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PORTFOLIO COMMITTEE NO. 7

Development of the Transport Oriented Development Program

Report 23

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Portfolio Committee No. 7 - Planning and Environment

Development of the Transport Oriented Development Program

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Development of the Transport Oriented Development Program

"October 2024"

Chair: Hon Sue Higginson



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Terms of reference

1. That Portfolio Committee No. 7 – Planning and Environment inquire into and report on the development of the Transport Oriented Development Program (TOD), and in particular:
 - (a) 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:
 - (i) the eight Transport Oriented Development Program accelerated precincts
 - (ii) the 31 Transport Oriented Development Program precincts where the Transport Oriented Development Program State Environmental Planning Policy (SEPP) applies
 - (iii) any of the 305 Sydney Trains, Sydney Metro and Intercity stations within the Six Cities Region which were considered as part of any of the Transport Oriented Development Program locations.
 - (b) the probity measures put in place by the Government, the Premier's Department, The Cabinet Office and the Department
 - (c) the development of the Transport Oriented Development Program policy approach by the Government
 - (d) consultations undertaken with councils, joint regional organisations and communities during the preparation of the Transport Oriented Development Program State Environmental Planning Policy
 - (e) ongoing opportunities for review and input by councils, joint regional organisations and communities, including consultations with renters, key workers and young people needing affordable housing in relation to the Transport Oriented Development Program State Environmental Planning Policy
 - (f) information control protocols relating to the Transport Oriented Development Program policy
 - (g) property disclosure requirements and management
 - (h) the release of information prior to the official publication of the Transport Oriented Development Program policy
 - (i) the heritage concerns with the Transport Oriented Development Program including but not limited to the concerns of the Heritage Council
 - (j) the enabling infrastructure capacity for every station selected or considered as part of the Transport Oriented Development Program
 - (k) the impact on localised environment and amenity values caused by the Transport Oriented Development Program

- (l) the existing or potential measures and programs analysed, considered or implemented by all NSW Government agencies to support additional housing density, including the housing series reports published by the NSW Productivity Commissioner
 - (m) the ten measures outlined in the National Cabinet's National Planning Reform Blueprint
 - (n) the development of Transport Oriented Development Program planning policies in other Australian state and territory and international jurisdictions
 - (o) the impacts of the proposed Diverse and Well-Located Homes process and program
 - (p) the capability of Greater Sydney to provide for increased residential dwelling where the existing capacity has been diminished due to the effects of climate change
 - (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
 - (r) any other related matters.
2. That the committee report by 15 October 2024.¹

The terms of reference were self-referred by the committee on 23 February 2024.²

¹ The original reporting date was 27 September 2024. (Minutes, NSW Legislative Council, 12 March 2024, p 925). The reporting date was extended to 15 October 2024. (Minutes, NSW Legislative Council, 6 August 2024, p 1352)

² *Minutes*, NSW Legislative Council, 12 March 2024, pp 924-925.

Committee details

Committee members

Ms Sue Higginson MLC	The Greens	<i>Chair</i>
Hon John Ruddick MLC	Liberal Democratic Party	<i>Deputy Chair</i>
Hon Mark Buttigieg MLC	Australian Labor Party	
Hon Anthony D'Adam MLC	Australian Labor Party	
Hon Scott Farlow MLC	Liberal Party	
Hon Jacqui Munro MLC	Liberal Party	
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Chair's foreword

We are all aware that New South Wales is experiencing an acute housing crisis, with too many people faced with unaffordable, insecure housing, and younger generations being priced out of the housing market. No one disputes that the NSW Government needs to take action to ensure that the people of New South Wales can access secure and affordable housing in thriving communities, close to the things they need and employment opportunities. There are legitimate questions, however, about the design and execution of the Transport Oriented Development program as a response to the housing crisis.

While appreciating the rationale for transport oriented development, this committee heard significant concerns about the top-down, one-size-fits-all approach of the TOD program, which forces new planning rules on precincts that were, at least initially, selected by the NSW Government in an opaque process with inadequate consultation. It is apparent that the consultation that occurred was poorly timed and rushed, which left many affected communities feeling that they and their local governments have been sidelined, and local planning strategies, built over years of community input, ignored. If this government is to seriously address the housing crisis, it must find ways to more effectively bring stakeholders into the process, and build public understanding of the need for reforms.

This inquiry heard arguments that the TOD program's one-size-fits-all approach is not well enough designed to stimulate appropriate housing supply, address affordability issues, or ensure that the type of housing delivered meets the needs of communities for long-term, liveable homes. I support the calls of many experts and other stakeholders to this inquiry for the NSW Government to take a more targeted, place-based approach to planning, and to take a more direct leadership role to deliver housing, including public, social and affordable housing, that is well designed and meets community needs over the longer term.

We have also heard significant concerns about the adequacy of planning and funding in this program to ensure that higher density living is accompanied by necessary infrastructure to create thriving, liveable communities. I highlight in particular the need to ensure retention of mature tree canopy, deep soil, and green open spaces as we move to increase density of housing across the city, in our changing climate.

The housing crisis is complex and will not be addressed through the TOD program alone. I recognise that there are serious issues well beyond the planning system that are affecting delivery of and accessibility to new and affordable housing at present. This report makes 10 recommendations regarding the TOD program, and the NSW Government's response to the housing crisis more generally. As Chair of this inquiry, I call on the NSW Government to take a holistic, long-term view of options to address the housing crisis, particularly through the delivery of public, social and affordable housing. I also encourage the Government to take a collaborative approach with key stakeholders, and ensure that these particular reforms deliver 'density done well', that enhances the amenity and quality of life for residents.

