

Submission
No 99

INQUIRY INTO DEVELOPMENT OF THE TRANSPORT ORIENTED DEVELOPMENT PROGRAM

Organisation: Heritage Council of NSW

Date Received: 28 March 2024

Submission of the Heritage Council of NSW to the Legislative Council Inquiry into the development of the Transport Orientated Development Program

The Heritage Council of NSW is an independent statutory body appointed by the NSW Government. Its membership comprises a cross section of the community, the public sector, the conservation profession and heritage industry and a nominee of the National Trust. Its functions include:

- Provide advice on heritage matters to the Minister
- Recommend items of State significance for listing on the State Heritage Register
- Recommend the interim protection of potential heritage items so that an assessment of their significance can be made
- Determine proposed changes to items on the State Heritage Register to retain the items heritage significance
- Advise the community on heritage matters.

The Heritage Council of NSW welcomes the opportunity to make a submission to the Inquiry into the development of the Transport Orientated Development (TOD) Program. This submission addresses the following Terms of Reference for the Inquiry dated 23 February 2024:

1. *That Portfolio Committee No. 7 – Planning and Environment inquire into and report on the development of the Transport Orientated Development Program (TOD), and in particular:*
 - (i) *the heritage concerns with the Transport Orientated Development Program including but not limited to the concerns of the Heritage Council*
 - (o) *the impacts of the proposed Diverse and Well-Located Homes process and program*

Heritage and growth

The historic environment of NSW provides a depth of character that has significant benefit to the state's economy, culture, and quality of life (see attachment 1 for further details on the value of heritage). NSW's natural and cultural landscapes can help to provide a unique sense of place whilst layers of architectural history add to the unique character of communities. The layered history of NSW itself reflects growth over time. Early 20th Century apartments were met with concerns about the changing density of our cities in the 1920s and 30s but today they are treasured for their heritage value, adding to the rich texture of our suburbs.

Our suburbs will always change and evolve over time to meet the needs of current and future generations – planning carefully for this will allow communities to better protect the heritage and character of their suburbs through the sensitive integration of quality new development.

Better integration of heritage into strategic planning

Embedding heritage early in planning processes (i.e. at the strategic plan making stage) is critical to ensuring that best practice heritage principles underpin broader strategic planning policy and legislation (such as State Environmental Planning Policies) which in turn feed down into local policy development. This approach will help to support the conservation and management of the historic environment, allowing for the identification of the values and aspects of character communities wish to retain. This upfront incorporation of heritage in such planning then allows for informed decisions to be made about areas suitable for sensitive future growth and development. When heritage is only considered at the Development Application stage, outcomes are often piecemeal and it can be difficult to understand the overall impact of individual decisions on the character of a place. The Heritage Council is therefore working with DPHI to ensure that Heritage is being adequately represented in refinement of the TOD and the Diverse and Well Located Homes programs.

NSW Housing Crisis and priority housing programs

Heritage, particularly local heritage, is emerging as a key issue within the context of both the TOD program and the Diverse and Well-Located Homes program.

The Heritage Council supports the Government's desire to meet housing targets in accordance with the National Housing Accord and the intended role of the TOD and Diverse and Well-Located Homes programs in achieving those targets. However, the Heritage Council has concerns that the programs have the potential to significantly alter the built fabric of areas of Sydney that are considered to be of heritage significance, and is working with DPHI to address those concerns.

Uncertainty

DPHI have advised the Heritage Council and Heritage NSW that under both the TOD program and the Diverse and Well-Located Homes program, State Heritage Register (SHR) listed items will continue to be protected. However, there is some uncertainty about differences between these programs and the associated new planning controls, in terms of their impacts on local heritage items and Heritage Conservation Areas (HCAs).

DPHI have indicated that they are preparing additional information about interpretation and implementation for local councils and the wider industry about this. The Heritage Council welcomes such additional information and guidance.

Strategic Planning for TOD

The Heritage Council supports TOD Part 1 (accelerated precincts) as considerable work is being undertaken for the master planning for these precincts. The Heritage Council is working with DPHI about the approach to strategic planning in TOD Part 2 and the Diverse and Well-Located Homes reforms.

