

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

**Name:** Name suppressed

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28 March 2024

Ms Sue Higginson, MLC

Chair

Upper House Inquiry into the Development of the Transport Oriented Development Program

Via Parliament of NSW Web Portal

Dear Ms Higginson

Please accept this as a submission to the Legislative Council Inquiry into the Development of the Transport Oriented Development Program (TOD Program).

The Inquiry provides a much-needed investigation into the NSW Government's formulation and proposed implementation of the TOD Program, although it is alarming that the Program has been developed and could be introduced as soon as 1 April 2024, shortly after the close of submissions to your Inquiry, without the benefit of any public consultation process and well before the Inquiry is expected to provide its report to Parliament.

The TOD Program, which will take the form of a State Environmental Planning Policy (SEPP), should not be introduced until after your report has been considered. In addition, a separate formal process inviting public submissions on the policy should also be initiated.

The Program is an extremely poor response to the desirable goal of providing more affordable housing. The NSW Government needs to pause and extensively revise the proposed TOD Program based on the results of a properly conducted and publicly accessible process incorporating the investigation and analysis of the social and environmental opportunities and constraints of increasing housing densities in key locations throughout the Sydney Metropolitan Area.

The TOD Program will have an extremely detrimental physical, social and environmental impact on specifically targeted precincts around stations and commercial centres and has been put forward by the government without even the façade of pretending to provide background information or justification for its broadbrush and poorly conceived proposals that will transform the urban form and environment in these localities through significantly increased densities.

The TOD Program will ultimately have the effect of destroying the urban form, character, environmental and residential amenity of large parts of the Sydney Metropolitan Area (SMA) and potentially aggravate the range of liveability problems already caused by various social and physical infrastructure deficiencies throughout the SMA. Specific failings with the TOD Program include:



**1. The Program fails to identify, let alone assess, the impacts on the prevailing natural environment associated with wholesale redevelopment of established urban areas.**

The Program will result in the destruction of thousands of mature trees and gardens, with resultant unacceptable adverse impacts on wildlife and an increase in heat island effects throughout Sydney. In the Ku-ring-gai LGA the current tree canopy coverage is in the order of 30%. The TOD Program could result in canopy coverage of as little as 7% within affected precincts.

Such significant potential reduction in canopies is not consistent with liveability and sustainability (for both humans or wildlife) and it defies belief that any responsible or environmentally aware government (and its public sector agencies) could promulgate housing policies that could result in such outcomes, particularly now that the need to avoid further global warming has gained wide community acceptance.

**2. The Program indiscriminately applies to heritage conservation areas (HCAs) throughout Sydney.**

Due to the way in which Sydney developed in concert with the railway lines and nascent commercial centres, numerous HCAs are located within 400-800 metres of railway stations. If the take up rate is what the government is hoping for, the Program will potentially destroy the significance of many HCAs in Sydney and again it is hard to believe that any responsible government/public sector has produced policies that could facilitate such an outcome.

Heritage controls, including HCAs, were introduced more than four decades ago by the Wran Government in the Heritage Act, 1977. However, the government seeks to effectively nullify them through the TOD Program without even asking for submissions from the public.

The government's blanket approach and one-size-fits-all mind-set will needlessly destroy many valued heritage conservation areas that constitute some of the most beautiful and irreplaceable parts of Sydney.

Public statements by the Minister for Planning that *"all other planning controls in LEPs and DCPs such as heritage and environmental considerations will apply to the extent that they are not inconsistent with these new (non-refusal) standards"* is disingenuous at best and outright cynically deceptive at worst.

**3. The Program does not consider the specific local social and physical infrastructure conditions and/or limitations that apply to the precincts where it will have effect.**

The Program is not supported by any evidence that the precincts affected have adequate existing infrastructure (road capacity, open space adequacy, schools,



health facilities etc) to cope with significantly increased housing densities. Specifically, no substantive information has been provided in relation to the following:

- i. The adequacy of physical and human services to cater for a significant increase in the population of the targeted precincts.
- ii. How any identified deficiencies in physical and social services will be addressed.
- iii. How any necessary additions or improvements to services will be funded and in what time frames.

