

Submission
No 129

INQUIRY INTO DEVELOPMENT OF THE TRANSPORT ORIENTED DEVELOPMENT PROGRAM

Organisation: The Hills Shire Council

Date Received: 28 March 2024

Partially
Confidential



THE HILLS
Sydney's Garden Shire

THE HILLS SHIRE COUNCIL
3 Columbia Court, Norwest NSW 2153
PO Box 7064, Norwest 2153
ABN 25 034 494 656 | DX 9966 Norwest

28 March 2024

The Director
Inquiry into Development of the Transport Oriented Development Program
Parliament House
Macquarie Street
SYDNEY NSW 2000
Via email: portfoliocommittee7@parliament.nsw.gov.au

Our Ref: FP243, FP85

Dear Director,

Submission - Inquiry into the development of the Transport Oriented Development Program

Thank you for the opportunity to make a submission regarding the inquiry into the development of the Transport Oriented Development Program (the Inquiry). This submission has been prepared having regard to previous resolutions of the Hills Shire Council but has not itself been reported to or formally endorsed by the elected Council. The submission may be published on the Inquiry website as it is intended to provide input to the matters relating to the Terms of Reference.

It is acknowledged that our responses to your terms of reference questions may seem critical of the State Agencies however this is not Council's intent. Council, staff are of the opinion that the agencies are bound by a NSW Government cabinet decision and are undertaking their work accordingly. Given it is Council that is criticised by the public for over and inappropriate development, Council would value a true partnership with Government in accommodating housing growth and feels it has considerable runs on the board to be trusted to do so.

The submission does not seek to address all items listed within the terms of reference. Rather, it only addresses those where Council's experience and viewpoint may assist the Committee in their investigations.

Comments are provided on the following aspects of the terms of reference for consideration:

1(a)(i) The analysis, identification or selection undertaken by the Government, the Premier's Department, The Cabinet Office or the Department of Planning, Housing and Infrastructure (Department) into the eight Transport Oriented Development Program accelerated precincts.

- The TOD Program was announced by the Government on 7 December 2023. This announcement included Bella Vista and Kellyville (Metro Station precincts within The Hills Shire) as two of the eight Sydney transport hubs for accelerated rezoning. Prior to this announcement, neither Council or its officers were approached or invited to provide any input into the analysis, identification, or selection of these precincts. Council received an email from the Department the following day, 8 December 2023 (Attachment 1) and subsequently received a briefing from Department officers

on 15 December 2023, which generally reflected the material contained within the Government's announcement and documents released on 7 December 2023.

- Of relevance, the Bella Vista and Kellyville Precincts were rezoned in December 2017 as part of the Government's Planned Precinct Program. The Precincts were identified for around 10,400 new jobs and 8,400 new homes over 20 years of development. The Precincts were then subject to detailed master planning by Landcom (on behalf of Government) following which State Significant Development Applications were approved in December 2022. More recently a Development Control Plan and Contributions Plan have been adopted and put in place (with a Voluntary Planning Agreement well underway).
- Council was involved with State Government on the planning for these Precincts since 2014 and would have been extremely well placed to provide valuable input on the planning investigations completed to date as well as insight on the merits (or otherwise) of identifying these areas for further planning investigations and the capacity of local infrastructure.
- We are of the view that allowing the planned and approved development outcomes across large areas of vacant Government land to progress to their next steps (built form DAs and construction commencement) would do more to address housing delivery than further strategic investigations that may create uncertainty in the housing market.
- It is unclear to Council what level of analysis had been undertaken by Government into the Precincts identified within the TOD Program prior to it being announced in late 2023. Council and its officers were not involved in or consulted in any way as part of this process.
- Council officers have requested the relevant information and investigations which informed this decision of Government however have not been provided with any information or evidence of the Government's assessment or analysis.
- Councillors received an information briefing from officers of the Department of Planning, Housing and Infrastructure on 14 February 2024 with respect to the TOD Precincts. At the briefing, Council was advised that the yields will not be evenly distributed across the TOD Precincts, however no indication of yield expectations for each Precinct was provided.
- It is noted that the planning controls put in place by Government in 2017 for the TOD Precincts within The Hills, being Bella Vista and Kellyville, potentially already reflects the maximum capacity for development that can be achieved. Of relevance, following Landcom's extensive State Significant Development Application process, the development outcomes approved for the Government land were only able to achieve a dwelling yield of 5,700 dwellings, in comparison to the theoretical capacity of just over 7,000 dwellings which the planning controls (land use, FSR and height) would have permitted.
- Council officers have since been invited to participate in a Project Working Group with the Department. Some information has since been provided to the Department with respect to development activity, constraints and barriers to development on certain sites within the Precincts. Council officers understand the intent of correspondence and these Working Groups is focused on opportunities for additional housing and development, more so than the merits or initial rationale for selection of these precincts for further investigations. The first Working Group was held with Council officers in late March 2024.
- At the time of preparing this correspondence the consultation and collaboration with Council is minimal and does not indicate any real opportunity for Council to influence the outcome.

