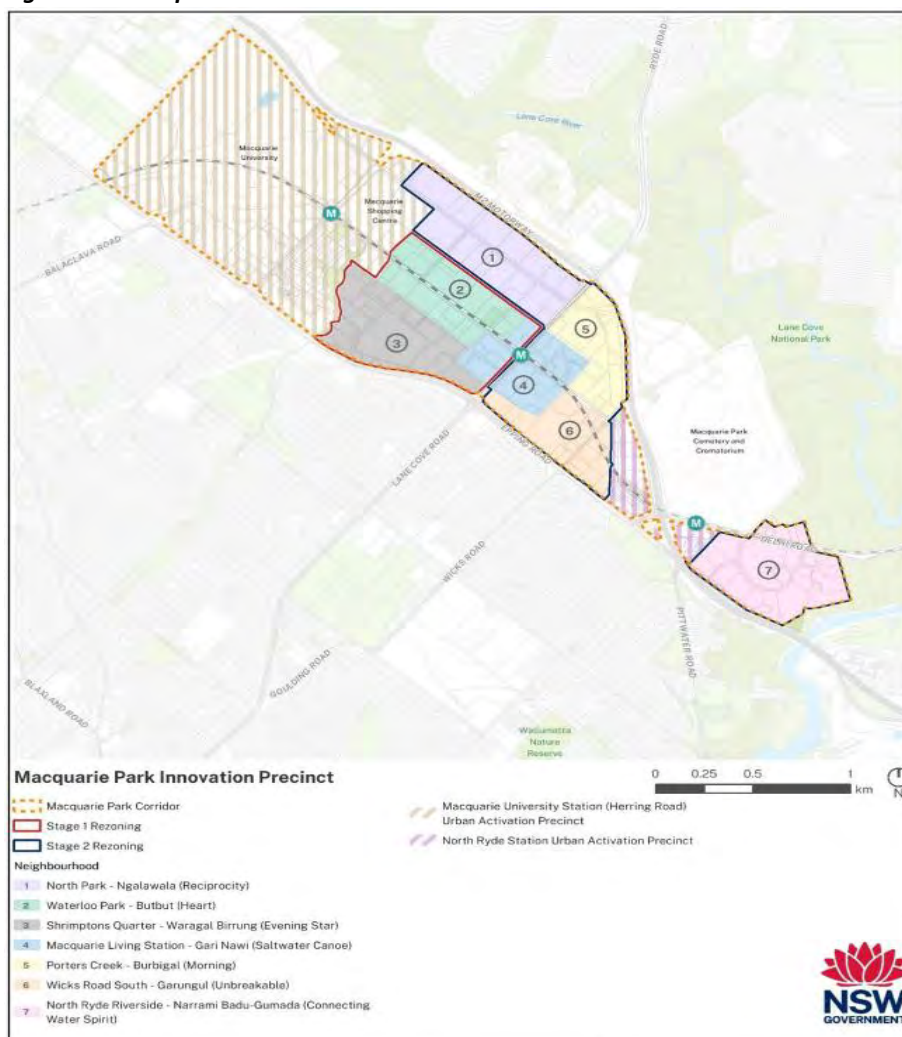


Source: Explanation of Intended Effect: Hornsby – Transport Orientated Development Precinct
Department of Planning, Housing and Infrastructure, 2024

7. Macquarie Park:

- Facilitate rezoning of the Stage 2 Area including:
 - Rezone specific lots to MU1 Mixed Use, RE1 Public Recreation and SP2 Infrastructure Zone to facilitate a mixed-use precinct capable of achieving higher densities and better amenity outcomes.
 - These changes are expected to deliver 4622 new dwellings within the MU1 Mixed Use Zone and approximately 66,327 additional jobs or 5096 additional dwellings depending upon market demand
- Increase allowable Floor to Space Ratio's and Building Heights to facilitate more intensive development
- Greater Building Heights and Floor Space Ratio's incentives for specific sites that meet certain requirements including minimum site area, minimum areas for open spaces and roads and other associated infrastructure.
- Mandatory affordable housing contributions of 10-15% for all new residential development within the precinct. No additional affordable housing incentives will be provided including infill Floor Space Ratio and Building Height Bonuses of the Housing SEPP 2021.
- Introduction of minimum non-residential FSR's to various sites throughout the precinct to generate further employment opportunities.
- Inclusion of extended design excellence provisions for sites within Stage 2 to ensure development outcomes.

Figure 12: Macquarie Park TOD Innovation Precinct



Source: Explanation of Intended Effect: Macquarie Park – Transport Orientated Development Precinct
Department of Planning, Housing and Infrastructure, 2024

ATTACHMENT 2

Case Study – Sydney Chatswood Station TOD

Key Features

- Chatswood is part of the commercial precinct created at the Chatswood Transport Interchange: involved an upgrade of station to cater for new \$2.2 billion Epping-to-Chatswood line
- High-density TOD surrounding the built environment
- Transport Infrastructure Development Corporation (TIDC) is state-owned corporation responsible for delivering Interchange
- TIDC entered into JV in 2005 with developers to build TOD
- TOD comprises bus and taxi interchange and construction of retail/residential complex
- 80 retail outlets, 500 residential units within three towers

Figure 13: Sydney Chatswood Station TOD



Key Success Factors

- High market demand for residential space above station which was sold prior to construction
- Average increase of \$58K in prices per housing unit once station was in operation
- Increase decreased \$18K per unit for each km further from station

Lessons Learnt

- Recession caused retail and residential components to be delayed considerably, led to insolvency of initial developer
- Interchange was completed in 2008 but TOD took another 3 years once private developers bought the site
- Construction costs increased above budget due to complexity of building above rail station

ATTACHMENT 3

About Value Advisory Partners:

Value Advisory Partners is an evidence-based consultancy firm specialising with a focus on creating better places by understanding and integrating data and insights that bring together “top down” and “bottom up” perspectives from land use planning, infrastructure planning and delivery and placemaking and economics.

Our purpose is to meet decision makers’ need for evidence-based, actionable advice to better plan and deliver adaptable places in our cities, regions and rural areas for today and for a climate resilient future.

We do this by understanding and integrating data and insights that bring together “top down” and “bottom up” perspectives. Value Advisory Partners makes sense of these macro and micro analyses to optimise outcomes in an environment of temporal, spatial, economic, financial and system change.

We apply these methods across a range of uses: master plans, business cases, precinct planning and delivery, funding strategies and resilient infrastructure investment.

Using agile visualisation technology, we empower our clients to use these analyses to challenge assumptions, test scenarios, develop and prioritise options and optimise resilient outcomes. We always strive to build efficiency through innovative methods and effective solutions which maximise benefits and results for our clients, business partners and our communities.

Value Advisory Partners modelling and expertise has been utilised by state and Commonwealth governments and infrastructure providers for urban planning, transport infrastructure design and implementation, property development, social infrastructure delivery and employment zone development. Our models are being employed by both the Australian and New Zealand Governments for their current infrastructure project planning.

Panels & Memberships

Value Advisory Partners expertise has been recognised by appointment to:

1. The **New South Wales Prequalification Scheme: Performance and Management Services** for:
 - 15. Infrastructure
 - 15a. Strategy and Planning
2. **Whole of Victorian Government Professional Advisory Services Panel** to provide specialist advice based on “best value for money in terms of price, quality and service delivery” for the following **Commercial and Financial Advisory Services**:
 - Strategic Policy Review and Reform Project Development (incorporating service need analysis, service planning, feasibility studies and strategic assessments)
 - Business Case Preparation and Development
 - Market Engagement and Implementation
 - Project, Program and Business Review (incorporating business re-organisation reviews), and
 - General Commercial Advice (incorporating Commercial negotiations)

Submission to Transport Oriented Development Program

This submission is provided in response to the NSW Department of Planning, Housing and Infrastructure's exhibition of:

- The Crows Nest (St Leonards) Transport Oriented Development (TOD) Program accelerated precinct rezoning proposal exhibition (note: for the purposes of this submission Lot 4B is referred to as 4B Herbert Street).
- Pathway changes to support transport oriented development and residential housing delivery.

Executive Summary

On 16 July 2024, the NSW Department of Planning Housing and Infrastructure (DPHI) published a rezoning proposal relating to the Crows Nest TOD Precinct (see figure 1 for proposed are to be rezoned). DPHI is also concurrently exhibiting an Explanation of Intended Effect (EIE) proposing policy changes seeking to accelerated housing delivery in the TOD accelerated precincts.

The Crows Nest TOD rezoning proposal includes 3,255 dwellings (representing an increase of 1,762 dwellings above the total capacity provided for in the previously adopted St Leonards Crows Nest 2036 Plan. The TOD concentrates on land predominately in the North Sydney and Lane Cove Local Government Areas, with one site included in the Willoughby Local Government Area (LGA) being 4B Herbert Street.

Council has identified a number of concerns and issues which are summarised as follows:

- The rezoning should not proceed in advance of funding commitments to the supporting infrastructure required. Consideration should be given to immediate funding for upgrades to deliver indoor sports facilities at Gore Hill Oval, cycleways connecting the station to surrounding suburbs, and improved pedestrian links to the metro and rail stations. The funding mechanism and timeline for the projects identified under the previous SIC should also be confirmed before any rezoning is finalised.
- Council supports the 10-15% affordable housing requirement across the Crows Nest TOD precinct.
- Council recommends that a minimum of 15% of the 4B Herbert Street be Affordable Housing.
- The exhibited TOD program materials do not specify who owns and manages proposed affordable housing. Affordable Housing units should be dedicated to Council for management as part of Council's well-established Affordable Housing portfolio.
- Council re-affirms its position (resolved on 25 March 2024):

that Royal North Shore Hospital land that is most accessible to St Leonards Station and the new Crows Nest Metro should be reserved for clinical health care, research and education to allow for the hospital's future expansion, and not be used for residential, commercial, or retail purposes. Confirming that Council's recently gazetted Local Environmental Plan explicitly encourages non-clinical health related land use in the nearby employment zones.

