

Submission
No 201

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

Name: Name suppressed

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Ms Sue Higginson, MLC
Chair
Upper House Inquiry into the Development of the
Transport Oriented Development Program

Via Parliament of NSW webportal

Dear Ms Higginson

Please accept this as a submission to the Inquiry into the Development of the Transport Oriented Development Program.

While the Premier's desire to increase housing supply, particularly affordable housing, is understandable, he is going about it the wrong way. Regrettably, the policy changes will not provide the required level of affordable housing. However, they will cause serious harm to many of Sydney's heritage items and heritage conservation areas if they are implemented.

It is alarming that the TOD policy could be introduced as soon as 1 April, shortly after the close of submissions to your Inquiry, and well before the Inquiry is expected to provide its report to Parliament. The TOD policy, which will take the form of a State Environmental Planning Policy (SEPP), should not be introduced until after your report has been considered. Public submissions on the policy should also be sought and considered.

Premier Minns must pause and extensively revise and limit the proposed TOD policy, which will otherwise irreparably damage Sydney's heritage. The low to mid-rise housing policy should similarly be paused and amended. Once the TOD SEPP takes effect, there will be no going back, and precious heritage items and conservation areas will be lost forever.

I agree that NSW and Sydney are experiencing serious housing issues, and more housing is needed, including medium and higher density housing and affordable housing. These issues are not new, and they will not be solved by simply giving developers free rein to build higher density housing in localities that are within arbitrary distances of nominated rail stations.

Specifically, I would like to draw your Inquiry's attention to the following concerns:

- 1. The TOD policy is poorly thought out and little to no justification has been provided to support it.**

The State government has not provided any meaningful information about the environmental impacts of the TOD policy (and the associated mid to low-rise housing policy) nor has any information been provided about:

- i. The adequacy of physical and human services to cater for a significant increase in the population of the targeted areas.
- 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.

Both policy changes were put forward with no substantial supporting environmental assessments, transport assessments, heritage assessments and consideration of the impacts they will have on physical and social infrastructure. I have seen development applications for relatively minor house renovations that provide more extensive and detailed supporting material and justifications than have been provided in support of the proposed housing policy changes, particularly the TOD policy.

This lack of justification is unprecedented and bewildering. Apparently, studies have been done to show that water, sewerage and drainage infrastructure can cope with the proposed changes, but the government has declined to make them publicly available. What is the government afraid of and what is it trying to hide? If supporting material exists, then it must be released, and public comments sought.

2. There is no mandate from the electorate for the TOD policy (and the associated low to mid-rise housing policy). Both are rushed through without following proper process, particularly the TOD policy.

The housing policy proposals were introduced shortly before Christmas and submissions on the low to mid-rise portion of the package closed in late February. Public comments were not sought on the TOD program at all. I cannot recall any other proposed SEPP that has not undergone a public consultation process.

The proposals have been described by some commentators as they largest rezonings ever seen in NSW and I agree with this view. The Premier did not mention either of these initiatives in his campaign for office prior to the 2023 NSW election. Therefore, he has no mandate so pursue such far-reaching and potentially damaging changes without public consultation on both policies in their entirety. This abuse of process is as breathtaking as it is woeful.

3. The TOD policy favours the interests of the development industry to the detriment of the views of local Councils and communities.

The TOD policy is contrary to long established planning practices. It will give developers the power to maximise their profits and replace beautiful areas of

heritage value with multi-unit dwellings that will have no space for deep soil planting, no setbacks, and will provide poor amenity for residents and neighbours alike.

I understand the Government Architect is preparing “pattern books” of designs for residential apartments to guide development. However, developers will either ignore the preferred designs, or, worse, obtain approvals based on a pattern book design and then return to seek variations that will result in more units, more storeys, fewer affordable units, and use of cheaper materials and shoddier building practices, all to improve their bottom line. Developers will argue that financial circumstances have changed, initial approvals are no longer financially feasible, and therefore cannot be delivered.

I draw your attention to some of Sydney’s troubled higher density housing developments such as Mascot Towers, Opal Towers and the Lachlan’s Line developments. These woeful outcomes demonstrate that developers only care about maximising profits. Creating urban environments that are fit for living, addressing environmental considerations, or retaining precious heritage areas are never at the top of developers’ priority lists. The thousands of ugly multi-unit flat buildings all over Sydney attest to this.