1(c) *the development of the Transport Oriented Development Program policy approach by the Government.*

And

1(d) Consultations undertaken with councils, joint regional organisations and communities during the preparation of the Transport Oriented Development Program State Environmental Planning Policy.

- Neither Council or its officers had any knowledge of, or opportunities to input into the development of the TOD program policy approach by the Government or the selection process for Precincts (either Tier 1 or Tier 2).
- Neither Council or its officers were consulted with respect to the preparation of the Transit Oriented Development Program SEPP (it is assumed that this refers to the SEPP which will apply to Tier 2 Precincts and it is noted that there are no Tier 2 Precincts identified within The Hills).

1(f) Information control protocols relating to the Transport Oriented Development Program policy

And

1(h) The release of information prior to the official publication of the Transport Oriented Development Program policy.

And

1(q) The adequacy of measures to deter and punish the misuse of confidential market sensitive government information and the future processes that should be put in place.

- Neither Council or its officers received any information relating to the Transit Oriented Development Program, prior to the publication of the Policy in December 2023, other than the following instances (a number of which were only apparent in hindsight, following publication of the Policy in December 2023):
 - Council prepared draft Precinct Plans for Norwest, Castle Hill and Rouse Hill Strategic Centres (each of which contain Metro stations) and publicly exhibited these draft Plans in May-July 2023. In response to the exhibition period, in July/August 2023, Council received two (2) written submissions from a planning consultant which made reference to an upcoming 'TOD SEPP'. The reference to this was seemingly intended to validate changes that the consultant was requesting to Council's draft Precinct Plans, as they related to landholdings of their clients within the Norwest and Castle Hill Precincts. This reference to the 'TOD SEPP' within the submissions was approximately 5 months prior to any formal announcement by the State Government and was confounding to Council officers at that time (absent of the context which is now available on reflection following the Government's announcement in December 2023). A copy of these submissions are provided as Attachment 2.
 - On 1 November 2023, a Council Officer received a phone call from an officer at the Department of Planning and Environment, enquiring about the status of the voluntary planning agreements for the Bella Vista and Kellyville Station Precincts that were being negotiated between Council and Landcom. During this phone call, the Department Officer made reference to 'Seven Precincts', however, when the Council officer questioned the Department officer with respect to this reference, and it became apparent that Council was not aware of the 'Seven Precincts', the Department officer then was reticent to advise further and the phone call concluded promptly.
 - Council Officers saw an article that was published in the Sydney Morning Herald on 31 October 2023, titled "*Sydney poised for priority zones to solve housing crisis*". Various other articles were then published in the media in the subsequent days and weeks. Council was

generally obtaining its information with respect to the reforms through media announcements and articles, similar to the general public.

1(j) *The enabling infrastructure capacity for every station selected or considered as part of the Transport Oriented Development Program.*