- Council recommends that a review of the Royal North Shore Hospital Masterplan is undertaken in light of the TOD, and a Community Reference Group is established.
- Rather than remove the requirement for referrals and concurrence, the State Government should be working with relevant State agencies and bodies to improve resourcing and processing capacity to reduce processing times.
- The specific alternative to design competitions should be articulated and provided to Councils, the community, and other stakeholders, for consideration and input before any change is made.
- With particular regard to 4B Herbert Street:
 - Council seeks for Clause 6.23 of *Willoughby Local Environmental Plan 2012* (WLEP 2012) to be applicable and for the site to be identified as Area 5 on the Special Provisions Area Map. The effect of this would be to require the consent authority to be satisfied that the development exhibits design excellence.
 - Any rezoning of 4B Herbert St should include floor space requirements confirming the future residential and non-residential mix to be accommodated on the site. This should be informed by confirmation of the anticipated future needs of the hospital catchment, and the need to ensure the site remains a key employer and service provider for residents of the precinct.
 - Council recommends that at least 15% affordable housing be provided at 4B Herbert Street. The site should be added to the Affordable Housing Map in WLEP 2012 with the specific required rate added to 6.8 of the Affordable Housing clause.
 - Consideration of a height response on 4B Herbert Street more sensitive to the surrounding sites and to the future skyline of the precinct is requested. Particularly given the proposed height, the proposed built form should be revised to ensure a more slender tower form is delivered on the site.
 - A setback of 7m should be required to the southern boundary of 4B Herbert Street and the site specific Design Guide should be updated accordingly to clarify an inconsistency.
 - Given the proposed height and the prominence of the site, consideration should be given to implementing a more detailed site specific DCP (which would replace the proposed Design Guidelines) for the 4B Herbert Street site

- To ensure the development of 4B Herbert Street is accompanied by appropriate ground level public realm outcomes, greater resolution of the ground plane are required in accordance with Council's detailed comments contained within the relevant section of this submission. Consideration should be given to replacing the proposed Design Guide with a more detailed Site Specific DCP.
- Documentation should be updated to consistently refer to the proposed realigned Herbert Street pedestrian bridge.
- Section 4.3.1 'Building Massing and Envelope' should be amended to remove the invitation to vary the prescribed building envelopes as part of the design excellence process.
- The Landscape Plan and Design Guide should be updated to require additional planting where possible. Deep Soil areas should be utilised to maximise the tree canopy provided.
- Greater consistency is required between the Site Specific Design Guideline and the Crows Nest Design Guide and they should be updated to maximise deep soil provision and tree canopy.
- The design guides should be updated to sufficiently specify loading and unloading requirements including requirements loading bay length, height and clearance requirements.

Council requests that these matters be addressed by DPHI prior to the finalisation of the rezoning proposal.

Figure 1 - Boundary of the Crows Nest TOD



Source - DPHI

Contents

This submission is structured as follows:

1) Background

- Recent History
- Summary of changes in the Willoughby LGA

2) Key Issues

- Proposed pathway changes
- Infrastructure funding
- Affordable Housing
- Importance of retaining RNSH land
- Loss of Employment lands
- Design Excellence
- Sustainability
- Height
- Built form
- Tree removal / replacement and deep soil planting
- Ground level publicly accessible space
- Loading and unloading
- Car parking

3) Requested additional information, clarification or technical matters

- Herbert Street pedestrian bridge and other works
- Infrastructure Funding
- Flood related comments and associated matters
- Helicopter path
- Waste Provision
- Consultation with Council prior to construction



1. Background


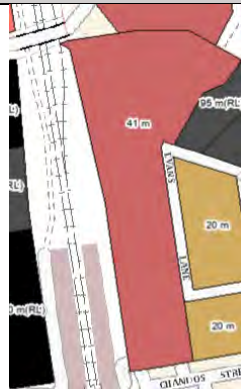




Recent History

The Crows Nest TOD is located in the same boundary as the approved *St Leonards Crows Nest 2036 Plan* (the 2036 Plan). The 2036 Plan was released in August 2020 and included some sites in the Willoughby LGA. The majority of the changes occurred along the Pacific Highway from St Leonards Station to the new Crows Nest Metro Station.

Willoughby Council incorporated the recommended land use changes into the comprehensive review of WLEP 2012, which became Amendment No 34. Amendment No. 34 was brought into effect in June 2023, Table 1 provides a summary of the changes that have been implemented.

Table 1 – Implementation of the 2036 Plan in Willoughby LGA

Previous controls (pre Amendment 34)	WLEP 2012 Current controls - incorporating St Leonards 2036 Plan (Post Amendment 34)
207 Pacific Highway St Leonards Zoning B3 Commercial core HOB (previous heights varied across the site)  FSR 3:1	Zoning E2 Commercial Centre HOB 83m across entire site (25 storeys)  FSR 10: 1 with a 10.1 non res FSR
2-10 Chandos Street Zoning B3 Commercial core HOB 26m	Zoning E2 Commercial Centre HOB 41m (13 storeys)

Previous controls (pre Amendment 34)	WLEP 2012 Current controls - incorporating St Leonards 2036 Plan (Post Amendment 34)
 <p>FSR 3:1</p>	 <p>FSR 4.5:1 with 4.5:1 non res FSR</p>
<p>110-120 Christie Street</p> <p>Zoning B3 Commercial core HOB 14m</p>  <p>FSR 1.5:1</p>	<p>Zoning E2 Commercial Centre HOB 20m (6 storeys)</p>  <p>3:1 with 3:1 no res FSR</p>
<p>14-102 Chandos Street</p> <p>Zoning B3 Commercial core (Schedule 1 allows shop top) HOB 20m</p>  <p>FSR 2.5:1</p>	<p>Zoning E2 Commercial Centre HOB 20m (5 storeys) – no change</p>  <p>FSR 3:1 with minimum no res FSR of 2:1</p>

Summary of Changes in the Willoughby LGA

The proposed changes in the Willoughby LGA under the proposal are limited to the 4B Herbert Street site; however, the growth proposed across all three precincts will affect infrastructure demands across all three precincts.

The 4B Herbert Street site covers an area of 3,371m² (0.34ha) and is owned by Property NSW. Adjacent is a recently constructed 10-storey Administration Building occupied by Health NSW (Lot 4A).

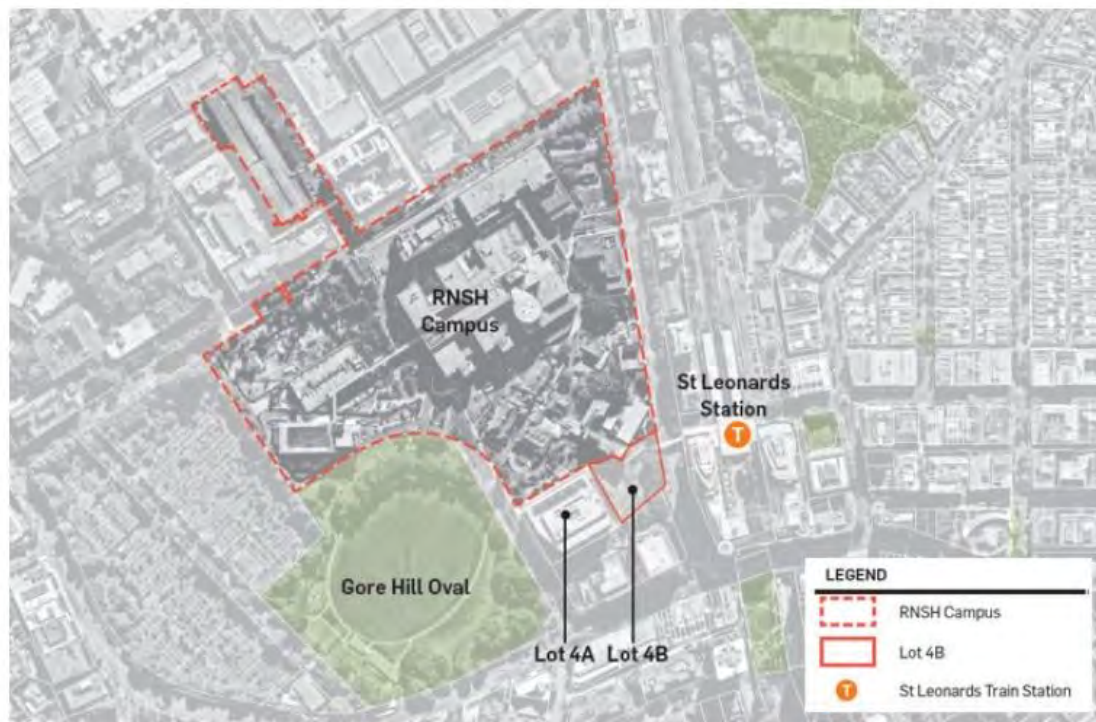
The current controls on the site are:

- SP2 Infrastructure (Hospital) zone
- No current height or Floor Space Ratio (FSR) controls

The vision is stated in the Urban Design Report (P.67):

To unlock well-located, but currently underutilised NSW Government land (Lot 4B), to provide much needed housing for key workers in the area, with access to high-quality transport and local services. To provide improved access and arrival experience, for the RNSH Campus within St Leonards Health and Education Precinct in the short-term.

Figure 2 - 4B Herbert St and immediate surrounds



Source: DPHI

The key elements that form the Concept Plan include:

- A building envelope with a maximum building height of up to RL283m and a floor space ratio (FSR) of 14.3:1. The envelope can accommodate a tower of up to 62-storeys comprising 2 basement levels, 2 podium levels, residential and non-residential uses.
- Approximately 448 residential dwellings supported by communal open space at podium level.
- Affordable housing provision of 10-15%

- Relocated and improved public pedestrian access from Herbert Street to the RNSH campus via a new stairs and lift and an arrival plaza at upper ground level.
- Pedestrian access to the building from ground level at Herbert Street and upper ground level from the proposed new arrival plaza.
- New entry/exit vehicular access via Herbert Street.

The proposal seeks to retain the existing SP2 Hospital zoning, with additional permissible uses for the site identified through amending the Special Provisions Area Map:

- Residential accommodation – to enable the delivery of housing including affordable housing in a height density and accessible location to support healthcare and key workers at RNSH.
- Commercial – to enable small-scale, complementary ground level activation of the Lot 4B Herbert Street within podium including office and retail premises.
- Community facilities – to enable communal open space to accommodate the social and infrastructure needs of the future population.

The Crows Nest Explanation of Intended Effect states (P. 4):

“It is proposed the controls will be implemented through a self-repealing State Environmental Planning Policy (SEPP) made under the Environmental Planning and Assessment Act 1979 (EP&A Act) that will amend North Sydney Local Environmental Plan 2013 ..., Lane Cove Environmental Plan 2009 ..., and Willoughby Local Environmental Plan 2012.”

