

**Submission  
No 118**

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

**Organisation:** Department of Planning, Housing and Infrastructure

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Department of Planning, Housing and Infrastructure

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# Inquiry into the development of the Transport Oriented Development Program

NSW Department of Planning, Housing and Infrastructure submission

March 2024

# Acknowledgement of Country

The Department of Planning, Housing and Infrastructure acknowledges that it stands on Aboriginal land. We acknowledge the Traditional Custodians of the land, and we show our respect for Elders past, present and emerging through thoughtful and collaborative approaches to our work, seeking to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally and economically.

Submitted by the NSW Department of Planning, Housing and Infrastructure.

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Inquiry into the development of the Transport Oriented Development Program

## Acknowledgements

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## Executive summary

Providing housing choices, particularly for a new generation of young people and key workers, is the NSW Government's top priority. All levels of government, industry and the community have a shared responsibility to work together to address the housing crisis. Housing policy reform is necessitated by:

- current housing supply shortages, making it less affordable for people to buy and rent property;
- increases in the cost of building housing, catalysed by more expensive building supplies and low labour availability;
- the need to both adapt to and mitigate the impacts of climate change, by considering extreme weather events such as fires and floods in planning reforms while minimising emissions brought on by urban sprawl; and
- changing household composition.

There is an opportunity for housing and planning policy to leverage existing investment in programs such as the Sydney Metro system to compound benefits for NSW residents. Further, facilitating housing growth close to urban centres and existing infrastructure is an important way of reducing the economic cost of building, by reducing infrastructure-related costs by up to \$75,000 per home (NSW Productivity Commission, 2023).

The Transport Oriented Development (TOD) Program is part of the NSW Government's plan to create more well-located homes close to transport, jobs and services. It is also one component of the Government's response to the National Housing Accord to deliver 1.2 million new homes across the country by June 2029, with 377,000 new well-located homes to be built in NSW.

Putting homes near planned and existing public transport will help to improve the development pattern of our cities and reduce urban sprawl. This means that more people will be able to live within walking distance of supermarkets, restaurants and open space, and be near public transport to get them where they need to go.

This is a well-understood model of urban growth that is commonly referred to as 'transport-oriented development', and it has been a key feature of strategic planning in NSW, across Australia and around the world for many years.

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## Introduction

The TOD Program has been in development since May 2023 and was publicly announced by the NSW Government on 7 December 2023. The TOD Program seeks to permit mid and high-rise housing forms close to rail or metro stations throughout metropolitan NSW and will accelerate and deliver much needed housing across Greater Sydney, the Central Coast, Newcastle and the Illawarra.

The 39 identified transport hubs will benefit from new planning controls that will unlock additional housing capacity.

There are two parts to the TOD Program:

- Part 1 will focus on eight accelerated precincts to create capacity for 47,800 new homes over 15 years, supported with new infrastructure. Land within 1,200 metres of eight rail and metro stations (Bankstown, Bays West, Bella Vista, Crows Nest, Homebush, Hornsby, Kellyville and Macquarie Park) will be master planned and rezoned by the NSW Government to allow for more new market and affordable homes.
- Part 2 will focus on precincts that have existing infrastructure and are located within 400 metres of 31 stations 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 more homes close to jobs and areas with good amenity. These 31 locations are:
  - Adamstown station, Ashfield station, Banksia station, Berala station, Booragul station, Canterbury metro station, Corrimal station, Croydon station, Dapto station, Dulwich Hill station, Gordon station, Gosford station, Hamilton station, Killara station, Kogarah station, Kotara station, Lidcombe station, Lindfield station, Marrickville station, Morisset station, Newcastle Interchange, North Strathfield metro station, North Wollongong station, Rockdale station, Roseville station, St Marys metro station, Teralba station, Tuggerah station, Turrella station, Wiley Park metro station and Wyong station.

To support the delivery of homes in the Part 1 accelerated precincts, the NSW Government has committed \$520 million in infrastructure funding to provide community infrastructure such as critical road upgrades, active transport links and good quality public open spaces, such as parks and walkways.

To support the delivery of homes in the 31 Part 2 locations, councils will be encouraged to invest the money they collect from local development contributions to make improvements to local infrastructure. The Housing and Productivity Contribution, a development charge that will help fund the delivery of essential state infrastructure in high-growth areas will also continue to apply in these locations.

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# Context for Housing Reform

## National

Housing availability across Australia is strained, with supply failing to meet accelerating community demand. Housing supply is impacted by a range of factors including material and labour shortages and rising borrowing costs. Low supply has reduced housing affordability and is a significant contributor to current cost-of-living pressures nationally, with either mortgage payments or rents being the largest expense for most Australian households.

To address housing challenges, the Commonwealth Government is implementing measures in collaboration with states and territories to unlock quality, affordable housing supply. The [National Housing Accord](#) (the Accord), announced in October 2022, is an initiative between the Commonwealth, states and territories, local government, institutional investors and the construction sector. Under the Accord, in August 2023, states and territories agreed to a target of 1.2 million new well-located homes over five years from mid-2024. NSW has committed to deliver 377,000 new homes by June 2029.

