

**Submission
No 29**

INQUIRY INTO DEVELOPMENT OF THE TRANSPORT ORIENTED DEVELOPMENT PROGRAM

Organisation: Wollongong City Council

Date Received: 14 March 2024

NSW Legislative Council
Portfolio Committee No 7 – Planning and Environment

Our Ref:
Date:

25059115
13 March 2024

Dear Sir/Madam

INQUIRY INTO THE DEVELOPMENT OF THE TRANSPORT ORIENTED DEVELOPMENT PROGRAM

Thank for the opportunity to make a submission to the Inquiry into the development of the Transport Oriented Development Program.

Attached is a copy of Council's submission to the NSW Department of Planning, Housing and Infrastructure on both the Transport Oriented Development Program and Explanation of Intended Effect on Low and Mid-Rise Housing, for your information.

Council supports the principles of the reforms however has some concerns about application of the reforms across parts of our Local Government Area. Council has also identified some opportunities for enhancement of the reforms.

Council has experienced constructive engagement with the Department of Planning, Housing and Infrastructure since the release of the reforms and we look forward to working with the Department on implementation of reforms as appropriate for our city.

If you have any further enquiries, please contact Council's Manager City Strategy, on telephone

Greg Doyle
General Manager
Wollongong City Council
Telephone:

Attach

NSW Department of Planning, Housing and Infrastructure
Locked Bag 5022
PARRAMATTA NSW 2124

Our Ref:
Date:

24965449
23 February 2024

Dear Sir/Madam

SUBMISSION: NSW HOUSING POLICIES - EXPLANATION OF INTENDED EFFECT: CHANGES TO CREATE LOW- AND MID-RISE HOUSING AND TRANSPORT ORIENTED DEVELOPMENT PROGRAM

Thank you for the opportunity to comment on the Explanation of Intended Effect: Changes to create low-and mid-rise housing (EIE) and the Transport Oriented Development Program.

Council had the opportunity to consider a report on the suite of housing reforms at its meeting of 5 February 2024, and resolved to make this submission.

Council acknowledges the need for the provision of additional housing opportunities to address the National Housing Accord, housing supply and housing affordability issues.

Council Housing Initiatives

Council is progressing with implementation of the Wollongong Housing Strategy (2023) actions, and we have recently commenced or completed a range of initiatives, including -

- Rezoned the former Port Kembla Public School site to permit an estimated 110 dwellings.
- Resolved to rezone land at Cleveland Road (West Dapto) to permit an estimated 2,275 dwellings.
- Approved a Neighbourhood Plan at Kembla Grange (West Dapto) to enable a Development Application (DA) for an estimated 460 dwellings to be lodged and assessed.
- Exhibited a Planning Proposal for the Wilga Street block (Corrimal) to increase building heights and FSR.
- Introduced development contributions exemptions for emergency housing, accessible housing and affordable housing developments.
- Allocation of funding under the Affordable Home Ownership Scheme.

Council is also supporting a range of State planning initiatives, including -

- Assisting the Department with the assessment of the State Assessed Planning Proposal (SAPP) application for 1,300 dwellings in Warrawong.
- Working constructively with Homes NSW (formerly Land and Housing Corporation) to identify urban renewal opportunities.
- Participated in the Faster Local Approvals Grant program which resulted in improved determination timeframes for land subdivision applications.
- Engaging with the Department to improve functionality of the State's Planning Portal.