I thank all witnesses to this inquiry for contributing their expertise and ideas. We heard from many witnesses who are experts in their fields, as well as local governments and industry. I appreciate their willingness to contribute to the work of the committee. I particularly thank those volunteer community advocates who are genuinely concerned about the health and wellbeing of their local environment and community. I thank my fellow committee members for their collaborative and constructive approach to this inquiry. I also thank the Secretariat for their hard work and exceptional professionalism and diligence.

Ms Sue Higginson
Committee Chair

Recommendations

- Recommendation 1** **37**
 That the NSW Government continue to work in collaboration with local councils and key stakeholders on building community understanding of housing reforms, including the TOD program.
- Recommendation 2** **38**
 That the NSW Government continue to work with stakeholders, including local councils and development industry representatives, to clarify how the TOD SEPP will operate alongside existing planning controls, and update the existing guidelines should there be any further uncertainty.
- Recommendation 3** **61**
 That the NSW Government consider evidence on drivers of housing affordability and ensure that detailed planning for the current and any future TOD precincts is tailored for specific localities and considers how the program can best promote housing supply that meets community needs.
- Recommendation 4** **61**
 That the NSW Government develop a package of measures to address current constraints impacting on residential construction in New South Wales.
- Recommendation 5** **61**
 That the NSW Government continue the work on a framework for affordable housing under the TOD program.
- Recommendation 6** **62**
 That the NSW Government continue to address the broad range of issues contributing to the housing crisis, noting in particular:
- continued investment in public housing
 - continued involvement of Government in delivery of different housing typologies
 - maintaining design standards and building quality for apartments
 - continuing progressing legislation to reform the rental market and make renting fairer for all renters
 - reviewing the operation of strata title to minimise legal complexity and financial risk for apartment owners, and provide for possibility of future urban renewal.
- Recommendation 7** **83**
 That the NSW Government consider focusing infrastructure funding through the Urban Development Program to areas of growth, including TOD locations, to ensure that community infrastructure and amenity needs are delivered alongside housing.
- Recommendation 8** **84**
 That the NSW Government maintain the existing robust design and building standards throughout new housing reforms to ensure long term liveability of new developments.
- Recommendation 9** **84**
 That the NSW Government investigate measures to encourage the delivery of family-friendly apartments as part of its housing reforms.

Recommendation 10

85

That the NSW Government:

- continue to maintain commitment to 40 per cent urban tree canopy cover across Greater Sydney by 2036
- release further guidance for local councils and industry on managing and minimising mature tree and canopy loss during development, including appropriate compensatory measures for replacement.

Conduct of inquiry

The terms of reference for the inquiry were self-referred by the committee on 23 February 2024.

The committee received 232 submissions and six supplementary submissions.

The committee held three public hearings at Parliament House in Sydney.

Inquiry related documents are available on the committee's website, including submissions, hearing transcripts, tabled documents and answers to questions on notice.

Chapter 1 **Background**

This chapter sets out the background to the Transport Oriented Development (TOD) Program, including an outline of the current housing crisis and an overview of the planning system in New South Wales. It then provides an overview of the TOD program and what it is seeking to achieve. The chapter concludes by providing a summary of the Diverse and Well-Located Homes Program, which sits alongside the TOD program as part of the NSW Government's proposal to address issues regarding housing in New South Wales.

Background to housing reforms

- 1.1** This section provides an overview of the context in which the Transport Oriented Development (TOD) Program has been introduced, namely, the current housing crisis in New South Wales. It then touches on the National Housing Accord - a series of targets relating to the delivery of new and well-located housing - and the NSW Productivity and Equality Commission review of housing supply challenges and policy options.

Housing crisis in New South Wales

- 1.2** It is broadly accepted that New South Wales, like most other jurisdictions in Australia, is experiencing a housing shortage, meaning that there is a mismatch between an increase in housing demand and a decreasing availability of appropriate and affordable housing supply.³
- 1.3** The severity of the housing shortage is particularly 'amplified'⁴ in New South Wales due to the size of the growing population and the proportionally low completion rate of new dwellings. The committee heard that New South Wales has the largest expected increase in population in the nation, with it being estimated that there will be an additional one million people residing in New South Wales by 2034.⁵
- 1.4** However, in the face of this growing need for housing, there has been a fall in residential building approvals since mid-2021. The committee heard that despite having the largest expected population growth in the nation, the completion rate of residential dwellings in New South Wales is falling behind that of the other eastern states.⁶
- 1.5** Further, it is expected that under the current policy settings and market conditions, even fewer homes will be built in the coming years. This decrease is attributed to a range of factors,

³ Submission 118, NSW Department of Planning Housing and Infrastructure, p 4; Evidence, Dr Peter Tulip, Chief Economist, Centre for Independent Studies, 17 June 2024, p 19; Evidence, Mr Tom Forrest, Chief Executive Officer, Urban Taskforce Australia, 20 May 2024, p 2.

⁴ Submission 118, NSW Department of Planning Housing and Infrastructure, p 6.

⁵ NSW Government, Department of Planning and Environment, *Explanation of Intended Effect: Changes to create low-and mid-rise housing*, December 2023, <https://www.planning.nsw.gov.au/sites/default/files/2023-12/eie-changes-to-create-low-and-mid-rise-housing.pdf>, p 7.