Other national initiatives include the [National Planning Reform Blueprint](#) (the Blueprint), to which the Commonwealth, State and Territory Governments agreed in August 2023. This followed a June 2023 National Cabinet commitment to pursue planning, zoning, land release and other reforms, such as increasing density.

The Blueprint outlines 10 reform measures focused on improving housing supply and affordability by reforming planning systems, giving states and territories a strong mandate to consider what changes should be made to encourage new housing. The Blueprint includes:

- updating state, regional and local strategic plans to reflect housing supply targets;
- promoting medium and high-density housing in well-located areas close to existing public transport connections, amenities and employment; and
- streamlining approval pathways.

While the Blueprint's focus is on planning system reform, other interventions are also proposed regarding skills, design, building and construction.

## NSW

In NSW, housing challenges evident on a national scale are amplified. Although NSW has the largest population, largest expected increase in population, highest rents and highest median house prices out of all Australian states and territories, NSW's completion rate for new dwellings falls below other Eastern states. In the five years to March 2023, NSW built 284,978

homes (around 57,000 each year). Under current market conditions and business as usual policy settings, it is anticipated that fewer new homes will be built in the next few years.

In the context of both national and NSW-specific housing challenges, the NSW Government is introducing a range of reforms to increase housing supply, affordability and liveability. The NSW Government made several commitments at the 2023 state election related to housing and planning reforms, particularly rebalancing population growth around infrastructure, amending existing development plans around metro stations and streamlining the planning system. The TOD Program directly responds to these commitments, forming part of the NSW Government's plan to create more well-located homes close to transport, jobs and services and contribute to NSW's commitments under the Accord. Other publicly announced NSW programs focused on housing delivery include:

- expanding approval pathways for affordable housing and broadening self-assessment powers;
- low and mid-rise housing reforms ('Diverse and well-located homes'); and
- developing a low and mid-rise Housing Pattern Book.

The TOD Program aligns with the NSW Government's suite of housing delivery programs and policies. There are particular synergies between the TOD Program and the Diverse and Well-Located Homes (DWLH) Program – both of which are being led by the Department of Planning, Housing and Infrastructure (DPHI). The DWLH Program is focused on increasing the supply of low and mid-rise (1-6 storey) housing in well-located areas – around train stations, but also local urban centres that provide goods and services beyond public transport proximity.

The DWLH Program will apply to more land than the TOD Program as it will apply around many train stations as well as many local centres. However, development potential in DWLH locations is likely to be considerably less than around the TOD stations because it targets low to medium density residential changes in R2 and R3 zones only. The TOD Program seeks medium density development in identified areas, inclusive of all residential zones (R1, R2, R3, R4) and E1 and E2 employment zones.

One of the key considerations in the identification of stations for inclusion in the TOD Program was strategic alignment with a range of endorsed strategies and plans. This includes alignment with councils' local housing strategies that, in their development, were consulted on with local communities and stakeholders. Councils' local housing strategies identify areas with opportunities for growth, housing opportunities, and locations for uplift – including planning for uplift around stations.



## The development of the TOD Program policy approach

Focusing housing uplift around public transport is a well-understood model of urban growth, and has been a key feature of strategic planning in NSW and around the world for many years. Transport Oriented Development has the objective of reducing the need for lengthy and expensive daily commutes for workers, alleviates the financial burden on households and curbs traffic congestion, leading to improved quality of life for existing and new residents.<sup>1</sup>

In developing the TOD Program, a range of existing programs, measures, reports and advice were considered, including (but not limited to):

- previous and current NSW programs including the Rezoning Pathways Program, Accelerated Infrastructure Fund and Public Spaces Legacy Fund;
- 2021 NSW Productivity Commission White Paper: Rebooting the economy;
- 2021 Commonwealth Productivity Commission Information Paper: Plan to identify planning and zoning reforms;
- 2023 NSW Productivity Commission: Building more homes where people want to live;
- 2023 NSW Productivity Commission: Building more homes where infrastructure costs less;
- 2017 Glenn Stevens Report to the Premier: Housing Affordability; and
- other state and international policies, particularly those relating to affordable housing.

The 2021 NSW Productivity Commission White Paper *Rebooting the Economy* included a recommendation (7.1) on improving housing supply, which advised that a system of incentives should be developed and implemented to encourage all local governments to deliver on housing targets. Similarly, the Productivity Commission's 2023 papers, *Building more homes where people want to live*, and *Building more homes where infrastructure costs less*, focus on providing homes where there is already existing infrastructure in place to support the new housing and locating new housing in infill areas where people, particularly young people and key workers, want to live most.

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## Program objectives

The objectives of the TOD Program are to:

- increase housing supply in well-located areas;

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<sup>1</sup> Pettit, et al., *Transport Oriented Development Atlas*,

[https://cityfutures.ada.unsw.edu.au/documents/731/TOD\\_ATLAS\\_ZABmuBk.pdf](https://cityfutures.ada.unsw.edu.au/documents/731/TOD_ATLAS_ZABmuBk.pdf).