Other initiatives that Council is investing in include -

- Council is in the process of selling a land holding in Stream Hill (West Dapto) to enable a developer to seek approval for subdivision, contributing to housing supply. Council is also reviewing its portfolio of land holdings to identify any additional opportunities,

- Council remains open to investigating innovative partnership opportunities as supported in the endorsed Wollongong Housing Strategy
- Advocacy on a range of housing related matters, including for more social housing, forward funding of enabling infrastructure, biodiversity certification of West Dapto and inclusion of the Affordable Housing clause into the Standard LEP Instrument
- Ongoing engagement and collaboration with State and Federal Ministers, State agency executives and organisations in support of positive strategic and statutory planning outcomes

On 27 February 2023, Council adopted the Wollongong Housing Strategy which was endorsed by the Department in July 2023 as a Strategic document to guide future housing supply. The Strategy recognises that not all precincts in the Local Government Area (LGA) have the same characteristics and proposes a series of actions to increase housing supply in areas with no or limited constraints and decrease housing opportunities in constrained locations. The Strategy will enable Council to meet the housing targets currently provided in the Illawarra Shoalhaven Regional Plan 2041 released in May 2021.

The Housing Strategy and the Department's housing dashboard indicate that within Wollongong over the last 5 years on average 1,260 dwellings were approved annually, however, on average only 860 dwellings are constructed. While there are a variety of reasons for developers not progressing with an approval, such as seeking new approvals, land banking, lack of finance, waiting on favourable market conditions, it would suggest that the planning controls and development assessment processes are not the constraint to development. A more detailed analysis of development around the Wollongong City Centre found that there are currently nearly 2,000 approved dwellings that are yet to commence construction.

The housing targets intended for Wollongong City Council, as a total and through the various housing reforms, should be provided as soon as possible to assist in understanding the scale of change and consideration of alternatives for delivery were appropriate.

EIE: Changes to Create Low- and Mid-Rise Housing

In acknowledging the principles and intent of the reform to increase development in proximity to centres and stations, a blanket set of controls for land around rail stations and town centres across the Six Cities Region, including the Wollongong LGA is not supported.

- The Wollongong LGA contains 25 rail stations. However, they have different levels of service and lower levels of service to stations in the Sydney Metropolitan Area. While a station in Sydney may be served by a train or metro service every 10 minutes, in the Wollongong LGA trains may come every hour. Not all stations provide accessible access.
- The northern coastal villages of Wollongong are not appropriate locations for medium density housing. The villages are constrained by the coastal processes, the Illawarra Escarpment, other environmental constraints (eg flooding, steep slopes, bush fire, Geotech hazards), limited infrastructure (ie Lawrence Hargrave Drive, sewerage) and limited retail services.
- The villages of Stanwell Park, Coalcliff and Otford are serviced by a pressure wastewater network system which we understand has limited capacity for expansion. The villages of Clifton and northern part of Scarborough are not connected to the Sydney Water network. The Department is encouraged to consult with Sydney Water on the servicing constraints.

The proposed changes detailed in the EIE will result in more housing in locations with infrastructure and environmental constraints, contrary to the adopted and endorsed Housing Strategy.

The EIE does not contain sufficient detail about the specifics of the proposed changes to planning controls and how they will be implemented. For instance, will the proposed changes be incorporated into the Housing SEPP the Codes SEPP, a new SEPP, or the Standard LEP Instrument or a combination? If through the Codes SEPP, will clauses 1.19 and 1.19A, and similar clauses to 3B.5, 3B.6 apply? The provision of a draft amending legal instrument as part of the exhibition package would have enabled a more thorough assessment to be undertaken.

The following matters within the EIE require updating:

- Pages 13 and 14 Infrastructure funding – only mentions local contributions and does not mention the State's Housing and Productivity Contribution (HPC) of \$8,000 per dwelling lot and \$6,000 for residential strata lots and high-density. Although the HPC is mentioned in section 4.4.

- Page 22 Manor homes – are prohibited in all LEPs, because they are not listed or defined as a land use in the Department's Standard LEP Instrument. The use is only permissible in certain zones via the Codes SEPP.
- Page 22 Manor homes – the explanation does not mention that they are class 2 buildings and require higher fire ratings and different builder certification requirements.
- Page 23 Dual Occupancies – the EIE simplifies dual occupancies to be attached side by side dwellings. Whereas dual occupancies can also be detached side by side, or front and rear dwellings (Battle axe). The Codes SEPP already contains controls for attached side by side dwellings to be assessed as complying development.
- Pages 38 – Multi-dwelling housing terraces need a minimum site width of 21m (not 18m). The Codes SEPP requires 6m width for each of the 3 dwellings plus a 1.5m setback on each side.