⁶ Submission 118, NSW Department of Planning Housing and Infrastructure, p 6.

including shortages of construction materials and labour, rising interest rates and borrowing costs, and the feasibility of the current housing and economic market.⁷

- 1.6 The committee heard that the combination of slow supply growth and a continually rising population has resulted in it being increasingly less affordable for people to buy and rent property across New South Wales. Stakeholders remarked that increased housing costs are a significant contributor to overall cost-of-living pressures, with mortgage or rent payments generally being the largest expense for most Australian households.⁸
- 1.7 The existence of a housing crisis in New South Wales and the need to take action to address this issue was acknowledged by diverse stakeholders during the inquiry. In its submission, the Department of Planning Housing and Infrastructure described providing better housing choices for people as the government's 'top priority'.⁹
- 1.8 The importance of addressing the issue of housing supply and housing affordability was echoed by a range of local councils and industry bodies such as Business NSW, Urban Taskforce Australia and the Community Housing Industry Association NSW.¹⁰
- 1.9 While these stakeholders had varying views on the benefits of the TOD program, explored in later chapters of this report, there was general consensus that there is a serious housing issue in New South Wales and that without significant intervention, the problems relating to supply, availability and affordability will continue to worsen.

Unaffordable housing: Rising cost of housing and a lack of social and affordable housing

- 1.10 Affordability was raised as a key issue both in terms of general rising housing costs, as well as a lack of specific social and affordable housing.¹¹
- 1.11 Social and affordable housing refers to housing for members of the community who cannot meet their housing needs in the general market. In this context, affordable housing is housing appropriate for the needs of a range of very low to moderate income households, that is generally priced in a way that ensures a household does not spend more than a certain

⁷ Submission 118, NSW Department of Planning Housing and Infrastructure, p 7; NSW Government, Department of Planning and Environment, *Explanation of Intended Effect: Changes to create low-and mid-rise housing*, December 2023, p 7.

⁸ Submission 118, NSW Department of Planning Housing and Infrastructure, p 6; Submission 208, Grattan Institute, p 2.

⁹ Submission 118, NSW Department of Planning Housing and Infrastructure, p 1.

¹⁰ Evidence, Mr Steven Head, General Manager, Hornsby Shire Council, and Chair, General Manager's Advisory Committee, Northern Sydney Regional Organisation of Councils, 20 May 2024, p 25; Evidence, Mr Wayne Rylands, Chief Executive Officer, City of Ryde, 20 May 2024, p 25; Evidence, Councillor Darcy Byrne, Mayor, Inner West Council, 20 May 2024, p 41; Evidence, Mr Mustafa Agha, Executive Manager, Policy, Business NSW, 7 June 2024, p 19; Evidence, Mr Tom Forrest, Chief Executive Officer, Urban Taskforce Australia, 20 May 2024, p 2; Submission 113, Community Housing Industry Association NSW, p 1.

¹¹ Submission 118, NSW Department of Planning Housing and Infrastructure, p 6; Submission 133, Community Housing Industry Association NSW, p 1.

percentage of their income on housing costs.¹² Affordable housing is open to a broader range of household incomes than social housing, and applications for affordable housing are made to and assessed by the property manager.¹³

- 1.12** Social housing is government subsidised, long-term rental housing for people on very low incomes, often with other complex needs. It includes public, community and Aboriginal housing. Public housing is managed by Homes NSW, while community housing is managed by non-government organisations.¹⁴
- 1.13** In its submission to the inquiry, the Government stated that the TOD program had been developed to address both housing affordability generally and the limited availability of social and affordable housing.¹⁵
- 1.14** When describing the severity of the issue of housing affordability generally, the Community Housing Industry Association NSW (CHIA NSW) stated that 'for many people in NSW, affordably renting a home, let alone owning one, is a dream'.¹⁶
- 1.15** CHIA NSW stated that between 2006 and 2021, median rents in New South Wales had increased by 83 per cent and property prices had increased by 116 per cent.¹⁷ It was put to the committee that this growth 'outpaced' the rise in median household income of 77 per cent and an inflation rate of 38 per cent, meaning that housing overall has become increasingly unaffordable and especially 'out of reach' for lower income households.¹⁸
- 1.16** This point was echoed by Mr Eamon Waterford, Committee for Sydney, who described housing in Sydney in particular as 'chronically, exquisitely and globally unaffordable'.¹⁹ When describing the impact of unaffordable housing in Sydney, Mr Waterford stated that according to analysis undertaken by the Committee for Sydney, Sydney is losing 'over \$10 billion every year in lost productivity, lost talent and lost innovation as a result of our high housing costs'.²⁰
- 1.17** The committee also heard from stakeholders about the impacts of high housing costs on businesses and communities. Mr Mustafa Agha, Executive Manager, Policy, Business NSW, an organisation that represents almost 50,000 businesses across the state, told the committee that businesses have consistently stressed that their local communities are struggling with housing

¹² State Environmental Planning Policy (Housing) 2021; NSW Government, *NSW Affordable Housing Ministerial Guidelines 2023/2024*, <https://www.facs.nsw.gov.au/download?file=843446>, p 6.

¹³ NSW Government, *NSW Affordable Housing Ministerial Guidelines 2023/2024*, p 7.