The proposed self-repealing SEPP has not been included in this exhibition.

In parallel to the above changes proposed under the TOD program, the following is proposed as part of the Pathway changes to support the TOD.

The Pathway changes to support Transport Orientated Development, Explanation of Intended Effect, Section 1.6 ‘Focus and objectives of proposed changes’ (July 2024) states (P. 8 and 9):

The focus of the proposed changes is to support the TOD program and streamline the delivery of dwellings in the TOD Accelerated Precincts.

The objectives are 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 so that consent authorities can determine them rapidly*
- *Ensure that developments within the TOD Accelerated Precincts achieve high-quality design outcomes.*

The Pathway changes to support Transport Orientated Development, Explanation of Intended Effect, Section 2.2 ‘Exemptions from low and mid-rise housing reforms’ (July 2024) states (P. 11) states:

To ensure the most appropriate outcomes for the areas identified in both the application of the LMR housing reforms and the accelerated TOD rezonings, the interrelation between the two will be fully assessed. The intention is to reduce duplication and maximise housing potential for lots identified in both the TOD Accelerated Precincts and the low and mid-rise reforms, which may mean exempting some TOD Accelerated Precincts from the LMR housing reforms.

With respect to design excellence, the exhibited Explanation of Intended Effect states:

Where a LEP requires a design competition introducing Offering [sic] an alternative design excellence pathway to be developed by the Government Architect NSW for any design competitions required by the local Council.

The Pathway changes to support Transport Orientated Development, Explanation of Intended Effect, Section 2.2 'Exemptions from certain concurrence and referral requirements' (July 2024) states (P. 11):

It is proposed to exempt local and regionally significant development within the TOD Accelerated Precincts from concurrence and referral requirements that are not considered high-risk. This exemption is proposed to be established for a period of five years. High-risk concurrence and referrals will be retained to ensure safe and orderly development.

To determine which concurrence and referral provisions will be subject to the exemption, the Department is developing risk criteria, including the potential of potential hazards and the likelihood of significant adverse planning outcomes and will work with Government agencies to finalise this.

The Department wants to understand from stakeholders, councils, agencies and the development sector about what concurrence and referrals could be switched off through the development assessment process...

2. Key Issues

Proposed pathway changes

Council thanks DPHI for the opportunity to combine its comments on the Crows Nest TOD and the Proposed pathway changes to support the TOD.

Council supports the exclusion of TOD precincts from the in-fill affordable housing height and floor space bonuses. Council does not support policies that provide permanent uplift for temporary affordable housing delivery.

Council suggests that this same principle should apply to other areas, such as Chatswood CBD, where similar detailed masterplanning has maximised heights and floor spaces controls and set associated affordable housing requirements based on detailed feasibility analysis (though it is noted that this is beyond the scope of the proposed TOD program).

Council supports the exemption of these precincts from the low and mid-rise housing reforms to reduce duplication. However, it is Council's view that this exemption should be

complete and without qualification. This principle should also be applied to locations where Council has undertaken and implemented significant recent masterplanning such as those areas where upzonings occurred as part of Council's recent Comprehensive LEP (Council notes that this is beyond the scope of the proposed TOD program).

Council does not support exemptions from concurrence and referral requirements. Referrals are required to ensure minimum expectations regarding quality, amenity, and sustainability are met. The community should not have to take on additional risk in the form of developments approved under reduced scrutiny.

Rather than remove these necessary considerations, the State Government should be working with referral bodies to improve resourcing and processing capacity to reduce processing times.

Similarly, the high visibility and density of TOD precincts require careful and considered design. Design competitions, when managed correctly, are an effective means of delivering diverse, high quality built form outcomes. These precincts should be examples of the highest standards of design and design competitions are considered a best practice means of ensuring these standards are achieved. Council cannot support a proposal for an unspecified alternative to design competitions.

Given the scale of the proposed future development of 4B Herbert Street, this site should be subject to excellence.

The specific alternative should be articulated and provided to Councils, the community, and other stakeholders, before any change is made.

With particular regard to 4B Herbert Street, Council seeks for Clause 6.23 of WLEP 2012 to be applicable and for the site to be identified as Area 5 on the Special Provisions Area Map.

Infrastructure funding

When approved, the 2036 Plan was accompanied by a Special Infrastructure Contribution (SIC) to ensure development delivered under the plan would be contributing to the \$113.6 million of infrastructure required to support the future residents and employees of the precinct. The SIC was subsequently repealed and replaced by the Housing Productivity Contribution, which does not provide the same certainty of funding for the infrastructure required in the precinct.

The State Government has yet to confirm how the infrastructure requirements arising from the 2036 plan will be funded. The most recent advice provided to Council from DPHI advised that the process for allocating funds from the Housing Productivity Contribution is yet to be finalised.

The level of growth in the precinct will affect infrastructure across all three affected Local Government Areas. In the Willoughby LGA, the demand for use of open space at Gore Hill Oval and demand for active transport and pedestrian links will dramatically increase. Given the significant uplift proposed under the rezoning, funds should be assigned to upgrades of existing open space such as provision of indoor recreation facilities at Gore Hill Oval, and

pedestrian and cycle ways improving access to the station within the precinct and to the surrounding suburbs. Improved cycleways will be critical to managing the increased potential conflicts between cyclists seeking to access the station from surrounding suburbs and the increased pedestrian activity within the precinct.

\$520 million has been identified for allocation to the 8 TOD precincts identified under the program. Given the substantial growth anticipated across the 8 precincts, there is concern that this will not be sufficient to deliver the required supporting infrastructure. In discussions to date, DPHI has advised that the funds will not be allocated evenly, and given the growth and needs anticipated in each precinct vary, this is understandable; however, consideration of needs and allocation of funding should occur in parallel to the rezoning, as was the case with the 2036 Plan, it should not lag behind the masterplanning and rezoning process.

The rezoning should not proceed before funding the infrastructure required to support growth. Consideration should be given to immediate funding for upgrades to Gore Hill Oval, cycleways connecting the station to surrounding suburbs, and improved pedestrian links to the station. The funding mechanism and timeline for the projects identified under the previous SIC should also be confirmed before any rezoning is finalised.

Affordable Housing

Development of the site at 4B Herbert Street is an opportunity for the State Government to show leadership and demonstrate its commitment to Affordable Housing delivery.

The exhibition materials do not clarify how affordable housing requirements are to be satisfied. Council is seeking dedication of the affordable housing units delivered on 4B Herbert Street to Council so that they can be managed as part of Council's well-established Affordable Housing portfolio. As Council has existing capacity and established operational procedures for the management of Affordable Housing this would be the most effective and efficient means for the delivery and ongoing management of units within the precinct.

Council supports the 10-15% affordable housing requirement across the Crows Nest TOD precinct.

For the site at 4B Herbert St a minimum of 15% affordable housing should be provided noting the significant uplift to be delivered on this State Government owned site.

Affordable Housing units should be dedicated to Council for management as part of Council's well-established Affordable Housing portfolio.

It is recommended that the site be added to the Affordable Housing Map in WLEP 2012 with a rate of at least 15% added to 6.8 of the Affordable Housing clause and that the clause confirm dedication of units is required.

The relevant objectives of the Design Guides should also be updated to reflect the *minimum* 15% Affordable Housing that should be provided on 4B Herbert Street.

Importance of retaining RNSH land

Subsequently to the 2036 Plan and Council's comprehensive LEP, NSW Health's Northern Sydney Local Health District developed and adopted a Masterplan for the Royal North Shore Hospital Site. It is noted that the site now known as 4B Herbert Street was not included in the masterplan as this land is not in the care and control of the Northern Sydney Local Health District.

The Royal North Shore Hospital Masterplan 2023-2036 was considered by Council on 25 March 2024. Council reiterated its longstanding objection to any loss of key hospital, health services, and health education lands and its position:

that Royal North Shore Hospital land most accessible to St Leonards Station and the new Crows Nest Metro should be reserved for clinical health care, research and education to allow for the hospital's future expansion, and not be used for residential, commercial, or retail purposes. Confirming that Council's recently gazetted Local Environmental Plan explicitly encourages non-clinical health related land use in the nearby employment zones.

Council also recommended that the Royal North Shore Hospital Masterplan be reviewed in light of the recent State Planning Reforms and the TOD Program. This is considered necessary to ensure that planning for the hospital considers the new scale and pattern of development arising from the reforms and the TOD. Council and the community considers it appropriate for such significant public infrastructure to be planned with cross-agency and community collaboration. To this end, Council has requested a Community Reference group be established, similar to that which has been established as part of the masterplanning for Bankstown Hospital.

Noting the need for cross-agency consideration, Council seeks DPHI's support through the TOD program for a review of the Royal North Shore Hospital Masterplan and the establishment of a Community Reference Group.

Health care and social assistance is the largest employer in the Willoughby LGA, at 23% of the workforce, or 16,477 people (source: .id economic profile). Much of this Health care workforce is located at the Royal North Shore Hospital. The premise of the Low and Mid Rise reforms and the TOD program is to accelerate delivery of housing, it follows that infrastructure planning needs to be reviewed to ensure this accelerated growth can be supported by the necessary facilities and services.

While Council acknowledges that 4B Herbert St is not currently in the care and control of NSW Health, it has historically been zoned for health purposes. Council supports the retention of the primary zoning on the site remaining commensurate with potential future health purposes. However, before amendments are made to introduce residential uses that will displace future capacity for health services to be delivered on the land, it should be demonstrated that the remaining land will be sufficient in light of current population projections and anticipated development in the hospital's catchment.

Neither the materials published in relation to the TOD nor the materials published with the Royal North Shore Hospital Masterplan demonstrate how much 4B Herbert St is surplus to future requirements. This should inform the rezoning, which should include floor space requirements confirming the residential and non-residential mix to be provided on the site.

Any rezoning of 4B Herbert St should include floor space requirements confirming the future residential and non-residential mix to be accommodated on the site. This should be informed by confirmation of the anticipated future needs of the hospital catchment, and the need to ensure the site remains a key employer and service provider for residents of the precinct.

Loss of Employment lands

The St Leonards Crows Nest 2036 Plan aimed to make the area a key employment centre, with particular regard to health or education related employment. The TOD program also appears to recognize the need to balance the allocation of land to future employment and residential needs in principle. The Crows Nest Design Guide, Section 2.4 'Key themes and objectives', (P. 10), states as land use objectives:

Protect and strengthen the area's commercial role supported by complementary uses to capitalise on the close proximity to stations. Leverage world-class health and education uses to provide opportunities for training and employment growth into the future. Expand residential opportunities through mixed-use development ensuring long-term activation across the precinct.