- enable a variety of land uses (residential, commercial, recreational) within walking distance of train and metro stations;
- deliver housing that is supported by attractive public spaces, vibrancy, and community amenity; and
- increase the amount of affordable housing in these locations.

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## Site identification

DPHI, in consultation with other relevant NSW Government agencies, undertook detailed analysis to identify sites for both the accelerated precincts and TOD SEPP. DPHI engaged a probity advisor (Procure Group), which advised on the establishment of the Transport Assessment Review Committee, attended meetings and provided oversight regarding other corruption prevention steps, including conflict of interest and confidentiality.

### Part 1 of the TOD Program – Accelerated Precincts

The accelerated precincts component of the TOD Program will deliver high and mid-rise housing within 1,200 metres of eight priority transport hubs.

Rezoning around these transport hubs will create capacity for up to 47,800 new well-located homes over the next 15 years.

### Where will the accelerated rezonings be?

The accelerated precincts will fall within 1,200 metres around stations at Bankstown, Bays West, Bella Vista, Crows Nest, Homebush, Hornsby, Kellyville and Macquarie Park.

### How were Part 1 locations identified?

#### Stage 1: Eligibility Criteria

DPHI undertook analysis of 305 Sydney Train, Sydney Metro, and Intercity stations within the Greater Sydney, Hunter, Central Coast, and Illawarra regions to identify locations that have enabling infrastructure capacity near the transport station to support additional housing growth. This assessment considered the following criteria:

- all electrified heavy rail, metro and intercity trains within the Greater Sydney, Hunter, Central Coast, and Illawarra regions;
- within 30 minutes of a metropolitan centre including Sydney CBD, Parramatta, Newcastle, Gosford or Wollongong by rail or were Sydney Metro stations, enabling good access to jobs and services;

- capacity for additional homes near the transport station;
- capacity on the Sydney Trains network to support additional passengers from the housing growth;
- existing residential land (i.e. land that is zoned residential) near a station; and
- alignment with government priorities for housing growth.

Working as part of the interagency Assessment Review Committee overseeing the shortlisting of potential precincts, Transport for NSW (Transport) identified suitable opportunities for housing by assessing available rail capacity, road capacity and congestion and travel patterns.

The rail analysis reviewed service capacity through to 2036, incorporating projected population growth and committed (funded) enhancements through the More Trains, More Services Program and expansions like the Sydney Metro City and Southwest, West and Western Sydney Airport projects.

Transport identified stations with sufficient capacity as priority opportunities, with the remainder of stations set aside from further consideration. Priority opportunities were identified primarily along key lines such as T1 North Shore, T2 Inner West (to Lidcombe), T4 Eastern Suburbs and Illawarra (to Hurstville), T8 Airport (to Revesby), and Sydney Metro corridors, where existing capacity is available or near-term capacity uplifts are committed. Outside of Sydney, electric intercity services were noted as having capacity to support growth. Other stations were identified as potentially requiring medium-term service or infrastructure enhancements to accommodate further growth.

The Department of Education is also actively supporting the NSW Government's priority to increase housing supply and through its school planning functions to ensure the delivery of educational infrastructure to meet enrolment needs. The Department of Education is engaging closely with the Department of Planning, Housing and Infrastructure on this work.

## **Stage 2: Multi-criteria analysis**

In the second stage of the assessment process, multi-criteria analysis was used to assess and rank stations using the selection criteria detailed below, to develop a shortlist for more detailed assessment.

Table 1: Selection criteria

Dimension	Criteria	Scoring Framework
<b>Strategic alignment</b>	Strategic alignment to government strategies such as a Local Housing Strategy or Regional Plan.	<p>Yes - evidence of alignment of housing growth with strategic plans.</p> <p>No - there was no evidence of alignment of housing growth with strategic plans.</p>
<b>Planning status</b>	Status and timing of master planning and rezoning.	<p>High score – master planning or rezoning underway.</p> <p>Intermediate score – rezoning has previously been undertaken.</p> <p>Low score - rezoning occurred less than two years ago or an existing state-led rezoning is underway.</p>
<b>Land fragmentation</b>	Percentage of fragmented land and high proportion of strata developments.	<p>High score - stations with larger average lot sizes and lower percentage of strata developments.</p> <p>Low score – stations with smaller average lot sizes and a higher percentage of strata developments.</p>
<b>Government owned land</b>	Proportion of government owned land to deliver social and affordable housing.	<p>High score - stations with a high percentage of government owned land.</p> <p>Low score – stations with a low percentage of government owned land.</p>
<b>Balanced growth</b>	Rebalance housing growth across the State.	<p>Consideration given to:</p> <p>Two stations per Greater Sydney Local Government Area (LGA); and</p> <p>One station per regional LGA.</p>

### Stage 3: Planning and infrastructure review

Following the Stage 2 multi-criteria analysis, identified and shortlisted stations were then reviewed to consider the following:

- planning and land use considerations and constraints, like flood zones or bushfire risk zones, land fragmentation and council-led strategic planning;
- transport, water and wastewater infrastructure capacity to support additional growth;
- third-party economic feasibility assessment to determine the rezoning potential at each station; and
- the need for potential investment in new public open spaces to support increased population and density.

