

**Submission  
No 158**

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

**Organisation:** Planning Institute of Australia

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## PIA NSW SUBMISSION

### INQUIRY INTO THE DEVELOPMENT OF THE TRANSPORT ORIENTED DEVELOPMENT (TOD) PROGRAM

#### OVERVIEW

As per PIA's Position Statement [The Role of Planning in Housing](#), we support the intent of the TOD Program to increase housing density in places well served by public transport. We support a transit oriented development approach that promotes more inclusive renewal, and fulfils the spatial outcomes of an adopted regional strategy.

The planning system primarily controls the location, ultimate capacity and scale of development, not speed. While the TOD Program can enable the right housing in the right place, it alone cannot get more housing constructed.<sup>1</sup> Ensuring that the built forms and neighbourhoods meet long-term community needs is critical for this policy to be successful.

The TOD Program should be complemented by initiatives that promote sustainable design and amenity, as well as the delivery of affordable housing and supporting infrastructure. Fundamentally, the TOD Program should be led by sound strategic plans – with published supporting evidence to explain why planning decisions are made.

Merely zoning land for higher density will not create a successful TOD. It is also about place making: mixed use, walkable, bike friendly, closely integrated with mass transit by clustering jobs, housing, services, and amenities around public transport stations. This is why PIA NSW has proposed integrating a master planning element into the TOD SEPP, which removes a 'one size fits all' rezoning approach where this work can be progressed rapidly.

There needs to be public investment in place making and the necessary infrastructure that supports a vibrant community – where there needs to be higher standard public domain and upgraded public facilities and services. There is currently little detail about how this will be funded via the TOD Program. Current developer contribution schemes under EP&A Act are inadequate. For example, you can collect money for the land to build a library but not the library itself, due to the essential services list.

Where TOD controls apply to a heritage conservation area or a heritage item, the weight applied to the different and conflicting objectives of planning instruments should be clear.

This submission offers twelve recommendations to ensure a positive long-term legacy from the TOD Program.

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<sup>1</sup> PIA 2023, ['Planning for the Housing We Need'](#)

## **STRATEGIC PLANNING**

### **What is strategic planning?**

Strategic planning is the *management system for urban growth* – the process by which we test scenarios and integrate decisions about transport, land use and other infrastructure.

The strategic planning process is used to build consensus and lead discussion between stakeholders, including affected communities. It also creates certainty for investment decisions by both the public and private sectors. A strategy-led planning system remains the best way to manage risks and coordinate long-term urban growth, and should not be neglected.

### **Integration with the existing strategic planning framework**

While the majority of TOD precincts are located in strategic centres identified in the prevailing District Plans – the strategic context could be improved by first publishing the next iteration of city plans, including the outcomes sought for strategic centres and relevant targets for housing and employment.

Areas where the TOD Program will apply have a robust framework of strategic plans cascading from regional to local levels. The TOD Program should be integrated within this framework to ensure there is a coherent vision for the next 10, 20 and 30+ years of urban development.

Smooth integration with the strategic planning framework would signal what type of development is intended where, and how individual policies such as the TOD Program serve targets for housing and employment capacity. This allows planning efforts to be organised vertically, between levels of government, and horizontally, between State agencies e.g. Transport for NSW.

Recommendation:

1. Identify stations included in the TOD Program in updated Regional and City plans, and adjust housing capacity targets to allow local planning to continue.

### **Accommodation / exemption of local masterplans**

Many councils are already preparing master plans in TOD precincts. PIA supports the proposed approach of allowing councils to continue their own masterplanning around each of the 31 stations included in the TOD SEPP (provided they meet the new baseline for density).

Local master planning would ensure more effective use of land and better recognition of local conditions. The SEPP should be suspended where adequate master planning exists or is proposed. There is a real risk that individual site conformance with SEPP controls would actually lead to lower density and yield, less coordinated growth and poorer design than via a coordinated precinct plan. This recognises the skills within local councils and their knowledge of local places.

To allow room for local planning to continue, it should be clear how masterplans could qualify a precinct for exemption from the TOD SEPP. Housing capacity across an entire precinct would ideally be taken into account. The former SEPP 5 – Housing for Older People or People with a Disability – provides a precedent for this type of approach, with councils offered an exemption from the SEPP if its objectives were met within their local plans.<sup>2</sup>

Recommendation:

2. Specify how local plans could exempt a precinct from the TOD SEPP, with an approach that allows local masterplanning to continue, and accounts for housing capacity across the entire precinct.

## **COORDINATION WITH OTHER PLANNING INSTRUMENTS**

Another long-sought goal of changes to the NSW Planning System is to reduce the number and complexity of planning instruments which can apply to a single site. The proposed TOD Program will overlap with other ongoing reform initiatives and existing local plans, potentially complicating the system further.

