

**Submission  
No 73**

## **INQUIRY INTO DEVELOPMENT OF THE TRANSPORT ORIENTED DEVELOPMENT PROGRAM**

**Organisation:** Eryldene Historic House and Garden

**Date Received:** 25 March 2024

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**THE HERITAGE IMPACTS OF THE PROPOSED ‘CHANGES TO CREATE LOW- AND MID-RISE HOUSING 2023’ and ‘TRANSPORT ORIENTED DEVELOPMENT (TOD) PROGRAM 2023’ and the DIRECT IMPACTS ON ERYLDENE HISTORIC HOUSE AND GARDEN**

**A REQUEST FOR AMENDMENT AND FUTURE CONSULTATION**

This submission is made by the Eryldene Trust (the Trust) which is responsible for the care, management and presentation of the Eryldene Historic House and Garden (Eryldene), as a public museum with an active community events program. This submission relates to two documents published by the NSW State Government; *Explanation of Intended Effect: Changes to create low and mid-rise housing, December 2023* (the EIE); and *Transport Oriented Development Program, December 2023* (the TOD Program).

Eryldene is located at 17 McIntosh Street, Gordon. It is a unique and highly intact early 20<sup>th</sup> century house and garden designed by noted Australian architect William Hardy Wilson and his client Professor Eben Gowrie Waterhouse. Eryldene’s house, gardens, horticultural collection and specifically its substantial historic camellia collection have national and international significance.

For over four decades, Eryldene has been a vibrant community asset, run by an independent community NGO, the Eryldene Trust, with an active program of open garden days, concerts and cultural events held throughout the year. Its significance and activities are now at risk.

**Issue**

Eryldene was one of the first places to be listed on the NSW State Heritage Register (Item 000019 in 1979) and is also listed as a local heritage item under Ku-ring-gai LEP 2015. The property is located within the C7 Heritage Conservation Area under Ku-ring-gai LEP 2015. Eryldene is located in the R2 Low Density Residential Zone under Ku-ring-gai LEP 2015.

**However, Eryldene is within 400m of Gordon Rail Station and is therefore directly and adversely impacted by the proposed planning changes for residential apartment buildings and low and mid-rise housing and Transport Oriented Development, despite its heritage listings.**

The Trust and our neighbours are already being repeatedly approached by developers purchasing and amalgamating properties adjacent and in the vicinity of Eryldene for redevelopment.

**Eryldene objects to the planning proposals and seeks urgent re-consideration of the adverse impacts on its significance. We recommend dialogue and consultation with key stakeholders to develop alternative approaches to adapt and mitigate the proposed controls, so as to sustain its role as a cultural asset for the state.**

The Trust strongly opposes the introduction of the State Government’s proposed planning changes that will allow a range of multi-residential development types within and adjoining

heritage conservation areas and also on and adjoining heritage items. The Trust particularly opposes the introduction of mid-rise flat buildings (up to 6 storeys – 21m, plus 30% increase for affordable housing) into the R2 Low Density Residential areas and heritage conservation areas. These changes are proposed in the Part 2 TOD Program.

**The Trust notes with concern that the following impacts, potentially irreversible, are likely to arise from development based on the currently proposed standards.**

- Mid-rise flat buildings (potentially up to 8-9 storeys - 27.3m - with the 30% affordable housing bonus) will be totally **out of context** with the single and two storey scale of buildings in the HCAs and the majority of dwelling-house heritage items.
- For Eryldene, development at 8-9 storeys on the western and eastern boundaries will have significant **impacts on the garden and camellia collection** in terms of overshadowing, air flow, water management, soil moisture content and increased pathogens - all of which will change the microclimate and affect vegetation health.

**Unsympathetic building scale, increased traffic movement, pressure on street parking and increased noise levels** will compromise Eryldene's ability to function as a publicly accessible house museum and its run its events program, which is its principal source of income which offers a range of cultural, community and social amenities currently lacking in the Ku-ring-gai LGA.

- **There will also be substantial impact on the wider setting of low-rise residential development adjoining and surrounding Eryldene which, with their gardens and trees provide its streetscape setting and historic context.** Eryldene's setting is both inward and outward-looking in quality, encompassing framed views toward the property from the public domain of McIntosh Street and Werona Avenue, and outward from within Eryldene's boundaries. Large scale development on one or both of Eryldene's side boundaries will compromise its immediate and wider setting.
- **Substantial excavation for underground car parking will impact surface and subsurface water flows at Eryldene** and also, through vibration during the excavation process, potentially impact the structural integrity of adjoining heritage buildings many of which have vulnerable foundations and fragile building fabric.

**For Eryldene, changes to above and below ground water flows will impact the garden and particularly the highly significant camellia collection** and will severely challenge and compromise the garden's long-term sustainability. Deep excavation on Eryldene's boundaries can impact the structural integrity of the house and other buildings on the site including the garage, Chinese Tea House and potting shed.