### Stage 4: Strategic review by expert panel

In the fourth stage of the assessment process, a Transport Oriented Development Assessment Review Committee of government representatives, overseen by a probity advisor, assessed the shortlist of stations. An inter-governmental Transport Oriented Development Assessment Review Committee provided the Government with recommendations. The Transport Oriented Development Assessment Review Committee considered the following:

- planned and potential homes that the area could yield;
- existing infrastructure capacity to service growth;
- housing and infrastructure delivery impediments such as flood zones or bushfire risk zones; and
- opportunities for more social housing.

The Transport Oriented Development Assessment Review Committee included senior executive representatives from:

- The former Department of Planning and Environment;
- The former Greater Cities Commission;
- Treasury;
- Transport for NSW;
- Infrastructure NSW;
- The Cabinet Office;
- Office of Local Government; and
- Department of Communities and Justice.

The Transport Oriented Development Assessment Review Committee recommended seven station precincts (TOD Part 1 accelerated precincts) for inclusion in the TOD Program. Bays West metro station, located along the Metro West line, was considered through Stages 1-3 of the analysis, but was not considered by the Transport Oriented Development Assessment Review Committee as the review of Metro West was underway and there was uncertainty about the Metro West progressing. The Government approved the inclusion of Bays West in Part 1 of the TOD Program after it had determined the Metro West line would proceed.

### **Stage 5: Approval**

Following on from the station precincts recommended by the Transport Oriented Development Assessment Review Committee at Stage 4, and consistent with the agreed government position, eight precincts were then approved by the Minister for Planning and Public Spaces.

### **How will the TOD Program deliver accelerated precincts?**

DPHI will undertake a master planning process for each precinct, supported by a variety of technical studies and assessments. The master plans will identify key opportunities for new housing within 1,200m of the identified stations.

Once individual precinct master plans have been prepared, DPHI will lead a rezoning process to implement new planning controls. Following this, development can be progressed through either State Significant Development (SSD) or council-led development application (DA) processes.

### **How were Part 2 locations identified?**

#### **Stage 1: Eligibility Criteria**

DPHI undertook an analysis of 305 Sydney Train, Sydney Metro, and Intercity stations within the Greater Sydney, Hunter, Central Coast, and Illawarra regions to identify locations that have enabling infrastructure capacity close to a transport station to support additional housing growth. This analysis involved consideration of the following criteria:

- all electrified heavy rail, Metro and Intercity Train stations within the Greater Sydney, Hunter, Central Coast, and Illawarra regions;
- areas within 30 minutes of a metropolitan centre including Sydney CBD, Parramatta, Newcastle, Gosford or Wollongong by rail or are Sydney metro stations, enabling good access to jobs and services;
- capacity for additional homes near the rail or metro station;
- capacity on the Sydney Trains network to support additional passengers from the housing growth;

- existing residential land (i.e. land that is zoned residential) near a rail or metro station; and
- alignment with government priorities for housing growth.

## Stage 2: Planning and infrastructure review

In the second stage of the assessment process, a review of the shortlisted stations was undertaken to determine:

- planning and land use considerations and constraints, like flood zones or bushfire risk zones, land fragmentation, council-led strategic planning, and open space;
- transport, water and wastewater capacity to support additional growth; and economic feasibility of rezoning, including capacity for affordable housing.

As part of this analysis, North Strathfield metro station along the Metro West line was earmarked for inclusion in the TOD Program due to its capacity to support additional housing. However, a decision to include North Strathfield was, at this time, also subject to any government decision of the future of the proposed line. The Government approved the inclusion of North Strathfield in Part 2 of the TOD Program after it had determined the Metro West line would proceed.

## Stage 3: Approval by the Minister for Planning and Public Spaces

Consistent with the agreed government position, the Minister for Planning and Public Spaces approved the final list of stations.

## How will the TOD Program deliver the TOD SEPP?

The new SEPP will apply in the abovementioned 31 locations. From April 2024, new planning controls will apply within 400 metres of these 31 well-located and well-connected stations.

The changes will allow:

- residential apartment buildings in all residential zones (R1, R2, R3, and R4) within 400m of identified stations; and
- residential apartment buildings and shop-top housing in local and commercial centres (E1 and E2) within 400m of identified stations.

Targeted consultation with impacted councils and industry peaks is underway on proposed changes to planning controls in the TOD SEPP locations, including:

- maximum building height of 21m (approximately six storeys);
- maximum floor space ratio of 3:1;
- no minimum lot size or lot width;

- minimum active street frontage controls in E1 and E zones; and
- maximum parking rates.

Feedback is also being sought on the proposed introduction of new design criteria for mid-rise residential apartment buildings, including:

- building separations;
- setbacks;
- vehicle access;
- visual privacy; and
- communal open space.

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DPHI is currently working through feedback from submissions and drafting the details of the TOD SEPP.