Objectives

- *Intensify all types of development around public transport, providing an appropriate balance of residential and non-residential land uses.*
- *Prioritise affordable housing up to 15% ...*
- *Focus commercial activity in the mixed-use core between the station ...*
- *Future proof the precinct to ensure spaces can grow with community needs.*
- *Protect and leverage from significant contributors to the local economy such as the Artarmon Employment Area and the Royal North Shore Hospital Precinct.*

Having regard to the above, Council supports retention of the WLEP 2012 SP2 Infrastructure zone with regard to the 4B Herbert Street site as the associated zone objectives are consistent with the desired future function of the site.

However, the proposal in its current form does not appear to meet the relevant objectives. The breakdown of land uses anticipated for the site under the proposal is:

- Residential: 46,340m²
- Non-residential: 623m²

The 4B Herbert Street site represents an opportunity for the State Government to deliver an exemplar development that provides significant employment as well as market and affordable housing. Providing such a minimal amount of non-residential uses on the site will undermine the ability for the precinct to function as a balanced employment and residential centre and will signal to the market that the objectives can be satisfied with minimal consideration for provision of non-residential uses.

As noted previously, any rezoning of 4B Herbert St should include floor space requirements confirming the future residential and non-residential mix to be accommodated on the site. This should be informed by confirmation of the anticipated future needs of the hospital catchment, and the need to ensure the site remains a key employer and service provider for residents of the precinct.

Design Excellence

The need for design excellence is referred to throughout the exhibited materials in principle, however, the mechanism by which it will be guaranteed is not specified. Design excellence is a crucial component of delivering a successful TOD program and for this component to be unresolved is a significant flaw. The proposed mechanism should be specified and the community, Councils and stakeholders should have meaningful input before any rezoning is implemented.

The Crows Nest TOD Explanation of Intended Effect (EIE) states:

Willoughby LEP has a design excellence clause (clause 6.23) that requires developments to deliver the highest standard of architectural, urban and landscape design. To ensure faster DA assessment timeframe are combined with high-quality design outcomes, a consistent approach to design quality will be set out across all TOD precincts.

The proposed approach to design excellence is addressed in the reforms proposed in 'Pathway changes to support transport oriented development and residential housing delivery' EIE publicly exhibited alongside the Crows Nest TOD rezoning proposal. Specifically:

Where a LEP requires a design competition introducing Offering [sic] an alternative design excellence pathway to be developed by the Government Architect NSW for any design competitions required by the local Council.

In the absence of a specified improved alternative, Council recommends that the 4B Herbert Street is subject to Clause 6.23 of WLEP 2012 to be applicable and for the site to be identified as Area 5 on the Special Provisions Area Map.

Sustainability

The site specific Design Guide does not have a section on sustainability. This is considered a significant deficiency. Sustainability is of sufficient import to deserve its own section in the site specific DCP.

Height

The proposed building height for site 4B within the Royal North Shore Precinct will result in a building height that is significantly greater than the surrounding built form. The height of the Forum development (being 45 storeys, approximately 150m) was previously established as an area marker to clearly identify that site as being above the St Leonards Train Station.

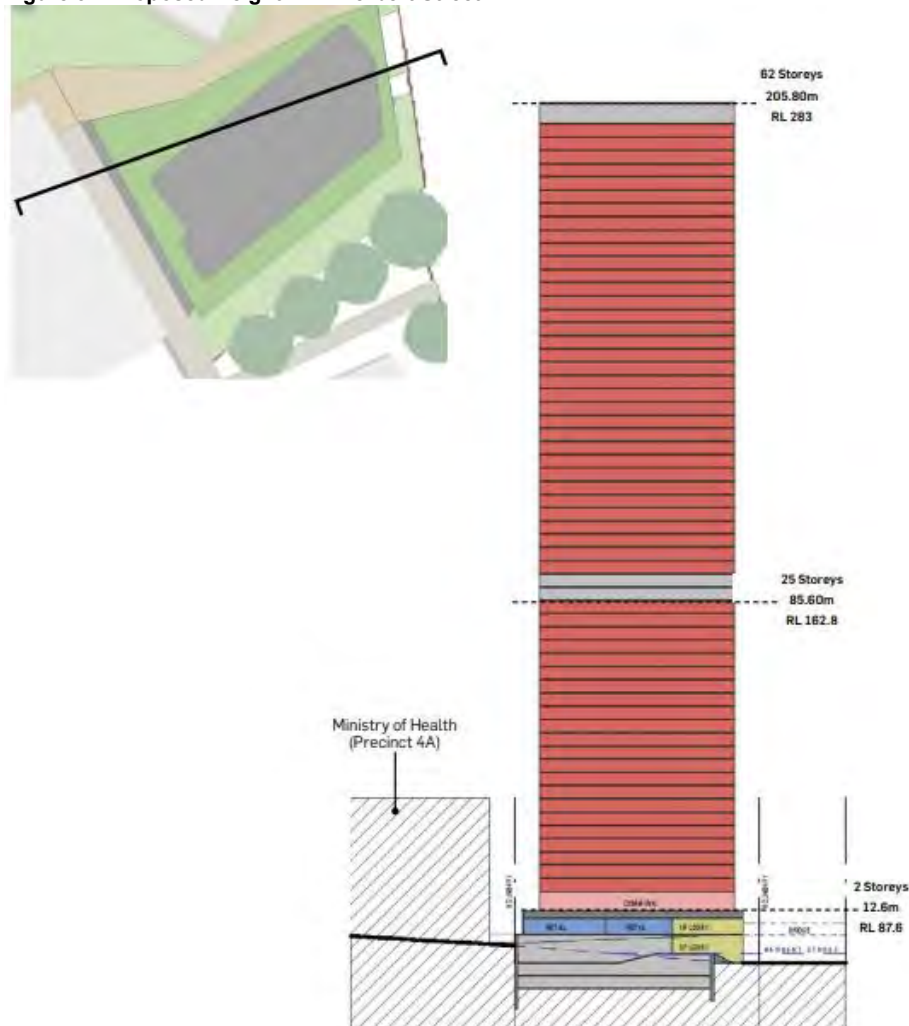
The redevelopment of 4B Herbert Street proposes 62 storeys, 205.8m, being significantly higher by 17 storeys or approximately 55m above the Forum development. The adjacent site at 4A Herbert Street has a recently constructed 10 storey RNSH Service Administration building occupied by Health NSW. The adjacent site at 207 Pacific Highway, which was originally part of the RNSH site but subdivided for sale and subsequent development, has a maximum height of 25 storeys.

The Crows Nest Design Guide, Section 2.4 'Key themes and objectives', built form (P. 10) states as built form objectives:

Preserve, strengthen and enhance the existing diverse character areas and design and plan for the optimal built form outcomes. Height and density should be appropriate within the immediate context, emphasising key locations such as the stations whilst also protecting public spaces through solar access controls.

It is unclear how the proposed height on 4B Herbert Street achieves these objectives.

Figure 3 – Proposed Height – 4B Herbert Street



Source: Crows Nest Precinct Design Guide

Council is concerned with the dramatic increase in height above the 25 storeys at 207 Pacific Highway. Council is also concerned with the proposed Lot 4B height being significantly higher than the Forum, which minimises the Forum as an area marker for the St Leonards Train Station.

It is the view of Council officers that while public spaces within the Willoughby LGA are not adversely impacted by the proposed height with regard to solar access, this is not the only consideration that should determine what height is to be established.

Council seeks a balanced height solution on this site, noting its proximity to the direct neighbouring properties at RNSH, 207 Pacific Highway and Lot 4A Herbert Street. It is considered that this 62 storey proposal will dominate the built form within close proximity, being the RNSH including the heritage precinct, Gore Hill Park and Oval and as already mentioned, St Leonards Station.

Consideration of a height response more sensitive to the surrounding sites and to the future skyline of the precinct is requested

Built Form

Concern is raised with the 4B Herbert Street concept scheme residential tower floor plates, from level 3 upwards, being approximately 1,000m², and the north / south facing presentation to the RNSH and the Pacific Highway.

In the formulation of the Chatswood CBD Planning and Urban Design Strategy 2036, prepared by Architectus on behalf of Willoughby Council, an important outcome was slender towers based on a floor plate size of 700m². In pursuit of slender tower forms, the width of each side of any tower was to be minimised. On large sites this was achieved via two towers. A similar vision is considered deserving for 4B Herbert Street and its surrounds.

Particularly given the proposed height, the proposed built form should be revised to ensure a more slender tower form is delivered on the site.

Council notes that there are inconsistencies in documentation. The Crows Nest Design Guide refers to a podium 7m setback to the southern boundary. However the site specific Design Guide, Section 4.3.1 'Building Massing and Envelope' has the following provisions:

1. *Built form within Lot 4B is to be in accordance with Figures 13 to 14 relating to setbacks, street frontage heights and tower setbacks.*
2. *The envelopes prescribed by these figures are the maximum permissible extent of any future built form on the site. Variances will only be considered where design excellence can be demonstrated ...*
4. *Development is to ensure that public domain within the site and Gore Hill Oval receive an appropriate solar amenity for their intended use.*

Figure 13 of the Design Guide refers to a podium setback of 6m to the southern boundary

Being a flood zone, a setback of 7m is supported and the site specific Design Guide should be updated accordingly.

Neither Figures 13 nor 14 of the Design Guide make reference to street frontage heights. Street frontage heights should be specified on Figure 13 of the Design Guide.

Concern is raised regarding Point 2 regarding variances, design excellence can be achieved within the prescribed envelope. Variation should not be invited and this wording should be removed.

It is also suggested that Point 4 is strengthened to ensure that there is no additional overshadowing on Gore Hill park (including the Oval) between 9am and 3pm as a result of any development on 4B Herbert Street.

Figure 4 – 4B Herbert Street Podium Envelope “Figure 13” of the Design Guide



Figure 13: Podium envelop (source: Urbis)

Figure 5 – 4B Herbert Street Tower Envelope “Figure 14” of the Design Guide



Figure 14: Tower envelop (source: Urbis)

Tree removal / replacement and deep soil planting

The existing site is largely an open lawn area with a stand of 8 established trees located near the Herbert Street boundary, which the plans indicate are to be removed. Of the trees to be removed the 3 large deciduous trees closest to the street appear to be *Liquidambar styraciflua* which are an exempt species of tree. The others appear to be native species. *Syncarpia glomulifera* (Turpentine) and *Ficus rubiginosa* (Port Jackson Fig). An arborist report was not cited in the documents, and species identification is based on street view images only.