Flooding

The Wollongong coastal plain has significant flash flood constraints. The majority of town centres were originally established adjacent to watercourses, which flood. The EIE contains no information on how flood impacts and flood hazard risks will be assessed. Council officers are aware of dual occupancy developments that are located in floodways that were privately certified and wish to avoid this scenario in the future. Consideration of flood impacts would enable risk and insurance issues to be factored into the new policy.

Bushfire

A large part of the Wollongong LGA is also affected by bushfire hazard, as shown on the Bush Fire Prone Lands Map certified by the RFS. Additional development within the bushland interface (within the 800m accessible areas) has potential to increase risk to residents and their property and should be considered in the finalisation of the policy.

Town Centre nominations

On 20 March 2023, Council adopted the Wollongong Retail and Business Centres Strategy, which was endorsed in August 2023 by the Department as a Strategic document to guide future rezoning decisions.

The Wollongong LGA contains a Regional City, 2 major regional centres, 3 major towns, and various towns, villages and small villages. Consistent with the adopted retail hierarchy it is proposed that the EIE controls apply to the higher order centres and not to smaller towns, villages, neighbourhood centres and corner stores.

On 5 February 2024 Council endorsed the nomination of the following centres for the Wollongong LGA - Wollongong, Dapto, Warrawong, Corrimal, Fairy Meadow and Figtree. All these centres have full-line supermarkets and more than 21,000m² of retail floor space. The centres all have E1 and / or E2 zones for the retail centre. The use of the MU1 zone to define a town centre is not considered appropriate, in the Wollongong context.

Recommendations -

- To encourage the construction of more Manor Homes and Multi-dwelling housing (terraces), amend the Standard LEP Instrument to include these housing types as a form of Residential accommodation, which would make the uses available for Council's to include in LEPs. This would introduce an alternative merit based local development planning pathway for developments that are not fully compliant with the complying development standards in the Codes SEPP.
- Consider Dual Occupancies being a mandated permitted use in the R1 General Residential zone and R2 Low Density Residential zone, through the Standard LEP Instrument, rather than a SEPP which adds complexity.
- Consider reducing the proposed FSR for dual occupancies from 0.65:1 to 0.5:1. A larger FSR results in larger dwellings which are more expensive, whereas the current FSR supports more modest homes are more likely to be affordable.
- Consider Manor Homes being a mandated permitted use in the R3 Medium Density Residential zone.
- Reconsider car parking standards for locations that do not have access to sufficient public transport service.
- Incorporate Inclusionary Affordable Housing Contribution requirements now, rather than later in 2024. The EIE is proposing an uplift in residential density and even if a \$1000 - \$2000 per dwelling contribution was

added to the Housing and Productivity Contribution, collectively it could fund additional social and affordable housing.

- Amend the Standard LEP Instrument to include the Affordable Housing clause in all LEPs. Councils could then prepare Planning Proposals to apply the clause in nominated precincts subject to housing uplift. Council has previously advocated for the Affordable Housing provisions to be made available for Council to use, without the need to step through a convoluted justification process which is currently required.
 - The town centre precinct controls apply to the following town centres of Wollongong, Dapto, Warrawong, Corrimal, Fairy Meadow and Figtree.
 - Only apply the shop-top housing controls to the nominated town centre precincts, and not to all E1, E2, MU1, R1, R2, R3, R4 zones where shop-top housing may be currently permitted. The EIE suggests that the 21m / 3:1 FSR standard will apply in all locations where shop-top housing is permitted. This would include all villages where currently 2 storey shop-top housing is permitted in an E1 Local Centre (formerly B1 Neighbourhood Centre zone) such as Austinmer, Coledale and Stanwell Park.
 - Remove the Northern Villages (stations and centres) from the proposal – Austinmer to Stanwell Park. As noted, although the suburbs have rail station, the land is constrained by slope, bushfire, flooding, poor road access and limited infrastructure.
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- Clarify how the 400m/800m distance around stations is measured – from the entrance points, centre of the station platform, either end of the station platform (which can be 160m-300m long). It is noted that the accessible area definition recently amended in the Housing SEPP, namely 800m walking distance of a public entrance. It is desirable that there is a consistent approach with the Housing SEPP and proposed TOD SEPP.