When the SEPP comes into effect from April 2024, new planning controls in these locations will come into effect and DAs will be able to be lodged with councils. No changes are proposed to available assessment pathways as part of the TOD SEPP.

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## Ongoing consultation with councils

The TOD Program was publicly announced by the NSW Government on 7 December 2023. The combined 39 locations that were identified as either accelerated precincts, or places to benefit from housing uplift through the TOD SEPP, fall across 22 LGAs.

### TOD Program Part 1 – accelerated precincts

DPHI conducted initial briefings in December 2023 with the heads of staff of seven councils covering the eight TOD accelerated precincts. Following those initial briefings in 2023, the DPHI Secretary chaired briefings with councillors between January and March 2024.

Subsequently, Willoughby Council and Lane Cove Council, which share a border with North Sydney Council (in close proximity to the Crows Nest precinct), requested a briefing for their councillors. These briefings were held on Monday 19 February 2024 and Thursday 7 March 2024 respectively.

Council staff have been invited to participate in regular fortnightly project working groups established for each precinct. The working groups are forums to discuss issues and review technical information.

Further information about briefings that DPHI provided to councils on the TOD Program is included below.



Table 2: Briefings with councils on the TOD accelerated precincts - as of 12 March 2024

Council	Accelerated precinct within the LGA	Initial TOD briefing with council staff	Councillor briefing date
City of Canterbury Bankstown	Bankstown	Thursday 14 December 2023	Tuesday 6 February 2024
Inner West Council	Bays West	Thursday 14 December 2023	Tuesday 6 February 2024
The Hills Shire Council	Bella Vista Kellyville	Friday 15 December 2023	Wednesday 14 February 2024
North Sydney Council	Crows Nest	Thursday 14 December 2023	Monday 29 January 2024
Strathfield Council	Homebush	Friday 15 December 2023	Tuesday 6 February 2024
Hornsby Shire Council	Hornsby	Thursday 14 December 2023	Wednesday 21 February 2024
City of Ryde Council	Macquarie Park	Thursday 14 December 2023	Tuesday 30 January 2024

## TOD Program Part 2 – Targeted consultation on the TOD SEPP

DPHI conducted initial briefings in December 2023 with the heads of staff of 14 councils where the TOD SEPP will apply, followed by an email on 19 December 2023 asking councils to provide specific feedback relating to three main categories:

- Development standards**  
 Including proposed maximum building heights of 21m, floor to space ratio of 3:1, removal of minimum lot size and width and active street frontage requirements in E1 and E2 zones, and maximum parking rates.
- Amenity and design controls**  
 Covering proposed changes to requirements for building separations, communal open space, visual privacy, setbacks and vehicle access.
- Affordable Housing mechanisms**  
 Affordable housing contribution schemes.

Between January and February 2024, DPHI conducted briefings with 13 councils where the TOD SEPP will apply.

Willoughby Council (which shares a border with Ku-ring-gai Council) and has a small number of impacted properties in their LGA also requested a briefing for their councillors that was held on Monday 19 February 2023.

Further information about briefings DPHI provided to councils on the TOD Program is included below.

Table 3: Briefings with councils on the TOD SEPP - as of 12 March 2024

Council	Initial TOD briefing with council staff	Councillors briefing date	Submission received
Bayside Council	Wednesday 13 December 2023	14 February 2024	Yes
Burwood Council	Wednesday 13 December 2023	22 February 2024	Yes
City of Canada Bay	Wednesday 13 December 2023	30 January 2024	Yes
City of Canterbury Bankstown	Wednesday 13 December 2023	6 February 2024	Yes
Central Coast Council	Wednesday 13 December 2023	5 February 2024	Yes
Cumberland City Council	Friday 19 January 2024	15 February 2024	Yes
Georges River Council	Wednesday 13 December 2023	30 January 2024	Yes
Inner West Council	Wednesday 13 December 2023	6 February 2024	Yes
Ku-ring-gai Council	Wednesday 13 December 2023	24 January 2024	Yes
City of Lake Macquarie	Wednesday 13 December 2023	5 February 2024	Yes
City of Newcastle	Wednesday 13 December 2023	24 January 2024	Yes
Penrith City Council	Tuesday 19 December 2023	Not requested	Yes
City of Wollongong	Wednesday 13 December 2023	31 January 2024	Yes
Willoughby City Council	Thursday 14 March 2024	19 February 2024	No

## Consultation with peak bodies and non-government organisations

DPHI meets regularly with a range of stakeholder groups that represent the interests of their communities in monthly and quarterly forums.

Consultation with peak bodies on potential changes for enhanced transport-oriented development and other housing measures occurred from June 2023. Feedback from this consultation informed the development of the TOD Program. Targeted briefings were then held with planning, property development and community housing industry peaks and housing

advocacy organisations after the TOD Program was announced in December 2023. To date, the following organisations have been briefed on the TOD program:

- Australian Institute of Architects (AIA);
- Community Housing Industry Association (CHIA);
- Heritage Council of NSW;
- Housing Industry Association;
- Local Government NSW (LGNSW);
- Planning Institute of Australia (PIA);
- Property Council Australia;
- Shelter NSW;
- Urban Development Institute of Australia (UDIA); and
- Urban Taskforce.