Figure 6 – 4B Herbert Street - Existing stand of trees to be removed along Herbert Street boundary



Source: Google street view image

Willoughby DCP Part G requires replacement for removal of trees at a rate of 3:1. The Landscape Design Concept does not specify tree species and numbers, however the plans indicate approximately 8 new trees to be planted on the ground and lower ground floor, with potential for more, and approximately 35 shown on the Level 2 podium.

Figure 7 – 4B Herbert Street - Trees to be removed (circled red) and trees on adjoining site to be retained (circled green)



Source: Google Street View image

The setback along the southern boundary and green space along Herbert Street connect with the existing green space and trees on the adjoining site to create a larger more continuous green space, as well as providing sufficient setback allowing for the retention and protection of the existing trees. This lawn space is intended to be utilised as publicly accessible space combined with the neighbouring sites.

There is minimal planting volume along the street frontage to Herbert Street. Consideration should be given to trees and planting to present a greener appearance at street level and softening of the built form around the entrance.

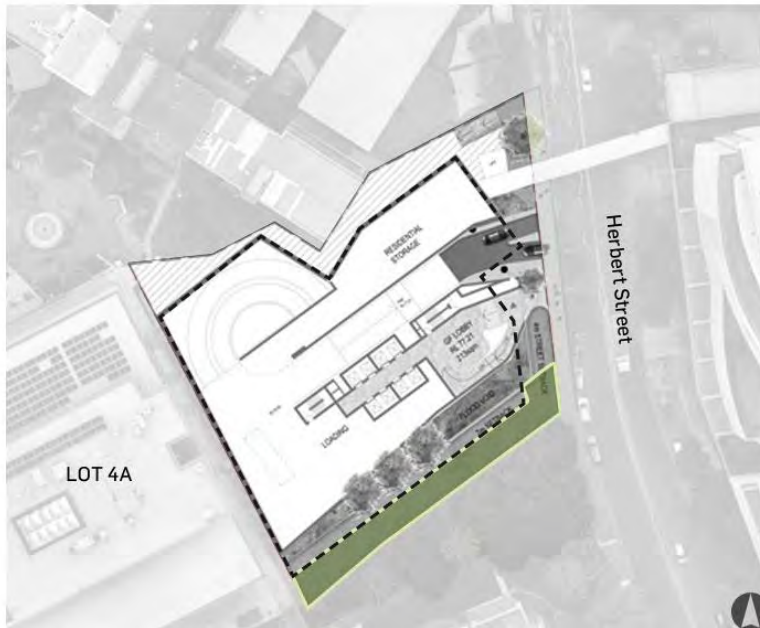
At the ground and upper ground levels there are minimal trees proposed, with a heavy reliance on trees and green space within adjoining sites. Greater tree planting at ground level is encouraged.

The report indicates compliance with the Apartment Design Guide (ADG) 7% deep soil zone requirement. The deep soil zone is indicated to be entirely along the southern boundary within the flood zone. There are no trees proposed within the deep soil zone.

The basement outline and Lower Ground Landscape Design Concept indicate that there is additional deep soil extending along the Herbert street frontage, however this is excluded from the calculations as it does not meet the ADG minimum 6m dimension criteria for deep soil zones involving sites greater than 1,500m², being only 4m in width. As discussed below, the Crows Nest Design Guide provides a new provision regarding what is a deep soil zone.

The Landscape Plan and Design Guide should be updated to require additional planting where possible. Deep Soil areas should be utilised to maximise the tree canopy provided on the site.

Figure 8 – 4B Herbert Street Lower Ground Deep Soil Zone



Source: Crows Nest Precinct Design Guide

Figure 9 – 4B Herbert Street - Opportunity for additional planting



Crows Nest Precinct Design Guide

The Crows Nest Design Guide, 3.5.2 'Tree Canopy and Deep Soil' (P. 22) states:

A key aspect of the Green Plan that supported the 2036 Plan is to retain and enhance the existing network of tree lined streets and remains relevant to including the plans for the Crows Nest Precinct.

The following objectives are stated (P. 22):

- *Maintain and enhance canopy cover to address urban heat, contribute to local amenity, reduce air pollution, support biodiversity and improve community health and wellbeing across the Crows Nest Precinct.*
- *Build on the 2036 Plan to increase the health and extent of the tree canopy or vegetation cover for Crows Nest.*
- *Ensure development provides sufficient deep soil to support healthy root systems and ensure trees reach maturity.*
- *Retain and protect existing trees*

The following provisions are stated (P.23):

1. *Provide deep soil zones are to be a minimum dimension of 3m x 3m to support new trees and retain any existing trees. Deep soil zones for development should be provided as per the benchmarks in Tables 3 and 4. Development is not to reduce the amount of deep soil provided.*
2. *Deep soil is to be unimpeded by any building or structure above or below ground, except for minor structures such as pathways, access ramps or area of paving with a maximum width of 1.2m; essential services infrastructure (such as stormwater pipes) with a maximum diameter of up to 300mm; and landscape structures (such as lightweight fences, light poles or seating) requiring a footing with a maximum size of up to 300mm x 300mm in cross section.*
3. *Where possible establish contiguous deep soil zones within and between property boundaries to maximise tree planting by establishing them right up to abutting boundary walls and fence lines.*

There is minimal coverage of tree canopy and deep soil in the site specific Design Guidelines for 4B Herbert Street. Concerns include:

- The loss of highly visible of trees to Herbert Street.
- The proportion of tree replacement not being at ground and upper ground levels.
- The limited opportunity provided for deep soil planting along the northern and Herbert Street boundaries. It is unclear why a lower minimum dimension of 3m x 3m is provided in the Crows Nest Design Guide.

Greater consistency is required between the Site Specific Design Guideline and the Crows Nest Design Guide and they should be updated to maximise deep soil provision and tree canopy. Consideration should also be given to implementing a more detailed site specific DCP (which would replace the proposed Design Guidelines) for the 4B Herbert Street site given the proposed height and the prominence of the site.

Ground level publicly accessible space

Successful high density precincts require attractive publicly accessible space provided at ground level to provide community amenity, vibrancy, and to minimize urban heat by providing significant tree canopy.

Council also supports the integration of NSW Government owned land such as Sydney Trains/TAHE to support greener places, pedestrian connectivity (walkable communities) and active transport options.

The site specific Design Guide, Section 4.2.2 'Design Principles' identifies the following key design principle:

(h) Deliver a centrally located communal area surrounded by supporting outdoor open space.

Clarification is sought where this centrally located communal area is located. It is assumed this is to be along the northern boundary. Due to the northern boundary configuration, the middle or central area of this outdoor open space reduces to 5m width, being 16m at the Herbert Street end, and 12m at the 4A Herbert Street end. There is an existing building on the RNSH site which prevents any widening occurring on that site.

This narrowing represents an unsatisfactory pinch point, which could be widened at design stage (for the podium), to better reflect the characteristics of the site, being the irregular northern boundary, and ensure a more satisfying through site link and contiguous publicly accessible open space area of similar width.

Council expectations regarding the ground level space between the proposed building and the northern boundary are as follows:

- This represents the area of highest public benefit regarding publicly accessible open space and it is imperative that any design guide acknowledges this and any future development is designed on this basis.
- Refer to the discussion over widening at the 5m pinch point above, as well as the meaningful achievement of design excellence particularly with ground level public spaces.
- Provision of a crucial pedestrian connection from the eastern side of Herbert Street and St Leonards Station, over the Herbert Street pedestrian bridge to the western side and on to the Royal North Shore Hospital (RNSH).
- To provide quality plaza space of sufficient size to reflect different uses – being a combination of movement, passive rest areas, landscaping and mitigation of urban heat through significant canopy trees.
- To ensure that publicly accessible open space is clearly understood at application and consent stage, with public and private or commercially used areas (such as outdoor dining) clearly delineated.
- The proposed awning along the northern frontage of the podium should provide relief from the elements for pedestrians. There appear to be conflicts between pedestrian movement and outdoor dining here. It is requested the podium be pushed back in this location to achieve the increased open space at the pinch point identified above, and allow for redesign to both achieve outdoor dining opportunities and awning relief to pedestrians.

In regards the above, the following points are made:

- Council seeks for a strong green presence or gateway involving significant trees along this pedestrian connection from the Herbert Street pedestrian bridge. This position is based on the significant development proposed, the importance of providing canopy trees and addressing urban heat and the loss of a number of established trees within the site and presenting to Herbert Street. At present this strong green presence involving significant trees, involving deep soil planting, is not achieved.
- Consistent with the above, as a minimum, Council requires deep soil planting to facilitate the planting and growth of significant trees along the northern boundary of the pedestrian connection. Consistent with the Apartment Design Guide (ADG), a minimum 6m dimension is required. It is requested that consideration be made to the provision of at least two locations, where a 6m deep soil setback is provided to facilitate significant tree growth and canopy provision. These two locations should be spread out, one in the first section of the northern setback area (closest to Herbert Street) and one in the second section (closest to 4A Herbert Street).
- For the remainder of the northern boundary, a 3m deep soil zone is sought to also facilitate tree growth.
- Less substantive tree planting, without a deep soil zone, would be supported on the southern side of the pedestrian connection, at ground level, to still foster a green presence / gateway / boulevard towards the RNSH and Gore Hill Park heading west and towards St Leonards Station heading east.
- The realigned pedestrian bridge provides the opportunity for planting that, involving an appropriate species, would be visible from Herbert Street. This should be explored.
- Any increase in ground level publicly accessible space here is strongly encouraged.
- If outdoor dining is proposed in the retail shops facing the proposed pedestrian connection, this should be designed for now and be outside of publicly accessible open space. In this regard the podium may need to be pushed back to both provide for outdoor dining while not reducing the publicly accessible open space shown in the Urban Design Report and accompanying Figures. To be clear outdoor dining is separate to public open space and should be addressed in the Crows Nest Design Guide and any document specific to 4B Herbert Street.

Council expectations regarding the ground level space between the proposed building and the southern boundary as follows:

- This space is secondary to the offering along the northern boundary (high side) of the site.
- To provide for a minimum 7m wide green space directly accessible at grade from Herbert Street, noting that this is a flood zone area.
- To integrate with the publicly accessible open space, and significant trees, at 207 Pacific Highway.