Transport Oriented Development Program (TOD).

Tier One

Council would welcome the opportunity to explore the potential for Wollongong to be considered as a Tier 1 precinct. There is opportunity for significant increases in dwelling capacity within 1200m of the Wollongong station and considering changes to planning controls to increase densities is consistent with Council's endorsed Wollongong Housing Strategy. Council sees the provision of additional resources to quickly progress amendments to planning controls as well as access to the funding allocations to support enhanced service and infrastructure provision to be in the best interests of our community.

In putting forward our interest, I note that some flexibility in timeframes and process may be required:

- Floodplain risk management studies and plans for the two relevant water catchments will be available in draft and/or final version through 2024 which may impact on the ability to finalise amendments to planning controls by November 2024
- The Wollongong Health Precinct Strategy is an important strategic project within the catchment of the station that ideally should be finalised to inform land use changes
- Council would prefer a collaboration with Department of Planning, Housing and Infrastructure, rather than hand over full responsibility for land use planning changes to the Department.

Tier Two

Wollongong LGA contains 3 stations identified in the Tier 2 category, namely Corrimal, North Wollongong and Dapto. It is unclear how the stations were chosen, and it does not appear that land constraints, such as flood risk have been considered.

The 3 stations also form part of the EIE for low- and mid- rise housing exhibited by the Department. Clarification is needed about which planning policy should be applied to the 400m radius around the stations, and what affordable housing contribution should be required.

It is unclear why a separate SEPP is required, rather than an integrated housing approach.

It is unclear why the TOD SEPP is proposing a 400m radius and the other housing policy initiatives refer to a 400m/800m accessible distance (rather than a radius). Different definitions and standards add to confusion and the complexity of the NSW Planning System.

It is unclear why the three stations were chosen.

- The Dapto and North Wollongong station precincts have significant flood constraints.
- North Wollongong does not have a commercial centre.
- Corrimal Station is disconnected to the Corrimal Town Centre, although is adjacent to the recently rezoned former Corrimal Coke Works site and has a surrounding R3 Medium Density precinct.
- Corrimal and Dapto stations are served by trains once every hour in each direction depending on the time of day. The level of service being significantly lower than a Sydney Metropolitan station.

Council would welcome the opportunity to work with the Department to explore if an alternative station(s) to North Wollongong may be a more appropriate initial candidate should the program proceed. On 5 February 2024, Council resolved to request that land around Coniston and Unanderra stations be investigated as potential alternative initial precincts under the Program.

Additional detail is required to fully understand the impact of the Program, including -

- The maximum parking rates, and whether there will be a different rate for Sydney and the regions. Council officers are concerned that a low parking rate, in locations poorly served by public transport will result in more on-street parking.
- The minimum active frontage requirements.
- How the Affordable Housing Contribution will be collected and managed, and by whom (Council or the State). Wollongong Council is not currently resourced or have the necessary governance arrangements and procedures in place to manage the collection and distribution of Affordable Housing contributions.
- What additional investment is planned by the State to balance higher density living with enhanced amenity and infrastructure including open space embellishment, active transport options and provision of community services.

Council officers do not support a blanket permissibility of residential flat buildings in E1 and E2 zoned land. The Wollongong LEP 2009 permits shop top housing in these zones, which enable retail at ground floor (active frontages, shops and services), possible offices above, and residential development on higher floors. The unrestricted provision of residential flat buildings could undermine the retail offering and employment opportunities in the centres.