The proposed implementation of the Program with no supporting evidence is completely unacceptable and inconsistent with long established town planning principles and practices.

As a result, nobody has been provided with the opportunity to determine whether all the relevant environmental and infrastructure considerations have been properly considered. This would normally be something that local councils consider through their strategic and master planning frameworks in advance of any upzoning. Judging from the Premier's and other government ministers' publicised responses to concerns raised by councils on these issues, meaningful inputs from councils in advance of implementing the Program appear to have fallen on deaf ears.

**4. The intention to implement the TOD Program without formal consultation with the community is a cynical ploy to avoid proper scrutiny and is inconsistent with principles outlined in the National Planning Reform Blueprint and the objects of the EPA Act.**

It has long been public sector practice not to announce major policy changes or projects before the biggest holiday period of the year. Many people are away over Christmas and/or through January and using this time of year to introduce far-reaching changes to the planning system reduces the time for public consideration and input and is completely at odds with accepted practices.

Specific recognition of the need to consult in relation to proposed initiatives relating to affordable housing is in fact outlined in the National Planning Reform Blueprint as follows:

- Improving community consultation processes.
- Resourcing this work with professionals, including planners, in local government.

There is little evidence in the so-called consultation process that has been implemented to date (including the truncated consultation process for the low and mid-rise housing SEPP) that the NSW Government has taken these aspects of the Blueprint seriously.



Furthermore, the consultation process so far is completely inconsistent with a key objective of the Environmental Planning and Assessment Act, which is “*to provide increased opportunity for community participation in environmental planning and assessment*”.

It is also worth noting that the Committee for Sydney, an assertive proponent of increased densities and growth around railway stations has conceded that stakeholders and the community should be engaged with in a genuine way, and has suggested a considerably more reasoned approach to the issue of increased densities around local rail stations (the subject of the TOD Program) including co-ordination between councils and state agencies in a collaborative process, whereby the council can be delegated the role of managing the rezoning and development approval processes, which will ensure ownership and proper consideration of local issues (*Rethinking Station Precincts, April 2022*).

## **Conclusion**

In summary, the positives that the National Planning Reform Blueprint could potentially have for an increase in supply of affordable and social housing are currently being swamped in NSW by the reckless and unprofessional approach that has been adopted to both consultation and proposed method of implementation by the NSW Government and its public sector agencies (particularly the Department of Planning, Housing and Infrastructure).

Whereas the National Planning Reform Blueprint seeks to create an environment where all levels of government are finally concentrating on the need to promote not just affordable housing opportunities but social housing opportunities as well, the approach of the NSW government so far has been to effectively throw out decades of planning, environment and heritage safeguards without any apparent reference or consideration for the likely impacts relating to loss of heritage, loss of tree canopy, loss of wildlife and potential overload on physical and social infrastructure. This is completely at odds with an informed and rational approach to urban planning and is totally inconsistent with almost all the objectives of the EPA Act.

If the goal of more affordable and social housing is to be achieved, then the NSW government needs to withdraw its suite of indiscriminate and broadbrush policies encapsulated in both the “Changes to create low and mid-rise housing” SEPP and the “Transport Orientated Development Program” SEPP and start again utilising a proper strategic and master planning approach working closely with councils, professional organisations and incorporating proper public participation.

As it currently stands, the government’s suite of policies will sideline councils and the public from meaningful participation in the ongoing conservation, design and development of our city, abrogate its own responsibilities and hand over the state’s responsibilities for future city form and development to the development industry.

The track record of developers in Sydney is an unenviable one and no matter what concessions they receive they always want more (reference the constant whinging, even in the light of the TOD and low and mid-rise housing SEPP, by the developer group Urban Taskforce). These proposed policies will be akin to handing over the



keys of the blood bank to Dracula. Developers' demands will never be satisfied, and it is the public, including future generations, who will pay the price through a diminished quality of life unless the current TOD Program SEPP (and the associated low and mid-rise housing SEPP) are withdrawn and reworked.

Yours sincerely