¹⁴ NSW Government, Communities and Justice, *About affordable rental housing*, 10 April 2024, <https://www.facs.nsw.gov.au/providers/housing/affordable/about/chapters/how-is-affordable-housing-different-to-social-housing>

¹⁵ Submission 118, NSW Department of Planning Housing and Infrastructure, pp 6-7.

¹⁶ Submission 133, Community Housing Industry Association NSW, p 1.

¹⁷ Submission 133, Community Housing Industry Association NSW, p 2.

¹⁸ Submission 133, Community Housing Industry Association NSW, p 2.

¹⁹ Evidence, Mr Eamon Waterford, Chief Executive Officer, Committee for Sydney, 20 May 2024, p 15.

²⁰ Evidence, Mr Waterford, 20 May 2024, p 15.

affordability.²¹ As a result of this struggle, Mr Agha explained that businesses are often 'unable to find the appropriate workforce due to house prices'.²²

1.18 Further, Mr Agha said that a lack of housing affordability was one of the 'biggest reasons driving skill shortages' in regional New South Wales, stating that: 'We've all heard about the cleaners who have to traverse the city for a job and the teachers who are living further away than ever from their schools. This is not what a strong, functioning economy has'.²³

1.19 With regard to the availability of social and affordable housing in Sydney, the committee heard that only four per cent of current housing stock is dedicated social and affordable housing.²⁴ This is compared to the following approximate percentages of social and affordable housing stock in other major international cities:

- 20 per cent in London
- 30 per cent in Hong Kong
- 80 per cent in Singapore.²⁵

1.20 The CHIA NSW argued that increasing the availability of social and affordable housing stock is critical to adequately addressing the housing crisis, specifically with regard to making housing affordable for people on lower incomes:

Simply increasing the supply of homes on the market, no matter how ambitious the targets, will not reduce housing costs sufficiently for those on the lowest incomes, including essential workers in low paying jobs.²⁶

1.21 The CHIA NSW explained that this is because of how out of reach housing in the private market in New South Wales has become for certain cohorts, stating that house prices would need to drop by 50 per cent or more for housing to become affordable for low and very-low-income households. The CHIA NSW argued that in order to bridge this significant affordability gap and make housing available for people on lower incomes, dedicated housing products, such as social affordable housing, must be delivered.²⁷

Unmet need for well-located infill development

1.22 The committee heard that in addition to housing supply being increasingly limited and unaffordable, it is also not sufficiently diverse, appropriately dense or well-located. It is in this context that the NSW Government developed the Transport Oriented Development (TOD) Program, which seeks to respond to these issues.²⁸

²¹ Evidence, Mr Mustafa Agha, Executive Manager, Policy, Business NSW, 7 June 2024, p 19.

²² Evidence, Mr Agha, 7 June 2024, p 19.

²³ Evidence, Mr Agha, 7 June 2024, p 19.

²⁴ Evidence, Mr Waterford, 20 May 2024, p 15.

²⁵ Evidence, Mr Waterford, 20 May 2024, p 15.

²⁶ Submission 133, Community Housing Industry Association NSW, p 2.

²⁷ Evidence, Mr Michael Carnuccio, Policy Manager, Community Housing Industry Association NSW, 7 June 2024, pp 11-13.

²⁸ Submission 118, NSW Department of Planning Housing and Infrastructure, pp 6-7.

- 1.23** The Department of Planning, Housing and Infrastructure (DPHI) stated that a key goal of its housing strategy is to reduce urban sprawl and promote medium-high density housing in well located areas, being areas that are close to existing public transport, connections, amenities and employment.²⁹
- 1.24** The need to address this issue was reiterated by stakeholders such as the Committee for Sydney and the Grattan Institute, who told the committee that the existing level of urban sprawl is not sustainable, nor is it an effective way of addressing the housing crisis. Rather, these stakeholders advocated for increasing infill development in metropolitan areas and ensuring that any new housing is well-located in terms of critical social infrastructure and other essential services.³⁰
- 1.25** The committee heard evidence from the Grattan Institute that for its size, Sydney is amongst the least dense cities in the world, though this view is not unchallenged.³¹ The Grattan Institute went on to explain that fewer than 20 per cent of new dwellings have been built within 10 kilometres of the Sydney CBD between 2016 and 2021, and that overall 'fewer homes are being built where post people want to live and work'.³²
- 1.26** Increasing housing density in urban areas was identified as an important means of addressing the housing crisis and substantially improving housing supply, as well contributing to a number of other 'public goods'.³³ The Committee for Sydney gave evidence that 'density well done' can result in a healthier, more active and socially connected population, increased use of 'green travel options' such as cycling and walking, less carbon emissions during development and neighbourhoods that are more 'productive, creative and efficient'.³⁴
- 1.27** With regard to the importance of where housing density should be increased, the Western Sydney Leadership Dialogue explained to the committee that Greater Western Sydney has 'too frequently been considered the 'dormitory' of Greater Sydney, shouldering population growth without the required transport or social amenity to match'.³⁵ The Dialogue was supportive of increasing density in suburbs closer to the Sydney CBD in order to redistribute some of the 'growth development burden' beyond Western Sydney.³⁶
- 1.28** The Dialogue also made the point that increasing density in areas closer to the Sydney CBD would be a more economically viable way of addressing the issue of housing supply. The Dialogue referred to modelling done by the NSW Productivity Commission which found that infill development in Sydney's 'inner ring' suburbs costs less than suburbs further west.³⁷

²⁹ Submission 118, NSW Department of Planning Housing and Infrastructure, p 4.