The Heritage Council has raised with DPHI uncertainties about how the new planning controls under these programs are intended to be interpreted and implemented. The Heritage Council understands that local councils will remain the consent authority when the new planning

controls come into effect and that the SEPPs are intended to be a temporary or ‘bridging’ measure, remaining in place until local councils have completed and delivered a new strategic vision and rezoning for the applicable areas.

Following a briefing from DPHI on the TOD Program the Heritage Council passed a resolution at its 7 February 2024 meeting (see **Attachment 2** – Item 5.1). The resolution offered in principle support for the overall strategic planning process in Part 1 of the TOD program, while noting that this support is subject to further discussions with DPHI to better understand heritage impacts and mitigation measures, particularly in relation to Heritage Conservation Areas (HCAs). The Heritage Council believes that it is imperative that local councils undertake strategic planning before the new TOD State Environmental Planning Policy (SEPP) - TOD Part 2- is activated in HCAs.

At the Heritage Council meeting on 6 March 2024, DPHI provided a briefing on the Diverse and Well-Located Homes program. We understand that the Diverse and Well-Located Homes program will also be delivered through a new SEPP. The Heritage Council has a strong interest in this program and is working with DPHI to better understand potential heritage impacts.

Other measures to mitigate potential heritage impacts

The Heritage Council also has an interest in minimising the impacts to heritage from development adjacent to heritage places, through sensitive design which preserves the essential character of an area. The Heritage Council hopes that new places and precincts created because of the Government priority housing programs (similar to the turn of the century apartment buildings we value today) are of such excellence that they form part of that heritage of the future. The development of **design guidelines** for adjacent development will help create precincts which are sensitive to, and integrated with, the heritage values and character or suburbs.

The accelerated nature of these priority housing programs runs the risk of local councils making piecemeal and rushed planning decisions, particularly for sites within HCAs. Incremental changes could irrevocably change the character and amenity of these important areas, particularly when impacts are cumulative.

The Heritage Council understands DPHI has indicated they are preparing additional guidance about interpretation and implementation for local councils and the wider industry. The Heritage Council would welcome these resources and is working with DPHI to participate in their development.

The Heritage Council has offered to work with DPHI in the development of other guidance materials to assist in the assessment of applications within heritage conservation areas and adjacent to both local and state heritage items. Suitable heritage guidance material would provide consistency of decision making and avoid unnecessary impacts to heritage values whilst supporting the timely delivering of the TOD program.

Examples of best practice guidance

The Heritage Council has drawn the attention of DPHI to a number of existing local and international resources that could be useful to help understand and guide best practice change management in and around heritage items. The attachments to this submission include the Design in Context – Guidelines for infill development in the historic environment, NSW Heritage Office 2005 (**Attachment 3**), Better Placed – Design guide for Heritage, Heritage Council of NSW and Government Architect NSW 2019 (**Attachment 4**), and the London Plan Guidance - Characterisation and Growth Strategy, Greater London Authority (UK) 2023 with input and advice from Industry stakeholders including Historic England (**Attachment 5**).

The Heritage Council is working with DPHI

The continued protection of heritage while bringing forward new development, requires careful management to ensure that future growth is sustainable and well-considered, and our neighbourhoods continue to reflect our history and character. The Heritage Council has developed a constructive working relationship with DPHI to ensure heritage is appropriately considered as the TOD and Diverse and Well-Located Homes programs roll out, to ensure good outcomes for heritage while meeting the government's housing targets. At the time of this submission, the Heritage Council and staff from Heritage NSW have met with the Secretary and senior staff of DPHI a number of times, reflecting a mutual desire to ensure that heritage continues to contribute to the liveability of communities in NSW, while also working to achieve new housing targets.

Yours sincerely

Frank Howarth AM PSM

Chair, Heritage Council of NSW

27 March 2024

Attachments:

Attachment 1: Social Value of Heritage Report, Heritage NSW 2022

Attachment 2: Heritage Council of NSW Meeting Resolutions February 2024

Attachment 3: Design in Context – Guidelines for infill development in the historic environment, NSW Heritage Office 2005

Attachment 4: Better Placed – Design guide for Heritage, Heritage Council of NSW and Government Architect NSW 2019

Attachment 5: London Plan Guidance - Characterisation and Growth Strategy, Greater London Authority 2023