I can’t help wondering why developers appear to be more influential than ever before. Of course, they have always had excellent access to politicians of all persuasions and to senior public servants, but their influence seems to have increased considerably. The government certainly seems to be listening more to what developers want than to the representations made by many local Councils, town planners, heritage experts, environmentalists, academics or citizens. I don’t understand why this seems to be the case, but it is most disheartening and distressing.

4. The preparation of the TOD policy ignores high levels of community concern.

I understand some 8,000 submissions were received by the Department of Planning, Housing and Infrastructure to the low to mid-rise housing policy. However, details of the submissions have yet to be published. Eight thousand is a very large number and it is safe to assume that the overwhelming majority of these submissions did not support the policy, or the related TOD policy. However, the Premier and Planning Minister appear unresponsive and undaunted.

5. The TOD policy is overly complex, poorly explained and poorly understood by the community.

Many people find the TOD policy difficult to understand and they are not able to envisage the nature and extent of the unsatisfactory development outcomes and loss of heritage fabric that will result. I am sure that there would be even more strenuous public opposition if the proposals were better explained and understood, and adequate time provided for meaningful debate and the consideration of public submissions.

6. The TOD policy will effectively remove long-standing heritage protection measures.

Heritage measures, including heritage conservation areas, were introduced more than four decades ago by the Wran Government in the Heritage Act, 1977. However, the Premier seeks to effectively nullify them through the TOD policy without even asking for submissions from the public. As outlined above, Premier Minns has no mandate to do this.

Mr Minns' 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.

7. The TOD policy will cause irreparable harm to communities and the built and natural environments.

Developer-led projects are overwhelmingly motivated by a desire to maximise profit and are often unresponsive to local circumstances and priorities. Thousands of trees and gardens will be lost in the rush to fill historic parts of Sydney with residential dwellings in buildings that will be too high, have grossly inadequate setbacks, inadequate private open space and no space for deep soil planting. The fact that these proposals have been introduced during a climate emergency is unfathomable and irresponsible. They will create new heat islands areas in areas where none currently exist. The minimal development standards proposed, including woefully inadequate tree canopy targets, will lead to massive loss of vegetation and reduce the chances of many native wildlife species that are already struggling to survive.

8. The TOD policy is unlikely to improve access to affordable housing.

The proposals are an extremely poor response to the goal of providing more affordable housing. A top-down supply led approach to this issue has been unsuccessful over many decades and there is no reason to believe it will succeed now.

Conclusion

The Premier and his Planning Minister say that councils can assess development applications and reject inappropriate ones after the TOD policy is made law. The

reality is that many councils are already under-staffed, and they will be further swamped with proposals for multi-unit housing in areas where it simply should not be allowed. Much better results will be achieved if the Premier consulted with local Councils and communities to identify appropriate areas for the required housing.

I support the Premier's desire to provide more affordable housing so young people and those on lower incomes of any age can continue to live in Sydney. But this need not be at the cost of losing heritage conservation areas, which must be excluded from both the TOD policy and the low to mid-rise housing policy.

In the mid-20th century, developers were given free rein to clear "slums" in areas such as Paddington, Glebe, The Rocks and Woolloomooloo, supposedly to improve living standards. These plans were defeated by communities and unions who saw the value of the areas and whose foresight is now widely recognised. Today, we need to act again to save heritage conservation areas in suburbs such as Marrickville, Dulwich Hill, Ashfield, Haberfield, Roseville, Lindfield, Killara and Gordon.

As outlined above, the Premier's proposals are ill-thought out, will be ineffective, and will irreparably damage Sydney's built heritage. The TOD policy and the low to mid-rise housing policy must both be taken off the table. Instead, the Government must work with Councils and communities to identify appropriate areas for low to mid-rise housing and higher density housing, including affordable housing. There is no need to sacrifice heritage conservation areas because objectives for increased housing supply and heritage conservation can both be achieved. To do this, the current one-size fits all approach must be abandoned and replaced with sensible strategic and master planning processes prepared by local Councils, with input from local communities.

By all means, the Government should set targets and time frames, but developers must not be allowed to build multi-storey units in heritage conservation areas or in locations that adversely affect heritage items. Our heritage is too valuable to lose and must be protected.

Yours sincerely