³⁰ Submission 96, Committee for Sydney, p 4; Submission 208, Grattan Institute, p 4.

³¹ Save Greater Sydney Coalition argues that global comparisons of density showing Sydney is sparsely populated reflect measurement anomalies, such as inclusion of national parks in Sydney region boundaries, which distorts the average. Answer to question on notice, Save Greater Sydney Coalition, 20 June 2024, p 3.

³² Submission 208, Grattan Institute, p 4.

³³ Submission 96, Committee for Sydney, p 4.

³⁴ Submission 96, Committee for Sydney, p 4.

³⁵ Submission 165, Western Sydney Leadership Dialogue, p 2.

³⁶ Submission 165, Western Sydney Leadership Dialogue, p 2.

³⁷ Submission 165, Western Sydney Leadership Dialogue, p 2.

- 1.29** According to this modelling, the cost per dwelling for a residential development in the Eastern Suburbs, Inner South and West and the Lower North Shore may cost \$40,000 less than an equivalent dwelling in Sydney's west. This was explained by a number of factors, including 'the cost of adding utilities, the requirement for ensuring adequate school places per child, and costs related to road congestion and public transport overcrowding'.³⁸
- 1.30** In addition to evidence that housing supply is not well-located in terms of access to transport, jobs and services, the committee also heard that the type of housing being made available does not necessarily accord with the changing needs of individuals, families and communities.³⁹
- 1.31** It was put to the committee that younger generations of people living in Sydney are increasingly willing to raise a family in an apartment in a location that has easy access to public amenity. This is compared to the preference of older generations for a house with a backyard that may be further away from such amenities or located on the 'suburban fringe'.⁴⁰ This sentiment was summarised by Mr Waterford, who described young people as embracing 'smaller homes, shared spaces, bigger lifestyles'.⁴¹
- 1.32** The committee heard that what was described as a 'generational shift'⁴² in attitudes to apartment living is not just an 'inner-city thing' and that the desire to raise families in larger apartments also exists within communities in the outer suburbs.⁴³
- 1.33** Stakeholders told the committee that in order to respond to changing housing needs and preferences, there needs to be an increase in development of larger, three-and-four-bedroom apartments in well-serviced locations alongside appropriate supporting infrastructure.⁴⁴

National Housing Accord

- 1.34** The NSW Government is a signatory to the National Housing Accord (the Accord), which establishes a series of targets relating to the delivery of new and well-located housing.⁴⁵ The obligations of New South Wales under the Accord are another important contextual factor to consider when understanding why the TOD program has been developed and what it seeks to achieve.
- 1.35** The Accord was announced in October 2022 and is an agreement between all states and territories, the Australian Government, local government, institutional investors and the construction sector to address housing supply challenges across Australia.⁴⁶ The purpose of the

³⁸ Submission 165, Western Sydney Leadership Dialogue, p 2.

³⁹ Submission 208, Grattan Institute, p 4.

⁴⁰ Submission 208, Grattan Institute, p 4; Evidence, Brendan Coates, Economic Policy Program Director, Grattan Institute, 7 June 2023, p 23.

⁴¹ Evidence, Mr Waterford, 20 May 2023, p 17.

⁴² Evidence, Mr Luke Turner, Executive Director, Policy and Advocacy, Western Sydney Leadership Dialogue, 20 May 2024, p 17,

⁴³ Evidence, Mr Turner, 20 May 2024, p 17.

⁴⁴ Evidence, Mr Waterford, 20 May 2023, p 17; Evidence, Mr Turner, 20 May 2024, p 17.

⁴⁵ Submission 118, NSW Department of Planning Housing and Infrastructure, p 6.

⁴⁶ Submission 118, NSW Department of Planning Housing and Infrastructure, p 6.

Accord is to lay 'the groundwork to improving affordability by addressing Australia's housing supply challenges and enabling the delivery of more social and affordable housing'.⁴⁷

- 1.36** The Accord included 'an initial aspirational target agreed by all parties to build one million new well-located homes- over five years from mid-2024'.⁴⁸ However, in August 2023, states and territories agreed to a new target of 1.2 million homes over five years from mid-2024. The National Cabinet also endorsed the Australian Government providing \$3.5 billion in payments to state, territory and local governments to 'support the delivery of new homes towards this target'.⁴⁹
- 1.37** The Accord also sets out the Commonwealth's commitment of \$350 million over 5 years from 2024-25 to support 10,000 affordable homes being delivered, with state and territory governments agreeing to build on this commitment and support the delivery of a further 10,000 affordable homes.⁵⁰
- 1.38** Of these overall figures agreed to in the Accord, New South Wales has committed to deliver 377,000 new homes by June 2029, including the delivery of 3,100 affordable homes.⁵¹
- 1.39** To deliver its commitments under the Accord, the NSW Government announced a range of measures designed to expand approval pathways for affordable housing, and promote the supply of low and mid-rise housing in well-located areas.⁵²

NSW Productivity and Equality Commission reports

- 1.40** The NSW Productivity and Equality Commission has since 2020 completed a series of papers that contribute to thinking on options for addressing the housing crisis.⁵³ In the context of the ongoing crisis, and the need to meet the ambitious Housing Accord targets for New South Wales, in June 2024 the Premier requested the NSW Productivity and Equality Commissioner to identify challenges in the housing market and construction industry affecting housing supply, and policy options to address them. The Commission's final report was released on 30 August 2024.⁵⁴

⁴⁷ Australian Government, *National Housing Accord 2022*, <https://ministers.treasury.gov.au/sites/ministers.treasury.gov.au/files/2022-10/national-housing-accord-2022.pdf>, p 1.