Council and the community spent a number of years preparing and assessing a Planning Proposal for the former heritage listed Coke Works site, which adjoins Corrimal Station. The LEP amendment was finalised in 2022 and Council also adopted a Development Control Plan chapter and Planning Agreement. The site has a range of height limits (11m, 13m, 15m) and floor space ratios (0.75:1, 1.2:1, 1.5:1). The development has been scaled due to heritage, visual amenity, access and transport constraints. Council is currently assessing development applications.

The proposed TOD SEPP would allow for an increase in height, density and dwelling numbers. The increase in dwellings could have an impact on the local road network, and the capacity of the State's rail level crossing. The proposed SEPP should have regard to recently approved LEPs, DCPs and Planning Agreements and establish a process to review site-specific controls and a mechanism to require developers to re-negotiate Planning Agreements in response to the uplift of development potential of sites.

Recommendations -

- Provide information and analysis supporting the three nominated rail stations.
- Consider the removal of North Wollongong Station
- Consider the inclusion of Unanderra and/or Coniston stations.
- Not permit residential flat buildings in E1 and E2 centres as they could undermine the retail function of the centre. Permit only Shop-top housing at the increased density.
- Provide advice and guidelines on the mechanism required for the collection and management of Affordable Housing contributions.
- Provide a mechanism to require existing Planning Agreements to be renegotiated, where an uplift will be available, to ensure appropriate commensurate upgrades to local and State infrastructure and the provision of Affordable Housing.

Affordable Housing Bonus Provisions

Council wishes to take the opportunity to express concern about the recently introduced Affordable Housing bonus provisions.

Engagement with Council about this initiative in early 2023 indicated a \$75M threshold for eligible housing developments to be assessed by the State under the State Significant Development (SSD) pathway. Feedback at the time indicated that few developments would trigger this threshold which would therefore not have a major impact on Council's current functions. However, we have recently learned that the threshold for Shoalhaven-Illawarra and Lower Hunter and Greater Newcastle Councils was legislated at \$30M.

A review of DAs over recent years indicates that a \$30M mid-rise housing project is not uncommon and there is potential for many applications to be determined under the SSD pathway. An increase in the number of SSD matters will impact on Council resourcing during the pre-lodgement phase (eg SEARs preparation, early consultation and meeting requirements) and post lodgement when formulating Council submissions as well as reviewing applicant's responses to submissions. There is currently no mechanism under the SSD pathway for Council to recover cost for the assessment required in preparing submissions. The increase in residential projects able to be assessed by the Department of Planning, Housing and Infrastructure also undermines Council's autonomy in assessing local development with the benefit of our local knowledge and expertise.

The change to the legislated value threshold for SSD without engagement with Council is not appropriate and has created uncertainty and wasted valuable pre-lodgement resources from both Council and the proponent. A case in point is a communication from a developer on 16 January 2024 as follows -

As you know from recent discussions and correspondence, we are well progressed with the preparation of a development application that seeks the approval for a shoptop housing development.

In a late change, the capital investment value threshold for an SSD in Wollongong was reduced from \$75 million (as communicated in the version of the draft SEPP) to \$30million.

As a result, our proposal can no longer be submitted to Council and has now fallen into the category of a State Significant Development (SSD).

We are now working through the requisite requirements for the submission to the DoP.

We are ensuring that the communication and long running discussions that we have had with Council are carried through in our EIS and submission documents.

Council requests that the threshold for SSD for the Wollongong LGA be amended to the original \$75M threshold.

Council supports the requirement for Affordable Housing to be incorporated into developments that take advantage of the bonus provisions, however we suggest that consideration be given to such Affordable Housing to be provided in perpetuity rather than for 15 years.

As suggested above, Council is committed to working with the Department and State Government to deliver additional housing and would welcome an opportunity to discuss our submission in detail.

Please feel free to contact Council's Director of Planning and Environment, _____ should you require further information.

Greg Doyle
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Wollongong City Council
Telephone