- To connect with the existing through site link at 207 Pacific Highway through to Reserve Road and Gore Hill Park beyond, as well as the existing path on the NSW Health building site (Lot 4A) and RNSH.

In regards the above, the following points are made:

- Council seeks for meaningful integration with the existing publicly accessible open space and through site links at 207 Pacific Highway and the Lot 4A site.
- To this end fencing is not supported and appropriate measures should be explored to encourage public usage of this space as appropriate noting the flood zone status.

Council expectations regarding the Herbert Street setback are as follows:

- To provide for significant tree planting to Herbert Street, subject to the flood zone, noting that there is no basement in this location.
- To replace the existing trees presenting to Herbert Street that will be removed by the development.

In regards the above, the following points are made:

- For a setback to be provided in accordance with ADG's requirement of 6m for deep soil zones. No clear reasoning is provided why this cannot be delivered, and why a smaller standard is provided in the proposed
- It is requested that opportunities be explored to provide a minimum of one significant tree within this setback to provide a strong green presence to Herbert Street.

To ensure the development of 4B Herbert Street is accompanied by appropriate ground level public realm outcomes, greater resolution of the ground plane is required in accordance with the above. Consideration should be given to replacing the proposed Design Guide with a more detailed Site Specific DCP.

Loading and unloading

The site specific Design Guide, Section 4.4.1 'Movement and Access' states the following provision:

- 1. Basement parking and service vehicle entry and exit points is to be provided from Herbert Street only, generally in the locations nominated on Figure 16.*

Basement loading is supported and it is critical that this is established early in the planning process to ensure the expected outcome.

In regards to 4B Herbert Street, and Figure 39 on P. 76 of the Urban Design Report (see below), concern is raised with:

- The potential for adverse impacts on traffic movement in Herbert Street, a significant road access to the Gore Hill Freeway, Artarmon as well as Chatswood.
- The potential for adverse impacts on the Pacific Highway, noting that the intersection of Herbert Street with the Pacific Highway is approximately 70m away.

- The capacity of heavy rigid loading vehicles, which would include Council's waste vehicles as well as other loading related activity including residential moving vehicles, being able to access the basement for the purposes of loading and unloading. In this regard, Council's waste vehicle is 10.5m long, requires a 12.5m long loading bay and 4.5m headroom between the frontage road and the loading bay. A minimum side clearance of 0.5m each side of the vehicle is required for occupant exit, entry and access to load. Servicing by a smaller waste vehicle is not appropriate, as it will result in an increased number of vehicle movements to the site and to the waste management centre.
- The capacity of heavy rigid vehicles being able to enter the site in a forward direction, manoeuvre within the basement level to access the loading area and then leave the site in a forward direction (a non-mechanical solution is sought).
- The capacity of heavy rigid vehicles within the basement to not interfere with vehicles associated with the proposed 448 residential units and non-residential uses.

Due to the density of development, it is considered critical at the very early stage to ensure that loading and unloading can be adequately addressed. It is Council's expectation that waste servicing occurs on-site, on the ground floor or basement level, not on any part of Herbert Street, and that the development provides an on-site servicing waste space that seeks AS2890.2 compliance. Council has seen a number of examples where heavy rigid vehicle loading is confirmed as possible at high level conceptual stage, but is found to not work at the more detailed stage.

There is no section of the proposed Crows Nest Design Guide that addresses loading and unloading. This is considered a significant deficiency and a specific section should be provided having regard to the concerns identified above regarding 4B Herbert Street, or state that loading should be in accordance with Council's DCP.

The design guides should be updated to sufficiently specify loading and unloading requirements including requirements loading bay length, height and clearance requirements.

Car parking

The proposed Crows Nest Design Guide, Section 3.10, relating to the TOD area states in regards car parking:

1. *The parking provisions in the relevant Council DCP will apply and must be referred to as part of any planning proposal and/or development application.*
2. *Notwithstanding maximum car parking rates in the relevant LEP's and DCP's, minimised provision of parking for all land uses is encouraged to capitalise on the proximity of St Leonards Station and the Metro Station.*

Council supports the position of the Crows Nest Design Guide in regards to car parking.

The site specific Design Guide, Section 4.4.1 'Movement and Access' states the following objectives:

- *Promote the use of public transport infrastructure including St Leonards railway station, Crows Nest Metro station and the St Leonards bus interchange.*

- *Prioritise active transport.*
- *Minimise the provision of on-site car parking within future development.*

These objectives are supported.

The Transport Impact Assessment (7 June 2024) provides the following table in comparing Council WDCP car parking rates and what is required as a result of the proposed development on 4B Herbert Street.

Table 2 – Parking Requirement of Indicative Yields

Type	Size	Parking Rate		Parking Requirement	
		Minimum	Maximum	Minimum	Maximum
Residential					
1-Bedroom unit	139 units	0.10 per unit	0.50 per unit	17	85
2-Bedroom unit	174 units	0.20 per unit	0.50 per unit	45	112
3-Bedroom unit	39 units	0.25 per unit	0.50 per unit	13	27
Visitors		NA	1.00 per 7 unit	-	64
Sub-Total				75	288
Retail	623m ²	1 space per 200m ²	1 space per 70m ²	3	9
Total				78	297

Note:

1. Portion of affordable housing is unknown, as such has been excluded from this indicative assessment.
2. The non-residential component has been assumed to be all retail.

Source : Table 7.2 Traffic Impact Assessment

The correct WDCP car parking rates are provided. However two points are made:

- Council encourages and seeks minimum car parking rates in locations so close to train stations. It is requested that this site set an example regarding minimum parking rates.
- The car parking requirement shown above in the Transport Impact Assessment is mathematically incorrect. The following correct numbers are provided:

Type	Size	Parking requirement	
		Minimum	Maximum
1 bedroom unit	139	14	70
2 bedroom unit	174	35	87
3 bedroom unit	39	10	20
Visitors		0	69
Retail	623	3	9
Total		62	255

Car parking related to 4B Herbert Street should be as per WDCP, which deliberately seeks to minimise car parking provision, encourage public transport usage close to public transport

options, encourage active transport options and minimise additional traffic congestion arising from significant and dramatic increases in density.

3. Requested additional information, clarification and technical matters

Herbert Street pedestrian bridge and other works

There are discrepancies in documentation that require clarification:

On Figure 44 'Landscape Design Concept', P. 81 of the Urban Design Report, the insert states:

Indicative future configuration of realigned pedestrian bridge and stairs considers RNSH campus Master plan and is subject to detailed design.

This insert shows a realigned pedestrian bridge as well as the existing bridge.

P. 82 of the Urban Design Report states:

This landscape design proposes to upgrade the streetscape along Herbert Street with new access (via lift and stairs) to the arrival plaza.

However, Figure 48 'Landscape Design Concept' on P.83 of the same document only refers to the existing pedestrian bridge.

The site specific Design Guide, Section 4.2.1 'Desired Future Character for lot 4B' states the vision is to (in part):

(h) Improve connections between Gore Hill Park and St Leonards railway station through a realignment of the pedestrian bridge.

The site specific Design Guide, Section 4.2.2 'Design Principles' identifies the following key design principles:

(d) Improve public safety and line of sight through a new public lift and stair connection from Herbert Street.

(e) Provide a realigned pedestrian bridge across Herbert Street to unlock large public plaza amenity.

The site specific Design Guide, Section 4.5 'Landscape', 4.5.1 'Public Domain and Landscaping', Provisions states:

3. Future development should consider realignment of the Herbert Street pedestrian bridge in accordance with Figure 16 to formalise a pedestrian connection from St Leonards Station to the site.

The renewal of the pedestrian bridge, stairs and lift access, to meet increased density and to more effectively connect to St Leonards Station is a fundamental infrastructure requirement of any development of Lot 4B and the Crows Nest TOD generally and supported. In regards

Point 3 above, it is critical that ‘must’ replaces ‘should’, so that certainty regarding the realignment of the bridge is provided. Funding, ownership and ongoing maintenance are crucial matters regarding this pedestrian bridge and are addressed in the funding section below.

All documentation should refer to the proposed realigned Herbert Street pedestrian bridge.

Funding

The Crows Nest Explanation of Intended Effect states in Section 3 ‘Infrastructure funding and delivery’ 3.1 State Infrastructure (P.29):

“The NSW Government has committed \$520 million from the Housing and Productivity Fund to be spent on community infrastructure in the TOD precincts. This will provide upgrades to critical transport and active transport infrastructure and new open spaces to support housing in the Precinct.”

The Department is developing program guidelines for the allocation of these funds between the TOD precincts and the process for allocating them to projects.

Other funding sources could grow the \$520 million to maximise the community benefit of the program, like Council co-contributions or other grant and funding programs.”

The Crows Nest Explanation of Intended Effect states in Section 3 ‘Infrastructure funding and delivery’ 3.2 Local Infrastructure (P.29):

Councils rely on a variety of funding sources to support the delivery of local infrastructure such as community centres, libraries, parks, roads, local transport infrastructure, recreation and sport facilities and stormwater drainage facilities ...

The type of contribution and the types of development which attract a contribution / levy are set out in the respective contribution plans:

- *North Sydney has a hybrid section 7.11 and 7.12 plan;*
- *Lane Cove Council has a section 7.11 plan; and*
- *Willoughby Council has a section 7.11 plan.*

Council’s plans will allow them to collect contributions from new housing development as soon as it becomes permissible under the proposed rezoning resulting in more revenue for infrastructure than currently anticipated.”

Willoughby Council has a hybrid section 7.11 and 7.12 plan.

Concerns include:

- Whether there is sufficient funding to accommodate the proposed additional density. The \$520 million is identified as covering the identified 8 Sydney priority high growth areas near transport hubs for accelerated rezoning, which are intended to provide capacity for up to 61,855 new homes over 15 years.

- When approved, the 2036 Plan included a special infrastructure contributions (SIC) of \$113.6M to deliver open space, pedestrian and cycling facilities, education and transport improvements. The SIC was subsequently repealed. However, the need for all the infrastructure additions and improvements remains, and will be exacerbated by the additional growth delivered by the TOD program.
- The process for allocation of the Housing Productivity Contributions has not been confirmed and no commitment has been made to ensure that it will be utilised to replace the funding for infrastructure in the precinct that was previously committed to under the SIC.
- The identification of Council as a source of co-contributions regarding infrastructure provision, is concerning noting that local contributions are capped such that funding of existing local infrastructure needs is already constrained.
- The lack of certainty regarding allocation of other potential funding sources such as grants.
- The impacts on the adjacent Willoughby LGA of increased density in North Sydney and Lane Cove Council areas under the Crows Nest TOD.
- The already identified and pressing infrastructure embellishment required within the Willoughby LGA. This is discussed further below.