Clear information must be provided to allow easy interpretation of new and existing controls by both applicants and assessors. This should include clearer guidance about the weight placed on merit-based controls in LEPs and DCPs, and resolution of inconsistencies with the proposed low-and mid-rise changes. This should include guidance on assessing proposals which fall under the recently announced Pattern Book, which has yet to be released.

A lack of clearer information on these issues will reduce both investment certainty and regulatory efficiency.

Recommendations:

3. Update the NSW Planning Portal with mapping of the TOD Program, proposed low-and mid-rise changes, and existing planning instruments.
4. Clarify the weight placed on existing merit-based controls in LEPs and DCPs, and resolution of inconsistencies with other SEPPs. This should allow the greatest possible application of local controls with minimal administrative burden.
5. Introduce the Pattern Book in tandem with the TOD Program, and provide clear advice on its application.

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<sup>2</sup> Allen, L 2000, '[State alters housing policy to stop abuse](#)'

## **PLANNING CONTROLS**

Effective baseline standards are crucial if the outcomes of the TOD Program are to be accepted by the community. PIA NSW has reviewed the proposed changes to planning controls under the TOD Program, and offers practical suggestions below.

### **Site coverage**

The proposed TOD SEPP controls for maximum building height and floor space ratio (FSR) of 21m and 3:1 respectively are likely to encourage high site coverage, possibly causing a loss of tree canopy and landscaping. This would worsen the urban heat island effect and reduce overall amenity – important factors where people are expected to walk to transit stations.

The risk of facilitating high site coverage is worsened by the lack of a minimum lot size. Applicants will expect to achieve the allowable FSR even on small sites, ruling out the possibility of substantial deep soil areas. Planning controls should set a baseline for natural amenity in line with community expectations.

Recommendations:

6. Include statutory controls to support Apartment Design Guide (ADG) criteria for tree canopy and deep soil.
7. Reduce the proposed FSR controls in the TOD SEPP to allow for smaller building footprints.
8. Include a minimum lot size to encourage site amalgamation, allowing for the development of substantial LSA.

### **Affordable housing**

Affordable housing is vital for any transit-oriented development policy. It provides housing options for low-moderate income households, who are an essential part of the workforce, in accessible locations. PIA NSW strongly supports a mandatory minimum contribution for affordable housing as part of the TOD Program.

Redevelopment of aged housing stock in established suburbs will not directly improve affordability for low-moderate income households, especially in the short term, unless a significant contribution is made for affordable housing.

The proposed affordable housing contributions of up to 15% in the Tier 1 precincts and minimum 2% in TOD SEPP precincts are both positive moves. However, there is currently a lack of information about how the contribution schemes will be designed and implemented to maximise the yield of affordable housing within TOD precincts. Implementation, management and procurement are crucial factors in a successful affordable housing scheme and should be considered in advance of upzoning.

For example, the City West Affordable Housing Scheme in Pyrmont-Ultimo was established in 1994, with a modest but broad-based contribution rate, and a direct flow of contributions to

its namesake CHP, which is assisted to procure affordable housing in the local area. It is arguably Australia's most effective affordable housing scheme, yielding nearly 900 units in Inner Sydney as of 2022.<sup>3</sup>

Recommendations:

9. Design and implement affordable housing schemes alongside upzoning in TOD precincts, including via the TOD SEPP.
10. Consider the management of affordable housing contributions alongside the contribution rate and in advance of implementation, to allow efficient procurement of affordable housing within TOD precincts.
11. Introduce consistent contributions for affordable housing across TOD precincts and areas where mid-rise housing of similar density will be permitted under the proposed low-and mid-rise changes. Inconsistencies between these areas may discourage uptake of TOD precincts.

### **Apartment mix**

In order to receive finance, developments must satisfy a principle of 'market acceptance', based on a comparison of the proposal with similar developments recently sold in the area.<sup>4</sup> This encourages replication of one and two bedroom apartments without regard for wider community needs. Planning controls should ensure that a variety of household sizes and structures can be accommodated in TOD precincts, including extended or multi-generational families.

Recommendation:

12. Include controls for a minimum proportion of studio and three bedroom apartments in-line with community needs.

### **Car parking**

PIA NSW supports the proposed approach of setting maximum parking rates in TOD precincts, supported with improved active transport options and shared vehicle parking requirements.

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<sup>3</sup> Kelly, M 2022, '[New financing freedoms a 'game changer' for City West Housing](#)'

<sup>4</sup> Sharam, A, Bryant, L & Alves T 2015, '[Identifying the financial barriers to deliberative, affordable apartment development in Australia](#)'.

## **CONCLUSION**

Thank you for inviting PIA NSW to comment on the proposed TOD Program. For any questions or further information, please contact us via

Yours sincerely,

Sue Weatherley  
PIA NSW President