DPHI's Planning System Stakeholder team coordinates monthly forums with stakeholders across varied sectors, including Community and Environment, the Development Peaks forum, and the Planning and Professional Peaks forum. To provide ongoing opportunities for input regarding the TOD Program, DPHI has scheduled engagements with various groups, including (but not limited to):

- Better Planning Network;
- Council General Manager Roundtable;
- Local Government NSW (LGNSW);
- NSW Aboriginal Land Council (NSWALC);
- Planning Institute of Australia (PIA);
- Property Council Australia;
- Urban Development Institute of Australia (UDIA);
- Urban Taskforce; and
- Sydney YIMBY.

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# TOD Program Governance and Communications

## DPHI ethical framework

DPHI has a robust ethical framework to ensure all legislative obligations are met and that staff engage in good governance practices. DPHI's Code of Ethics and Conduct (the Code) and Ethics Portal are the foundations of the framework and comply with the requirements of the Public Service Commissioner's Directions, under section 13 of the *Government Sector Employment Act 2013* (GSE Act). All DPHI staff are required to undertake mandatory training units on the Code and Cyber and Information Security.

To guard against the misuse of confidential and/or market sensitive information, the Code sets out the standards of behaviour expected of employees related to managing information, including:

- records management and privacy;
- making good decisions (including in higher-risk business areas);
- engaging with the community, including contact with third party lobbyists and managing complaints;
- speaking up and reporting matters; and
- consequences where there is a breach of the Code.

DPHI also has policies and procedures that support the Code, including by providing guidance on protecting confidential information. These include (but are not limited to):

- Misconduct Policy;
- Records and Information Management Policy;
- Fraud and Corruption Control Policy;
- Privacy Management Plan;
- Public Interest Disclosure Policy; and
- Risk Management Policy.

Employees are advised within the Code that breaches may result in a misconduct process in accordance with the GSE Act. If an employee is found to have engaged in misconduct, action that may be taken includes: caution or reprimand, assignment to another role, imposition of a fine, reduction in grade, or termination of employment. DPHI's Misconduct Policy outlines the minimum requirements for dealing with behaviour that is contrary to the Code and DPHI's other policies and procedures, including potential or substantiated misconduct.

DPHI has procedures in place to support employees who identify and report serious wrongdoing within the workplace. These procedures are governed by the *Public Interest Disclosures Act 2022*, which provides the framework for employees to report their concerns to their Manager, or directly to a dedicated team within DPHI who manage such reports. This can be done anonymously via a dedicated online portal, or directly to DPHI's Professional Standards Team.

## Conflict declaration requirements

All DPHI staff are responsible for identifying, assessing, declaring and managing any actual, reasonably perceived or potential conflicts of interest (Col) that arise in the course of their work. It is a mandatory requirement for all DPHI employees and others working at DPHI to complete a Col declaration annually, even if there is nothing to declare. As well as annual Col disclosure requirements, DPHI employees must submit additional Col declarations when a new conflict arises, whether by virtue of commencing a new role, function, project, procurement or grant, because private interests change, or because circumstances have led to the existence of a Col.

In addition to these requirements, senior executives must make a written declaration of private financial, business, personal or other interests or relationships that have the potential to influence, or could be perceived to influence, decisions made or advice given. These declarations must be made at least annually and as soon as practicable following any relevant change to their private interests, commencement in a new role, or the addition of new responsibilities to their remit.

Disclosure of property ownership by employees is not a departmental or legislative requirement, unless that ownership could lead to an actual, perceived or potential Col. Due to an employee's role or function within DPHI, property ownership may give rise to greater risk of an actual, perceived or potential Col. If the ownership of property has the potential to create a Col, employees are required to declare that property and ensure appropriate strategies are employed to manage the potential Col.

People leaders are responsible for promptly considering Col declarations from their teams and ensuring appropriate management arrangements are in place and are documented. DPHI staff and their managers are encouraged to actively monitor the management strategies applied to each Col declaration. Management arrangements should be subject to six-monthly reviews to ensure continued alignment between the management plan and the conflict it addresses.

The management strategy to deal with a Col depends on the nature of the conflict. Typically, it may include controls such as advising a manager of the conflict, recusing oneself from projects and/or decisions, and ensuring access to files is restricted in the case of a conflict.

DPHI's Governance division provides support, advice and training to staff on managing conflicts of interest and complying with reporting obligations.

## Probity settings for the TOD Program

Due to its sensitive nature, the TOD Program was developed under enhanced probity settings. In July 2023, a probity advisor (Procure Group) was engaged to advise on the establishment of the Transport Oriented Development Assessment Review Committee, including the TOD Program control document, terms of reference and Col. The probity advisor attended the Transport Oriented Development Assessment Review Committee meetings and advised committee members of their Col obligations. Members of the Transport Oriented Development Assessment Review Committee were asked to declare any conflicts of interest at the commencement of these meetings and requested to sign a separate confidentiality agreement prepared in consultation with the Program's probity advisor. These measures were implemented in addition to the respective Col policy implemented across each NSW Government agency.