- **The intensity of development relative to small allotment sizes will remove or substantially compromise vegetation, including large canopy trees, which contribute to an area's character and biodiversity.** The high site coverage for new development is unlikely to facilitate replacement vegetation and mature trees equivalent to the size and quantity currently occurring on the single dwelling sites. This will produce a substantial change to the visual character of HCAs and have related impacts on microclimate including increased heat island effects.
- **The use of a standardised pattern book of endorsed housing designs is a poor tool for guiding development, particularly large-scale buildings in HCAs and for sites adjoining heritage items.** A standardised pattern book cannot adequately address the unique significance, conditions and circumstances applying to HCAs and

heritage items with their different architectural styles, landscape settings and streetscape contexts. This is a case of promoting economic expediency over good planning and design.

**In addition to the above impacts, the Trust makes the following observations about the process and documentation relating to the proposed planning changes.**

- The proposed planning controls as they apply to HCAs and heritage items represent a further example of the gradual **dismantling of heritage recognition and protection for some of Australia's oldest and most significant urban areas**. The TOD Program acknowledges that it will cause "significant change" to HCAs (p.11) but limits its method of addressing such impact to referencing "merit-based assessment". This is merely a token nod to heritage conservation evidenced by the fact that the higher order preference is clearly assigned to large scale residential development and relevant heritage controls will only apply "to the extent that they are not inconsistent with the new standards." (p.11). **Further dialogue with stakeholders is needed to evolve better controls to achieve the stated objectives.**
- The generalised, across the board development standards, which demonstrate a top-down approach to urban planning, are directly **inconsistent with the principles for good design** set out in the NSW Department of Planning and Development's 2015 publication *Apartment Design Guide* and the 2018 *Design Guide for Heritage* produced by the Department of Environment. Those principles embrace the practice of identifying local character and context in order to provide the appropriate location, scale and bulk for new apartment buildings.
- Whilst the EIE Document refers to the use of the *Apartment Design Guide* and the *Low-Rise Housing Diversity Design Code* as tools for directing and guiding high quality design, **the intention to make the key bulk and scale development standards non-refusal standards will undermine the effectiveness of those documents**. This is because developers will seek to maximise development yield based on the non-refusal standards. The TOD Program also mentions the *Apartment Design Guide* but is silent on the use of non-refusal standards. This should be clarified with the release of further documentation about the TOD Program
- The TOD Program provides scant and unconvincing evidence for the selection of the 31 Precincts listed in Part 2. **Analysis of the impact on HCAs and heritage items is needed**. In the case of the Ku-ring-gai LGA, the HCAs surrounding the four nominated rail stations will be irreversibly impacted by the proposed new planning controls and the rapid market activity in recent weeks demonstrated that these areas will be open to widespread adverse impacts very swiftly. Large scale infill development randomly intermixed with modest scale housing will destroy the heritage significance and consistent streetscape character of the HCAs.

### **Eryldene's position**

1. **The Trust's principal position is that the proposed planning changes need amendment and refinement within HCAs, and they should not apply to heritage items and sites adjoining heritage items, especially those items listing on the SHR.** The Trust therefore requests dialogue and consultation to evolve approaches and principles that can be incorporated in the final planning instruments.
2. **The Trust strongly advocates that new residential development contemplated in the EIE Document and particularly in Part 2 of the TOD Program should be**

**subject to a master plan process where the development site adjoins an item on the SHR.** In these cases, the pattern book design **should not** be applicable.

3. A master plan process is more rigorous and informative than a standard statement of environmental effects which accompanies a development application. A master plan process will acknowledge the significance of items listed on the SHR and work directly with these qualities to evolve best practice solutions for neighbourhood adaptation.
4. Master planning will allow for a thorough investigation and analysis of matters including –
  - The significance of the heritage item – including its open space and landscaping.
  - The physical and visual curtilage of the item.
  - The structural condition of the item.
  - Geotechnical and hydrological conditions of the development site and surrounding land.
  - The particular microclimate of the development site and adjoining sites.
5. By using a master plan process there are better opportunities for more successful integration of higher density development within a low-density context. Master planning of these specific sites should be undertaken by the local council and involve community consultation.
6. There are numerous successful examples of master planning for heritage items, including items on the SHR. Eryldene would be excellent test case for a master planning process under the proposed planning controls.
7. As a final comment, the Trust considers that in all areas, a local planning panel should be the approval body for development under the Part 2 TOD program and the low-rise housing proposal set out in the EIE Document.

### **Eryldene's submission**

**The Trust submits the above comments for consideration. We encourage both the NSW State Government and Ku-ring-gai Council to include the Eryldene Trust in further consultation regarding new planning controls as they are prepared.**

**Further, we would like to work collaboratively with NSW State Government and Kuring-Gai Council, so that together, we can ensure the sustainable existence of Eryldene for future generations in a changing suburban context.**

Sheridan Burke,  
Chair, Eryldene Trust  
31 January 2024

### **ERYLDENE HISTORIC HOUSE AND GARDEN**

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