⁴⁸ Australian Government, *National Housing Accord 2022*, p 1.

⁴⁹ Australian Government, The Treasury, *Delivering the National Housing Accord*, <https://treasury.gov.au/policy-topics/housing/accord>.

⁵⁰ Australian Government, The Treasury, *Delivering the National Housing Accord*.

⁵¹ Submission 118, NSW Department of Planning Housing and Infrastructure, p 6; Australian Government, The Treasury, *Delivering the National Housing Accord*.

⁵² Submission 118, NSW Department of Planning Housing and Infrastructure, p 7; Australian Government, The Treasury, *National Housing Accord – Implementation Schedule – New South Wales*, June 2023, <https://treasury.gov.au/sites/default/files/2023-11/has-nsw.pdf>.

⁵³ Summarised in NSW Productivity and Equality Commission, *Review of housing supply challenges and policy options for New South Wales: Final Report*, August 2024, p 17.

⁵⁴ NSW Productivity and Equality Commission, *Review of housing supply challenges and policy options for New South Wales: Final Report*, August 2024.

- 1.41** The report examines current feasibility constraints in the residential construction sector and identifies actions that government could take to boost housing supply.⁵⁵ It makes 32 recommendations to the NSW Government and other stakeholders to free up construction capacity to build more homes quickly, streamline the development process, support the construction sector to deliver, and ensure a diverse and equitable supply of homes, encouraging the Government to go further and higher with the TOD program.⁵⁶

The planning system in New South Wales

- 1.42** The Transport Oriented Development program involves a new State Environment Planning Policy (SEPP), that will be applied in selected precincts. Some stakeholders to this inquiry have suggested this adds another layer to an already complicated planning framework, which is outlined below.
- 1.43** The *Environmental Planning and Assessment Act (1979)* (EP&A Act) is the overarching planning legislation for New South Wales. It guides how rules affecting development are made, and how development is assessed against those rules. The Environmental Planning and Assessment Regulation (EP&A Regulation), details processes that must be followed by councils when assessing a development application.⁵⁷
- 1.44** Beneath the EP&A Act sit a range of strategic planning documents at different levels. They include regional and district/city plans, which are state-led documents setting strategic direction for planning, and Local Strategic Planning Statements, which are prepared by local councils to set out strategic planning ambitions for their local government area, consistent with relevant district or regional plans.⁵⁸
- 1.45** Key documents guiding planning decisions under the Act are state environmental planning policies (SEPPs) and local environmental plans (LEPs). SEPPs provide state-level planning controls on matters of regional or state significance or for certain areas of the state, allowing for a consistent approach to planning issues. Local Environmental Plans are prepared by local councils to control development in their areas.⁵⁹ Local Environmental Plans zone land to specify what development is permissible, identify items and areas of heritage significance, identify specific environmental issues such as flooding or bushfire risk or environmentally

⁵⁵ NSW Productivity and Equality Commission, *Review of housing supply challenges and policy options for New South Wales: Final Report*, August 2024, pp 10-13.

⁵⁶ NSW Productivity and Equality Commission, *Review of housing supply challenges and policy options for New South Wales: Final Report*, August 2024, pp 14-16.

⁵⁷ NSW Government, Submission no 189 to Portfolio Committee no. 7, Inquiry into the planning system and the impacts of climate change on the environment and communities, November 2023, pp 7-8; NSW Government, Planning, The planning system, <https://www.planning.nsw.gov.au/assess-and-regulate/development-assessment/your-guide-to-the-da-process/getting-started/the-planning-system>.

⁵⁸ NSW Government, Submission no 189 to Portfolio Committee no. 7, Inquiry into the planning system and the impacts of climate change on the environment and communities, November 2023, p 9.

⁵⁹ NSW Government, Submission no 189 to Portfolio Committee no. 7, Inquiry into the planning system and the impacts of climate change on the environment and communities, November 2023, p 9.

sensitive land, and identify the principal development standards, such as maximum building height and maximum floor space ratio.⁶⁰

- 1.46** A further level of guidance is found in Development Control Plans, which are prepared by local councils to set considerations for development assessment.⁶¹ Development Control Plans provide more detailed design and planning requirements, with guidance on issues such as building design, solar access, landscaping, and heritage.⁶²
- 1.47** In addition to the above, there may also be guidelines that apply and are considered in assessing development applications. Of relevance to the TOD program, there is the NSW Apartment Design Guide, introduced in 2015, which replaced the previous SEPP 65 – Quality of Residential Flat Development.⁶³

Transport Oriented Development program

- 1.48** The Transport Oriented Development (TOD) program is one of several measures that the New South Wales Government has introduced in response to the housing crisis in New South Wales. This section outlines what the TOD program is and how it aims to address the existing housing crisis in New South Wales.

What is the TOD program?

- 1.49** In its submission to the inquiry, the Department of Planning, Housing and Infrastructure (DPHI) (formerly the Department of Planning and Environment) explained that the TOD program has been in development since May 2023 and was publicly announced on 7 December 2023.
- 1.50** In describing the overarching aim of the TOD program, DPHI said that it:

...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.⁶⁴

⁶⁰ NSW Government, Planning, The planning system

⁶¹ NSW Government, Submission no 189 to Portfolio Committee no. 7, Inquiry into the planning system and the impacts of climate change on the environment and communities, November 2023, p 9.