- The proposed reforms will generate significant additional demand for local and state infrastructure, which has not been planned for under the existing contributions framework within The Hills (or the State more broadly). Council has previously raised concerns with Government that there is no evidence of calculation or consideration of the potential cumulative uplift that concurrent housing reforms would permit at either local, regional or state level or any analysis of whether the areas impacted by reforms have sufficient capacity in the respective infrastructure networks to absorb this growth.
- The Hills Council already has zoned capacity for around 50,000 additional dwellings, that has been meticulously planned over the years to ensure that it can be appropriately accommodated and serviced by infrastructure. It has been extremely challenging to identify locations and funding for the extent of infrastructure required to service this existing zoned capacity for growth.
- With respect to the TOD Program, as noted in response to item 1(a)(i) of the Inquiry, Council was not consulted with respect to the identification of the Bella Vista and Kellyville Station Precincts as TOD Tier 1 Precincts or the infrastructure capacity to accommodate further growth. These Precincts were rezoned by the State Government in 2017 as part of the Planned Precinct Program, with a view to facilitating the maximum density possible around the station, having regard to detailed planning investigations and infrastructure analysis. This process amended the planning controls to facilitate up to 8,400 new homes over a 20 year period cumulatively within the Bella Vista and Kellyville Station Precincts. Landcom has since received Concept State Significant Development Approval which will now enable the divestment and development of this area. A number of other non-Government sites within the Precincts have also progressed to the development application stage.
- Importantly, even though the planning controls for Government land subject to the State Significant Development approval would theoretically allow for over 7,000 dwellings to be achieved on this land, through the detailed design and SSD Application process, it was evident that the planning and infrastructure constraints impacting the land and locality further limit the potential growth outcomes, with Landcom only able to achieve a yield of 5,700 dwellings on this land (approximately 1,300 dwellings less than the theoretical maximum capacity of the planning controls). There is no evidence that the Department was either aware of this underachievement of yield or had regard to the factors which constrained Landcom's inability to achieve the maximum theoretical yield potential on this land, when identifying the Precincts as an area where even more growth could be accommodated.
- Since that time, Council has prepared a Section 7.11 Contributions Plan (Contributions Plan No. 18 – Bella Vista and Kellyville Station Precincts) and a site-specific Development Control Plan that came into force in 2022 and 2023 respectively. The contributions plan includes a detailed list of local infrastructure items that are required to service the uplift permitted by the planning controls put in place by Government in 2017. Additionally, a Planning Agreement on behalf of Government for Government-owned land in these Precincts is soon to be placed on public exhibition, which would result in future developers of the Government land delivering the majority of infrastructure identified within the Contributions Plan. Both the Contributions Plan and Planning Agreement relate to the infrastructure necessary to service the yields identified in the Planned Precinct Program and State Significant Development Applications (which were approved in December 2022), without any spare capacity.
- It is unclear what local or regional infrastructure mechanisms are proposed as part of the TOD Program to accommodate any additional growth over and above the planned capacity, or even if the capacity for infrastructure (or ability to provide new infrastructure not currently planned) was

considered when identifying these areas. There is reference to potential funding to be shared across the eight Tier 1 Precincts (\$520 million), however no justification has been provided for how this particular funding amount was determined or whether this will be sufficient to fund the infrastructure that might be necessary to service the additional yield being contemplated within the TOD Tier 1 Precincts. In terms of infrastructure, \$520 million is not a lot of funding and Councils own infrastructure plans are much higher than that alone.

- Regional Traffic Modelling is nearing completion for the Castle Hill and Norwest Strategic Centres (which includes the Bella Vista Station Precinct, but *not* the Kellyville Precinct). The modelling is required to assess capacity for growth and to identify required upgrades to the regional road network. The Modelling is being prepared by Cardno and is being led by State Government (specifically Transport for NSW). The preliminary findings of this modelling have identified that if existing policy settings are retained, the expected growth would result in unacceptable impacts on the network, with most intersections on the regional road network failing between both the AM and PM Peak Hours by 2036. The assessment is expected to be finalised over the coming months. The growth scenarios used for this modelling did not anticipate the yields envisaged as part of the TOD Program. The modelling also does not include the Kellyville Precinct. It is unclear whether the Department of Planning and Environment had regard to the draft findings of this modelling or limitations when identifying the Bella Vista and Kellyville Precinct as Tier 1 TOD Precincts.
- It is also unclear if the Department has considered local infrastructure or other regional infrastructure (for example schools) as part of the TOD Program. Many schools in The Hills and surrounding areas are already at capacity and struggling to meet the needs of existing residents, let alone any additional growth. Certainty is needed regarding the location, timing and funding of future schools. When master planning an area it is critical that consideration be given to the location of schools, as it influences the urban structure of greenfield and urban renewal precincts and the timing of delivery allows families to make the best choice for themselves in terms of education when deciding where to settle. This is an ongoing issue across the Shire in relation to areas of planned growth (and completed development) prior to any additional yield resulting from concurrent housing reforms are accounted for. It is unclear whether this has been considered as part of the TOD Program.