The management of information on the TOD program was handled in accordance with the DPHI's Acceptable Use Policy. Information about specific locations under consideration for the TOD Program was stored on a DPHI records management system and accessible only to those staff in the division working directly on the TOD Program. As site selection was narrowed down, files were moved to more secure storage with access limited to only the TOD Program team. Information shared internal to government was on an 'as needed' basis only.

Targeted consultation with industry peaks and Local Government NSW was undertaken between June 2023 and November 2023 to inform program development. Meeting minutes and/or business contact forms were completed, and meeting records were kept. During these meetings no information was shared about the specific sites being recommended for the TOD program.

## Communications

In December 2023, DPHI were notified of the inadvertent publication of information online prior to the planned announcement of the TOD Program. This draft information was subsequently published in various media outlets.

Once this information was identified and DPHI was made aware of the inadvertent release of this information, the draft information was immediately removed and remediation action was taken to ensure processes were in place to prevent any reoccurrence.

Following this, the NSW Government brought forward the planned TOD Program announcement to minimise misinformation in the public domain. Detailed information about the

TOD Program is now available on DPHI's website here:

<https://www.planning.nsw.gov.au/policy-and-legislation/housing/transport-oriented-development-program>.

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## Heritage controls

Heritage includes places, objects and stories of value that give us a sense of our history, insight into how earlier generations lived and developed, and help us understand who we are. Areas and items of heritage value are cornerstones of neighbourhood character and are protected through state or local heritage listings. The TOD Program aims to balance the delivery of new development and housing against a variety of constraints, including heritage items and areas.

The TOD Program establishes a policy position to balance delivery of the development envisaged and conservation of heritage established by councils in their Local Environmental Plan (LEP) – because housing and heritage co-exists and should continue to do so. As part of the development and implementation of the TOD Program, DPHI will prepare a suite of supporting information and guidance documentation to assist councils and other stakeholders. DPHI will continue to consult with key stakeholders such as NSW Heritage and the Heritage Council of NSW to ensure assessment of new housing development under the TOD Program takes heritage values and local character into account. DPHI will also develop design guidelines to mitigate impacts to heritage areas.

## Existing Heritage Controls

State and local heritage items are managed by state or local government bodies respectively. Locally listed items are identified in Schedule 5 of a LEP and can include either specific items or heritage conservation areas. DAs that affect listed sites or areas trigger assessment under both Clause 5.10 (Heritage Protection) of a LEP and any Development Control Plan (DCP) for the site or area. These heritage protection controls will remain in place with the introduction of the TOD SEPP.

For Part 1 accelerated precincts, a site-specific assessment of heritage impacts will be undertaken, as relevant, to inform the state-led master planning and rezoning process. For Part 2 sites, the TOD SEPP will be layered on top of existing LEP and DCP controls within 400m of identified train stations to enable land uses including residential flat buildings and shop-top housing.

## Future Development

For all future development in TOD areas, merit-based assessment processes will continue to apply.

To support assessment, a proposal may be required to provide a statement of heritage impact (SOHI). [Guidelines for the preparation of a SOHI](#) were published by the former NSW Department of Planning and Environment in June 2023.

Importantly, the TOD Program also offers Council an ‘opt out’ provision of the proposed SEPP controls if they can deliver a new or alternative strategic vision and rezoning for an identified TOD area. Any council-led vision must be equal to, or exceed, that of the future SEPP controls, and must consider:

- use of planning controls and zones that reflect medium-high density potential of in these areas;
- residential supply pipeline into the future to make sure uplift in these areas is sustained; and
- long-term affordable housing provisions in perpetuity.

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## Impact on environment and amenity outcomes, including open space provision

The TOD Program aligns with the findings of the NSW Productivity Commission, which found that centrally located, infill development can:

- allow more people to live in areas with lower hazard risk (such as flooding, bushfire and heatwaves);
- reduce the length and number of daily commutes (and their associated carbon emissions); and
- help communities adapt to climate change.

In this manner, the TOD Program offers a variety of environmental and amenity benefits.

## TOD Accelerated Precincts

DPHI will lead the master planning of eight accelerated precincts through a state-led rezoning process. This process includes careful assessment of impacts to the local environment and amenity, including considerations such as (but not limited to): traffic generation, demand on services, biodiversity, changes to risk from hazards and availability of infrastructure.



Collectively, the assessment of these impacts will inform the most optimal land use outcome across each accelerated precinct, which will be realised through a rezoning process.

Once rezoned, future development proposals in accelerated precincts will undergo further detailed assessment through either a State Significant, Regional or Local Development Application process and will be required to demonstrate alignment with relevant LEP and SEPP controls.

To support the accelerated precincts, the NSW Government has committed \$520 million to provide community infrastructure, such as new roads or critical road upgrades, active transport links and high quality public open spaces, to support the delivery of homes in these precincts. Local councils will also be encouraged to invest money from local contributions to make further improvements to existing parks and open spaces.

