

Submission
No 59

INQUIRY INTO DEVELOPMENT OF THE TRANSPORT ORIENTED DEVELOPMENT PROGRAM

Organisation: Housing Industry Association (HIA)

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20 March 2024

Ms Sue Higginson MLC
Chair, Portfolio Committee No. 7 – Planning and Environment
NSW Legislative Council
Parliament House
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Dear Ms Higginson,

Inquiry into the Transport Orientated Development Program

Introduction

Thank you for the opportunity to make a submission to Portfolio Committee No 7 – Planning and Environment Inquiry into the Transport Orientated Development Program (TOD program).

The Housing Industry Association (HIA) supports policy reform to increase housing delivery across the Six Cities region for all housing types and tenures on both infill and greenfield sites. However, it is important for HIA to highlight that the selected TOD program locations and policy settings must be conducive for uptake by the housing industry otherwise the housing outcomes will not be achieved.

The TOD program locations and policy settings must allow development that is commercially viable and attractive for the housing industry, and we offer the following comments on that basis.

Selected TOD Locations & Development Feasibility

There has been a lack of transparency around the selection by the government of the 8 TOD Program accelerated precincts, and the 31 TOD program locations. HIA requested this information from the Department of Planning, Housing, and Infrastructure (DPHI) during an industry briefing meeting in early February but was advised that it was commercial-in-confidence at that point.

HIA is very interested in the work undertaken by the government and in particular, the feasibility tests for the mid-rise apartment development around the 31 TOD program stations. This is because there needs to be an acceptance from the development industry about project feasibility, otherwise the uptake of the TOD program could be seriously impacted.

Some locations in the Inner West and North Shore of Sydney for example, may not lend themselves to the proposed mid-rise apartment development due to the high costs of land and construction. There may need to be incentives given by government for landowners to amalgamate their blocks to make development worthwhile for the housing industry.

Information should have been made available to industry stakeholders on the selection of the TOD program locations, for transparency and feasibility purposes.

Consultation Process

It is concerning that no formal public exhibition process has been followed by government for the development of the TOD program, although some high-level targeted consultation was undertaken in late 2023/early 2024 with industry stakeholders, including HIA.

The government has indicated that a new State Environmental Planning Policy (the TOD SEPP) will be made in April 2024, but it has not placed an Explanation of Intended Effect (EIE) on public consultation for this purpose.

HIA understands, that failure to exhibit an EIE may not align with the intent of Clause 3.30 of the *NSW Environment and Planning Assessment Act 1979*, as follows:

- (1) *Before recommending the making of an environmental planning instrument by the Governor, the Minister is to take such steps, if any, as the Minister considers appropriate or necessary –*
 - (a) *to publicise an explanation of the intended effect of the proposed instrument, and*
 - (b) *to seek and consider submissions from the public on this matter.*

Given the considerable public interest arising from the TOD program proposal, it would seem highly relevant that an EIE should have been placed on public exhibition.

The TOD program information brochure (dated December 2023) available on the DPHI website contains little detail on many aspects of the proposed policy settings and leaves many questions open.

Looking ahead, it is HIA's opinion that now at minimum, the draft legislation for the proposed TOD SEPP should be placed on public exhibition so that stakeholders can review and comment on the content and wording of the SEPP prior to it being made.

Planning Processes

HIA notes that the TOD program information brochure mentioned above, encourages councils to develop strategic plans for the TOD precincts. However, with the intent for the TOD SEPP to commence in April 2024, there is little time available for councils to start this process. This could lead to haphazard development with no proper planning for urban streetscape, local infrastructure upgrades, and community facilities.

Each of the 31 TOD program station locations are unique in character and a one-size fits all policy is unlikely to work. This policy approach contrasts very much with the place-based planning approach supported by the government in recent years.

Most notably, the challenge for good streetscape and design outcomes will be tested when placing mid-rise apartments next to existing low-rise homes.

There also a need for greater clarification about the status of Heritage Conservation Areas and whether the proposed SEPP will take precedent over local heritage controls.

Some council areas impacted by the TOD program have extensive areas covered by heritage conservation controls and there should be clear instruction within the proposed SEPP about how these areas should be treated.

Thank you for the opportunity to make a submission to the Portfolio Committee No 7 Inquiry into the TOD program and please contact the under-signed, Mr David Bare, on email _____ or telephone number _____ with any questions.

Yours sincerely
HOUSING INDUSTRY ASSOCIATION LIMITED

David Bare
NSW Executive Director