1(k) *The impact on localised environment and amenity values caused by the Transport Oriented Development Program.*

- It is recognised that higher density outcomes are expected around Station Precincts (such as Bella Vista and Kellyville) within The Hills Shire, noting that these are areas with high amenity, access to services and transport connections. However, it remains important that future growth is sensibly planned having regard for a variety of factors, including local character and amenity. Establishing appropriate building height and density controls are a key part in managing any potential impacts on local character and amenity.
- The Bella Vista and Kellyville Precincts were considered and rezoned by the State Government in 2017 as the result of comprehensive analysis and investigations over a number of years as part of the Planned Precinct Program. This process was conducted by the Department of Planning and Environment and took into account analysis of infrastructure limitations of the locality (local and state, including the traffic network) and potential built form outcomes that would enable satisfactory urban design, amenity and character outcomes. These lengthy investigations culminated in the planning controls put in place by Department of Planning and Environment in 2017. Subsequently, through the State Significant Development Application for this land, Landcom was unable to achieve the maximum permitted development yield for this land, presumably due to more detailed consideration of these infrastructure and built form limitations as part of the detailed design phase.
- Given this context, it is unclear how further increases in development yield within these Precincts, beyond the uplift which is already permitted, would be appropriately managed in terms of amenity

and character. It is also unclear as to what cumulative impacts on amenity and character could occur in tandem with other reforms. For example, the social and affordable housing reforms (density bonus) finalised in December 2023 would already now facilitate an additional 30% housing yield bonus over and above the controls put in place in 2017, and over and above the controls that may be put in place through the TOD Program.

1(o) *The impacts of the proposed Diverse and Well-Located Homes process and program.*

- The Explanation of Intended Effect -Changes to Create Low and Mid Rise Housing (the EIE) does not provide any clarity on the relationship between these reforms and the TOD Program. It indicated both series of reforms would work in tandem *‘to achieve good urban form through appropriate density around centres’*, indicating the reforms proposed under the TOD Program are generally more permissive than the low and mid-rise reforms.
- At the time of considering the EIE no definitive detail has been provided to Council on the specific locations and the extent of uplift intended for the Kellyville and Bella Vista Precincts under the TOD Program and whether this would ‘turn off’ further consideration under the Low and Mid Rise Housing reforms. The potential scope and impact of the combined housing reforms is significant and should not proceed without evidence of rigorous assessment, analysis of cumulative impacts and working with Councils to determine a sensible approach to providing more housing supported by suitable infrastructure. At this time and despite previous requests, Council still has no evidence that Government has considered the potential cumulative impacts or development outcomes that may arise from these concurrent reforms in either a local or regional context.
- Council considered a report on the proposed Low and Mid-Rise Housing Reforms in February 2024 and resolved as follows:
 1. *Council endorse the content of the draft submission and supporting mapping recommendations in response to the exhibition of the Explanation of Intended Effect for lodgement to the Department of Planning, Housing and Infrastructure, together with a copy of the Report.*
 2. *Council requests that the Department of Planning, Housing & Infrastructure provide Council with an exemption to the application of this SEPP as the Hills Shire Council has already zoned and planned for 50,000 dwellings through the Shire and Council is meeting those targets.*
 3. *The Department of Planning, Housing and Infrastructure be requested to consult with Council about revised housing targets before rezoning any further land to avoid unintended consequences, land speculation and community dissatisfaction.*
- A copy of the submission is provided as Attachment 3, which comprehensively considers the impacts of the proposed reforms. The submission, objects to the progression of the reforms in the first instance. It outlines Council’s well-established approach to housing supply and the priorities on which it is founded and flags matters other than the planning system that could be better addressed in dealing with the housing crisis. However, noting that the Government and Department’s indications that the reforms will be progressing in some form, the submission also provides some recommendations for consideration.

For many years, The Hills has significantly contributed to Sydney’s housing growth and has the demonstrated experience and expertise needed to help formulate workable solutions to the current housing crisis, put in place appropriate planning controls and facilitate the delivery of housing by the market. At the time of drafting this submission, the revised housing targets which Government is working towards have not been shared with Council.

The current approach of State Government to housing reforms is concerning. Council does not have the benefit of any evidence to demonstrate any level of rigour, planning investigation or evidence

base similar to what would typically be expected and required in association with proposals to rezone land or increase density (even relatively negligible proposals on individual sites, let alone significant concurrent proposals of this magnitude and potential impact across a region). The Government's approach has not sought to involve or draw on the vast experience and local knowledge of Councils.

Council trusts this information is of assistance to the Inquiry. Should you wish to discuss matters relating to this submission, please contact me on .

Yours faithfully,

GENERAL MANAGER

ATTACHMENTS:

1. Email Advice Received by Council on TOD Program December 2023
2. Submissions Received by Council Referencing TOD SEPP July 2023
3. Council Submission on EIE For Low and Mid Rise Housing Reforms February 2024