Gore Hill Park and Oval are identified in the TOD Plan as locations of existing open space. As previously raised with DPHI, Gore Hill Park and Oval play a regional role and will be crucial in meeting the recreational needs of the additional population of St Leonards, including the TOD area. This area also plans an important supporting role to RNSH. An upgrade to provide indoor recreation facilities will be required to support the growth associated with the TOD.

Council seeks for this regional indoor recreation facility to be included in any infrastructure funding consideration related to the Crows Nest TOD.

It is recommended that the infrastructure items previously identified in the 2036 SIC Plan (copied below) be funded and incorporated into the implementation of the TOD. Cost estimates should be reviewed and updated to reflect changes in construction costs.

It should be further noted that Council is also involved in shared path installation and upgrades to the Pacific Highway (eastern side), from Herbert Street up to Mowbray Road. In addition, Council is in the planning process of improving cycle connectivity between St Leonards Station and Artarmon Station via Herbert Street. Appropriate funding is requested to facilitate these desired outcomes.

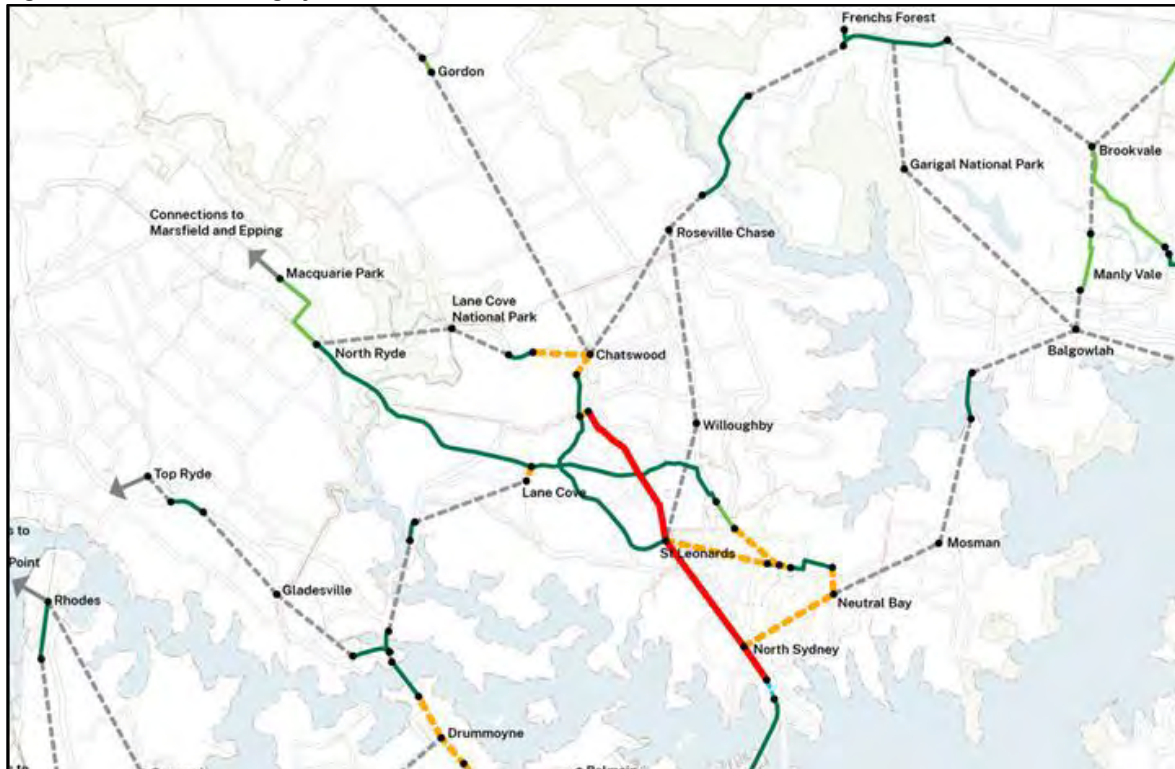
TfNSW has previously presented to council a *Priorities Map* for the Eastern Harbour City, identifying '*missing cycle links for future investigation*' within the Willoughby LGA connecting to surrounding LGA's.

Table 3 – SIC Projects

Project		Cost estimate
Roads		\$4,736,000
R1	Signalised pedestrian crossing: Pacific Highway at Portview Road	\$858,000
R2	Signalised pedestrian improvement: Pacific Highway at Reserve Road	\$343,000
R3	Signalised pedestrian improvement: Pacific Highway at Herbert Street	\$433,000
R4	Signalised pedestrian improvement: Pacific highway at Christie Street	\$1,557,000
R5	Signalised pedestrian improvements: Albany Street at Pacific Highway	\$172,000
R6	Signalised intersection improvement: Pacific highway at Oxley Street	\$515,000
R7	Signalised intersection improvement: Pacific Highway, Falcon Street and Willoughby Road	\$858,000
Education		\$21,984,000
E1	Primary School (funding towards additional school places generated by the new population)	\$16,471,000
E2	Secondary School (funding towards additional school places generated by the new population)	\$5,513,000
Open Space		\$57,659,000
OS1	North linear park: Herbert Street bridge to Chandos Street (land acquisition only)	\$28,058,000
OS2	South linear park: Lithgow Street	\$1,701,000
OS3	Hume Street park expansion	\$25,900,000
OS4	Gare Hill regional playground	\$2,000,000

Project	Cost estimate
<i>Pedestrian & Cycle Improvements</i>	<i>\$27,570,000</i>
<i>P1 Pedestrian and cycle link: Herbert Street to Chandos Street</i>	<i>\$12,514,000</i>
<i>P2 Cycle connection: Talus reserve to Naremburn Park</i>	<i>\$1,952,000</i>
<i>P3 Pedestrian and cycle connection: Pacific Highway to River Road via south linear park</i>	<i>\$1,308,000</i>
<i>P4 Pedestrian and cycle connection: Canberra Avenue</i>	<i>\$3,182,000</i>
<i>P5 Pedestrian and cycle improvements: Willoughby Road</i>	<i>\$668,000</i>
<i>P6 Pedestrian and cycle improvements: Sergeants Lane/Christie Street</i>	<i>\$191,000</i>
<i>P7 Cycle improvements: Oxley Street</i>	<i>\$1,185,000</i>
<i>P8 Cycle improvements: Shirley Road</i>	<i>\$309,000</i>
<i>P9 Cycle improvements: River Road</i>	<i>\$2,824,000</i>
<i>R10 Pedestrian and cycle improvements: Chandos Street</i>	<i>\$3,437,000</i>
<i>Planning & Delivery</i>	<i>\$1,679,000</i>
<i>Precinct Planning Costs</i>	<i>\$1,119,000</i>
<i>Precinct Delivery and SIC Review Costs</i>	<i>\$560,000</i>
<i>Other – Funded via Voluntary Planning Agreement</i>	
<i>C1 Community Arts Centre - Funded via Voluntary Planning Agreement</i>	

Figure 10 – TfNSW Missing cycle links



The Crows Nest TOD rezoning precinct location has been identified by TfNSW as an “*immediate opportunity for investigation*”. Council has responded to TfNSW, by providing its priorities with respect to the current regional gaps in the bicycle and walking network, including investigation and design development involving vital missing links between the Gore Hill cycleway network and the Naremburn network and St Leonards strategic centre.

Council is also open to funding initiatives aimed at improving bus services in the St Leonards/Artarmon area. This is particularly important given that the proposed TOD rezoning is likely to generate increased demand for bus services to complement the existing train and new Metro line.

More clarity is also required with respect to the proposed realigned pedestrian bridge. An upgrade or realignment of the bridge is supported. However, who carries out and funds this project long term is unclear and this should be resolved as part of this masterplanning process.

From “Supplementary Transport Technical Note” under the Cycling Infrastructure section, it is observed that new bike parking will be provided at the Metro Station. Provision should also be made for improved bike parking at St Leonards Station. The current provision for bike parking at the train station is minimal, and will not be able to cope with the increased population when demand for cycling increases.

Flood related comments and associated matters

The flooding and stormwater analysis detailed in the Urban Design Report (P. 44) states:

“A baseline desktop analysis of flooding and stormwater was prepared To provide an indication if a flood study may be required for the site and, where appropriate, a high level advice to manage flood impacts on the proposed development, evaluate any OSD and Water Sensitive Urban Design (WSUD) requirements for the site from Council controls.”

This analysis concludes initial findings are as follows:

“The site is relatively flood free with the exception of minor encroachments along the southern boundary ...”

Council provides a considered response based on its local knowledge of the site in order to ensure that the particular flooding circumstances are understood at the earliest possible stage.

The site 4B Herbert Street is tagged as flood affected. Please refer to Figure 11.

Figure 11 Flood Affection (marked in yellow/orange)



The Crows Nest Design Guide provides a very broad section on flooding. Council provides greater detail to assist in considering the appropriate development on this site.

There is an overland flow path along the southern boundary and flood storage occurring in Herbert St adjacent to the site and adjacent to the south-east corner of the site.

If the capacity of a flood storage area is significantly reduced, flood levels and depths or hazard in nearby areas may increase, leading to higher peak discharges downstream.

A substantial reduction in flood storage can also lead to a considerable redistribution of flood flows affecting downstream assets. Typically, intensification of land use or development in storage areas needs to consider the impacts of loss of storage through flood behaviour.

Impacts are minimised by the changes being storage neutral though safety should also be a consideration if someone was within this area. This demands assessment of the impacts regarding the development, including any changes to flood risk on-site or off-site to life and property and detail design solutions and operational procedures to mitigate flood risk as required.

Floor levels for the building need to comply with the requirements of Technical Standard 2. Of particular relevance:

- The ground floor level needs to be at a level of the 1%AEP flood level plus 500mm.
- All access points to the basement, including the vehicle access ramp, need to be at a level of the 1%AEP flood level plus 500mm or the PMF, whichever is higher.
- If the building includes any sensitive uses, which include childcare, aged care or health services, then access to the site in all storms, including the PMF, needs to be available.