⁶² NSW Government, Planning, The planning system

⁶³ NSW Department of Planning and Environment, *Apartment Design Guide*, July 2015, <https://www.planning.nsw.gov.au/sites/default/files/2023-03/apartment-design-guide.pdf>; See also evidence, Dr Philip Oldfield, UNSW, 24 July 2024, p 32; Evidence, Mr Tom Forrest, Urban Taskforce, 20 May 2024, p 10.

⁶⁴ Submission 118, NSW Department of Planning Housing and Infrastructure, p 5.

1.51 To do this, the NSW Government will introduce new planning controls around 39 identified transport hubs which will allow increased density in these areas and subsequently 'unlock additional housing capacity'.⁶⁵

1.52 There are two parts to the TOD program, as summarised below.⁶⁶

Tier 1 of the TOD program

1.53 Tier 1⁶⁷ of the Program focuses on eight areas identified as 'priority high growth areas'⁶⁸ near transport hubs in Greater Sydney. These locations will be subject to accelerated rezoning to 'create capacity for 47,800 new homes over 15 years, supported with new infrastructure'.⁶⁹

1.54 The relevant eight precincts have been identified as the areas surrounding the following rail and metro stations: Bankstown, Bays West, Bella Vista, Crows Nest, Homebush, Hornsby, Kellyville and Macquarie Park.⁷⁰

1.55 Land within 1,200 metres of the above rail and metro stations will be 'master planned and rezoned by the NSW Government to allow for more new market and affordable homes'.⁷¹ The committee heard that the master planning process will be supported by technical studies for each precinct to determine appropriate 'boundaries and opportunities' for new housing in the relevant area.⁷²

1.56 The NSW Government will also invest \$520 million for 'community infrastructure, such as critical road upgrades, active transport links and good quality public open spaces' in order to support growth in the relevant communities.⁷³

1.57 The committee heard that the rezoning of seven of the eight listed precincts will be finalised by late 2024 to fast-track housing in the identified areas. Public exhibition of the rezoning of the eighth precinct, Bays West, is expected to occur in 2025.⁷⁴ Progress on the rezoning of these precincts is noted in Chapter 2.

⁶⁵ Submission 118, NSW Department of Planning Housing and Infrastructure, p 5. As noted in later chapters, the total number of TOD precincts subsequently changed after consultation with councils, as 6 additional precincts were added.

⁶⁶ Submission 118, NSW Department of Planning Housing and Infrastructure, p 5.

⁶⁷ Throughout the report, the committee has used the terminology Tier 1 and Tier 2 to refer to precincts in the TOD program. We acknowledge that some government material refers to Part 1 and Part 2.

⁶⁸ NSW Government, Planning, Transport Oriented Development – Accelerated Precincts, <https://www.planning.nsw.gov.au/policy-and-legislation/housing/transport-oriented-development-program/accelerated-precincts>

⁶⁹ Submission 118, NSW Department of Planning Housing and Infrastructure, p 5.

⁷⁰ Submission 118, NSW Department of Planning Housing and Infrastructure, p 5.

⁷¹ Submission 118, NSW Department of Planning Housing and Infrastructure, p 5.

⁷² NSW Government, *Transport Oriented Development Program*, <https://www.planning.nsw.gov.au/sites/default/files/2023-12/transport-oriented-development-program.pdf>, December 2023, p 4.

⁷³ Submission 118, NSW Department of Planning Housing and Infrastructure, p 24.

⁷⁴ NSW Government, Planning, Transport Oriented Development – Accelerated Precincts

Tier 2 of the TOD program

- 1.58** Tier 2⁷⁵ of the program as initially announced focuses 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'.⁷⁶ A further 6 stations were added in April 2024, bringing the total to 37.⁷⁷
- 1.59** The original 31 stations 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.⁷⁸ The 6 additional stations added in April 2024 after consultation with councils are: Cardiff, Woy Woy, Belmore, Lakemba, Cockle Creek and Punchbowl stations.⁷⁹
- 1.60** The new planning controls required to implement Tier 2 of the program are being delivered through an amendment to the relevant State Environmental Planning Policy (SEPP).⁸⁰
- 1.61** The *State Environmental Planning (Housing) Amendment (Transport Oriented Development) 2024* (TOD SEPP) amended the *State Environmental Planning Policy (Housing) 2021* for the areas surrounding the following 18 of the 37 stations: Adamstown station, Booragul station, Cardiff station, Corrimal station, Gordon station, Hamilton station, Killara station, Kogarah station, Kotara station, Lidcombe station, Lindfield station, Morisset station, Newcastle Interchange, Roseville station, Teralba station, Turrella station, Woy Woy station and Wyong station.⁸¹
- 1.62** These amendments commenced on 13 May 2024, with the remaining 19 locations expected to be progressively rezoned until all planning controls have been rolled out by June 2025.⁸²
- 1.63** The Government agreed to defer the commencement of the new TOD planning controls for the remaining 19 locations to allow some councils to continue local planning in the identified areas. Councils housing plans will 'need to meet or exceed the number of new homes expected under the Transport Oriented Development controls'. It was explained that 'should a council fail to undertake local planning, nor provide equal or greater housing than proposed, the SEPP will come into effect in line with the published schedule'.⁸³

⁷⁵ Throughout the report, the committee has used the terminology Tier 1 and Tier 2 to refer to precincts in the TOD program. We acknowledge that some government material refers to Part 1 and Part 2.