## TOD SEPP

From April 2024, the new TOD SEPP will form an extra layer of planning control over existing provisions to boost housing supply in well-located areas. In addition to expanding residential uses in some land use zones, the TOD SEPP will also introduce development standards to ensure future developments for residential flat buildings and shop-top housing limit their environmental and amenity impacts. These standards include controls for building height and floor space ratio, and minimum active street frontage requirements.

The primary planning pathway for future development proposals in these areas will be through a council-led DA process. As such, local and state planning controls, development control plans and relevant guidelines from documents such as the [Apartment Design Guide](#) and [Greener Neighbourhoods guide](#) **will continue to apply**, all of which work in concert to minimise environmental and amenity impacts.

The measures in the TOD SEPP **only apply in the case that councils do not progress their own strategic planning for identified locations** that is equal to or greater than the proposed TOD SEPP provisions. The Minister for Planning and Public Spaces can make a SEPP in accordance with the requirements of the *Environmental Planning and Assessment Act 1979* (EP&A Act). Consultation requirements are at the discretion of the Minister, except as prescribed by the EP&A Act and Regulation. For example, there are specific consultation requirements in relation to threatened species. A targeted approach was undertaken to consultation in the preparation of the TOD SEPP.

DPHI has consulted with relevant environmental authorities during the initial preparation of the TOD SEPP.

DPHI, Transport and Infrastructure NSW are working with local councils to identify the potential transport infrastructure and service requirements to make these new housing areas

successful. There is a pre-existing prioritisation framework which guides investment in accessibility improvements across the network, under the Safe Accessible Transport program. The process has been externally audited and found to be robust.

The Safe Accessible Transport program aims to make public transport safe, inclusive and easy to use for all passengers, especially people with disability, older people, people with prams or luggage and others who may be experiencing mobility problems. The program will upgrade stations and wharves to achieve Disability Standards for Accessible Public Transport compliance, improving amenity, access and safety and acknowledging the important role these locations have to the communities they serve.

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## Ongoing engagement with the development of the TOD Program

It is important these policy reforms are applied in the right areas and support the development of more housing where people want to live. To achieve this goal, DPHI is actively engaging with a range of stakeholders including councils to ensure that the settings are right before finalising the reforms.

DPHI will continue to work closely with relevant councils and government agencies as decisions about planning controls are made and implemented, to ensure these changes achieve good place-based outcomes. Communities and stakeholders will be invited to have their say on the master plans and rezoning in the eight accelerated precincts being proposed in the second quarter of 2024.

### For general enquiries:

- DPHI is providing ongoing opportunities for councils, including their councillors, as well as development, planning, business, environment, community and professional peaks and advocacy groups, to ask questions and provide input via the [tod.program@planning.nsw.gov.au](mailto:tod.program@planning.nsw.gov.au) mailbox, staffed by relevant subject matter experts.
- In recognition of the wider public's interest in increasing the supply, affordability and liveability of housing, DPHI's communications team is currently developing further options for landowner and broader community engagement to help inform and raise awareness of the incoming policy changes and minimise the occurrence of misinformation and misrepresentation.
- DPHI's Planning Customer Service team is also available to assist the general public with their TOD-related questions. Contact the team on 1300 420 596 option 2 or email your enquiry to [information@planning.nsw.gov.au](mailto:information@planning.nsw.gov.au).

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## Conclusion

The housing challenge in New South Wales is acute – providing housing choices for the next generation of young people and key workers in well-located areas and close to public transport investments is a key priority of the NSW Government.

Both the TOD Program and DWLH Program reforms announced by the NSW Government will help meet the obligations that New South Wales has accepted under the Accord.

This submission outlines and confirms the objectives, criteria and probity standards used to carefully select recommended locations and sites to provide diverse housing choices.

Consultation with councils, stakeholders and the community has been, and will continue to be, comprehensive. Importantly, local councils, representing their local communities, will continue to exercise their planning authority.

The NSW Government considers that all levels of government, industry and the community share the responsibility to confront the housing challenges facing the state, providing housing choices for young people and key workers to live closer to where they work - but who, under business-as-usual policy and planning rules, are currently locked out of the home ownership dream.

# Appendices

## Appendix A – Glossary

Abbreviation	Meaning
Col	Conflicts of Interest
DA	Development application
DCCEEW	NSW Department of Climate Change, Energy, the Environment and Water
DCP	Development Control Plan
DPHI	NSW Department of Planning, Housing and Infrastructure
DWLH	Diverse and Well-Located Homes
E1	Local Centre Zone
E2	Commercial Centre Zone
LEP	Local Environmental Plan
LGA	Local Government Area
MU1	Mixed Use Zone
R1	General Residential Zone
R2	Low Density Residential Zone
R3	Medium Density Residential Zone
R4	High Density Residential Zone
SEPP	State Environmental Planning Policy
SOHI	Statement of Heritage Impact
SSD	State Significant Development
TCO	The Cabinet Office
TOD	Transport Oriented Development
Transport	Transport for NSW