In the vicinity of the proposed vehicle access to the site, in the 1%AEP storm event water depths in Herbert Street are in the range of 400-600mm, while in the PMF water depths exceed 1.5m. To protect the basement area, access should be above the PMF, which could require access to be up to 2m above the road level.

Helicopter flight path

As part of the completion of WLEP 2012 (Amendment No 34) Council was advised to introduce a new clause 6.6 with specific sites that were upzoned in the 2036 Plan to require consideration of hospital helicopter airspace at development application stage.

The TOD documentation states that the 62 storey will have no impact on helicopter airspace and DPHI has advised that consideration of the flight path was part of the masterplan. As the sites identified in Clause 6.6 are much lower in height it is requested that DPHI review the lots identified against the study to confirm if the control need to be retained. Should the work undertaken as part of the masterplan confirm the height controls in the precinct do not impact the flight path, Clause 6.6 should be removed, to reduce the unnecessary burden on the development application process.

Waste provision

The comments below are specific to 4B Herbert Street, and should be included in the site specific Design Guide. However, the general principles are also applicable to the Crows Nest TOD area.

Willoughby Council has formally adopted the Waste Management Technical Guide and development controls by North Sydney Regional Organisation of Councils for multi-dwelling housing, residential flat buildings and mixed-use developments. The technical guide provides comprehensive information to achieve best practice design and construction of waste management and recycling systems.

The development controls provide specific requirements for internal waste storage facilities, individual bin storage areas, communal bin storage areas, bin carting routes, and access for collection vehicles.

All major residential developments are required to comply with the technical guide and the specific controls for multi dwelling housing, residential flat buildings, and mixed-use buildings. This has been adopted because it provides consistency with Council's requirements and standards, many of which are needed to accommodate Council's collection and processing contacts and waste collection policies and procedures.

Waste management is an essential consideration in the planning controls and design at the future 4B Herbert Street development. For best practice, waste management systems meet long-term sustainability and best practice when the following principles are considered:

- Accessible processes to promote waste avoidance, waste minimisation, waste separation and resource recovery;
- Flexibility in design to allow for future changes in waste management systems (e.g., but not limited to the future introduction of a FOGO service and other recycling options over the lifespan of a building); and
- Innovative waste management facilities that complement the waste collection and management services offered by Council for residential waste (bins and bulky waste) and private contractors (where applicable).

Further detail is provided below.

Waste collection

The development and surrounding areas should be able to accommodate Council's waste collection HRV (10.5m long). Loading and unloading, involving waste vehicles, has been addressed above.

Bin storage areas

Residential bin storage areas should be large enough for the required number of bins and carefully designed to ensure bin carting routes (if applicable) are practical and safe, particularly recognising the large number of bins required by a development with 448 units. If the bins need to be carted between floors, a back-of-house lift would be required.

The proposal should include a lower ground floor bin room and separate bulky waste room within 2-10m of the loading dock on the lower ground floor. This will minimise bin and bulky waste handling for caretakers, whilst also ensuring that Council contractors are able to service residential waste bins.

Recycling chute and bulky cardboard disposal

Recycling chutes typically do not accept cardboard, particularly bulky cardboard, because it blocks the chutes and can be a fire and efficiency risk.

This means a recycling chute does not provide Council with an holistic recycling solution for all recyclables. A chute with no bin for oversized recyclables like bulky cardboard can lead to dumping on each level. Bulky cardboard comprises a large proportion of the recycling at MUDs in Council's area, approximately 60% of all recycling in a recent audit. The proposal should consider how residents will dispose of cardboard, particularly bulky cardboard.

It is important to note that Council does not require a recycling chute (although it is recognised as a valuable amenity) and NSROC (2018) states that “current best practice is to have a chute for garbage only” (Section 5.4, p. 48). If a recycling chute is considered, this could be proposed in conjunction with a 240L recycling bin for bulky cardboard waste on each residential level (or alternative, suitable bulky cardboard disposal option). The waste, recycling and FOGO disposal locations for residents (waste chutes or waste storage cupboards on each residential level) should be designed by considering FOGO disposal (see future point) and bulky cardboard waste disposal.

FOGO waste disposal for residents

The NSW EPA (2022), in the *NSW Waste and Sustainability Materials Strategy 2041 – Stage 1: 2021-2027*, will require the separate collection of food and garden organics from all NSW households by 2030. Although Council does not have a FOGO service currently, FO has been trialled and Council will be required to introduce a FOGO service in the future.

It is Council’s preference that there is a FOGO disposal option for residents that is in close proximity to the general waste and recycling disposal options. This would make waste separation and disposal convenient for all residents so they are able to drop-off all waste to one central point. Common suggestions, to require residents to travel to a basement level bin room to dispose of FOGO waste is not suitable. With the convenient disposal for general waste and recycling on each residential level, (e.g., through waste and recycling chutes), residents are unlikely to travel to a separate FOGO bin room to dispose of food organics. This would lead to food waste disposal in the waste or recycling chutes, leading to the loss of a large proportion of recoverable material and potentially high recycling bin contamination rates. This is not conducive to achieving Council’s improved resource recovery targets and increased diversion of organics waste from landfill (see the *Northern Sydney Regional Waste Strategy 2022* which has been adopted by Council).

To future-proof the development at 4B Herbert Street, the waste, recycling and FOGO disposal locations for residents (waste chutes or waste storage cupboards on each residential level) should be designed considering FOGO disposal and bulky cardboard waste disposal, as outlined in the previous point.

Bulky waste and charity waste

Residential bulky waste must be collected by Council’s waste collection HRV. The bulky waste presentation space, a room, should be of an approximate size and 2-10m from the loading bay to facilitate collection by Council’s contractor. The location of bulky waste storage should be carefully considered to reduce manual handling, particularly due to the typical size and weight of residential bulky waste.

It is Council’s preference for the development to provide a 6m² space for charity bins and other recycling, as required in NSROC 2018.

The site specific design guide should be updated in line with the above waste collection requirements.



Consultation with Council prior to construction

Council seeks to be consulted regarding potential impacts during the construction phase and various contentious issues such as regarding parking, safety and cycling/ walking connectivity.

It is requested that this be added to the site specific Design Guidelines for 4B Herbert Street.

8 August 2024

Mr Andre Szczepanski
Director Assessment and Systems Policy
Department of Planning, Housing and Infrastructure
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Dear Mr Szczepanski

RE: PROPOSED PATHWAY CHANGES TO SUPPORT TRANSPORT ORIENTED DEVELOPMENT

Winten Property Group is a Sydney based developer of over 50 years standing, and we have delivered numerous significant residential and commercial developments throughout NSW. We cut our teeth in the residential apartment sector with the advent of strata legislation in the 1970s and we were the first developer to ever complete an over station development (St Leonard's Forum)

Despite our long standing, proud, and award-winning history in residential apartment development we are not currently undertaking any residential apartment developments as they are simply not feasible.

Construction costs have escalated significantly in recent years, as have material costs, and regulatory costs associated with the *Design and Building Practitioners Act 2020 (DBP Act)* and the *Residential Apartment Buildings (Compliance and Enforcement Powers) Act 2020 (RAB Act)*.

The construction cost alone of a residential apartment is now approaching \$700,000. When land acquisition costs, holding costs, development application and consultant costs, and government fees and charges are added to this, it is simply unfeasible, in almost all areas of Sydney, to carry out a residential apartment development. In many markets in Sydney, apartment development would be a loss-making exercise.

This is before any new taxes or contributions are added on top of existing costs.

The primary reasons behind the current housing crises are twofold:

1. The planning system – not enough zoned land, not enough density, the slowness of approvals; and
2. The current state of the construction industry and the incredibly high costs associated with construction generally and even more so in relation to apartment development due to the additional regulatory burden of the DBP and RAB Acts.

It appears to us that in trying to improve the planning system side of the problem, the government is ignoring the other key driver of the crisis.

We are dismayed to see that an affordable housing contribution scheme is proposed for all Accelerated TOD Precincts, and particularly that a contribution of 10-15% in perpetuity is proposed for the Macquarie Park TOD precinct.

As residential apartment development is currently not feasible in most Sydney sub-markets, introducing a significant additional impost on residential apartment development is not going to stimulate residential development activity. The government should be looking at ways at improving the feasibility of residential apartment development, not doing the opposite.

We note that the Lachlan's Line site, formerly known as the North Ryde Station Precinct M2, is a predominantly residential development being undertaken by the State government, in partnership with the private sector. This site is on government owned land directly adjoining the Macquarie Park TOD precinct and it has a concept approval that would allow up to 2,700 apartments none of which were originally proposed to be for Affordable Housing. There were recent amendments (MOD 5 and MOD 6) that introduced Affordable Housing but this is only Affordable Housing for 15 years, not in perpetuity, and apparently it only equates to 4.3% of the GFA under the approved Concept Plan¹.

We do not understand how the government can expect the private sector to deliver 10-15% affordable housing in perpetuity when the State itself, right next door, is delivering significantly less than this, in circumstances where the State is generally better placed to provide higher levels of Affordable Housing than the private sector. It is also important to note that the Affordable Housing at Lachlan's Line is for 15 years only, it is not in perpetuity. The difference in feasibility impact between 4% for 15 years and 10-15% in perpetuity is huge.

It is not necessarily possible for a developer to simply increase the price of the market housing to recoup the cost of an Affordable Housing contribution, if the market does not have a willingness to pay the higher price. Rather than increasing the cost of market housing, which is one potential adverse outcome, the more likely outcome will be that the housing simply will not be built in the first place. The overzealous and unreasonable pursuit of developer funded Affordable Housing will actually just prevent desperately needed market housing from being built.

While the lack of Affordable Housing is a social ill that requires remedy, it is not clear why the government has decided that the development industry must be primarily responsible for this. Where Affordable Housing can be delivered alongside market housing without having a significant adverse impact on feasibility, this is something that the development industry can assist with.

However, the government must not lose sight of the fact that NSW is suffering from an acute housing crisis. The delivery of market housing in this housing crisis must itself be seen as a public good. Market housing cannot and will not be built if it is not feasible.

We strongly urge the government to reconsider the unrealistically high Affordable Housing contributions proposed in TOD precincts.

Yours sincerely



Will Rothwell
CEO Winten Property Group

¹ This figure is contained on page 31 of the assessment report for MOD 6
(<https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-5093-MOD-6%2120240708T061826.572%20GMT>)