⁷⁶ Submission 118, NSW Department of Planning Housing and Infrastructure, p 5.

⁷⁷ NSW Government, Planning, Transport Oriented Development, <https://www.planning.nsw.gov.au/policy-and-legislation/housing/transport-oriented-development-program/transport-oriented-development#stations>.

⁷⁸ NSW Government, Planning, Transport Oriented Development.

⁷⁹ NSW Government, Planning, Transport Oriented Development.

⁸⁰ Submission 118, NSW Department of Planning Housing and Infrastructure, p 5.

⁸¹ NSW Government, Planning, Transport Oriented Development.

⁸² NSW Government, Planning, Transport Oriented Development.

⁸³ NSW Government, Planning, Transport Oriented Development.

- 1.64** The new planning controls established by the TOD SEPP for the identified locations include:
- permissibility of residential flat buildings in residential zones and local centre zones
 - allowing a 22-metre height for residential flat buildings
 - a maximum floor space ratio of 2.5:1, which allows for buildings of up to 6 storeys
 - introducing a minimum lot width of 21 metres and no minimum lot sizes
 - no change to heritage clauses in local environment plans
 - a 2 per cent mandatory affordable housing contribution delivered onsite and in perpetuity for developments with a minimum gross floor area of 2000m²
 - the continued application of the Apartment Design Guide as the principal guiding document for all apartment development, including development as part of the TOD program.⁸⁴

How were the TOD program locations identified?

- 1.65** The Department of Planning, Housing and Infrastructure (DPHI) explained how locations were identified and chosen for both Tier 1 and Tier 2 of the TOD program.

Identification of Tier 1 locations

- 1.66** Locations for were identified Tier 1 through a five-stage process. DPHI told the committee that analysis of 305 Sydney Train, Sydney Metro and Intercity stations within the Greater Sydney, Hunter, Central Coast and Illawarra regions was undertaken first to identify locations that have 'enabling infrastructure capacity near the transport station to support additional housing growth'. This analysis included looking at criteria such as locations being within 30 minutes of a metropolitan centre by rail and existing capacity for additional homes.⁸⁵
- 1.67** The committee heard that DPHI worked with Transport for NSW and the Department of Education to ensure that any additional housing would be delivered in areas that can be supported by the government's planned and existing transport and school infrastructure.⁸⁶
- 1.68** Following this initial assessment, DPHI undertook a 'multi-criteria analysis' to develop a shortlist of locations for more detailed assessment. A further analysis regarding planning and land use considerations and constraints and other infrastructure requirements, such as water and wastewater capacity, was then undertaken for locations that had been shortlisted.⁸⁷
- 1.69** The next stage of the assessment process involved a Transport Oriented Development Assessment Review Committee, made up of senior government executives and overseen by a probity advisor, assessing the shortlist of stations. The Assessment Review Committee then made recommendations to the Minister for Planning and Public Spaces regarding what stations

⁸⁴ NSW Government, Planning, Transport Oriented Development.

⁸⁵ Submission 118, NSW Department of Planning Housing and Infrastructure, pp 9-13.

⁸⁶ Submission 118, NSW Department of Planning Housing and Infrastructure, pp 9-13.

⁸⁷ Submission 118, NSW Department of Planning Housing and Infrastructure, pp 9-13.

should be included in Tier 1 of the TOD program, with the Minister ultimately approving eight identified precincts.⁸⁸

Identification of Tier 2 locations

- 1.70** Tier 2 locations were identified in a three stage process. Similar to the identification of Tier 1 locations, DPHI undertook an initial analysis of all 305 Sydney Train, Sydney Metro, and Intercity stations within the Greater Sydney, Hunter, Central Coast, and Illawarra to determine which locations would be able to adequately support a significant increase in housing supply in terms of public transport connectivity, current demand on transport lines, location to jobs and services and the capacity for additional homes to be built near rail and metro stations.⁸⁹
- 1.71** A review of shortlisted stations was then undertaken to look at any other planning considerations, the capacity for affordable housing to be provided and any relevant infrastructure constraints.⁹⁰
- 1.72** Once this analysis was concluded, the Minister for Planning and Public Spaces approved the final list of appropriate stations.⁹¹

Diverse and Well-Located Homes program

- 1.73** The Department of Planning, Housing and Infrastructure outlined other programs that have been developed to improve housing delivery and how these programs align with the TOD program. In particular, the committee heard about the Diverse and Well-Located Homes (DWLH) Program and the 'particular synergies'⁹² between the DWLH Program and the TOD program.
- 1.74** The DWLH Program is 'focused on increasing the supply of low and mid-rise (1-6 storey) housing in well-located areas', meaning around train stations and 'local urban centres that provide goods and services beyond public transport proximity'.⁹³ This approach aims to 'fill the gap between detached homes and high-rise apartment buildings' and deliver more varied low and mid-rise housing in an attempt to balance preserving the local character of neighbourhoods while also responding to the changing needs of the community.⁹⁴
- 1.75** The term low-rise housing typically refers to 1-2 story dwellings, including dual occupancies (2 dwellings on the same lot), terraces, townhouses and low rise-apartment buildings, such as manor homes. It does not, however, include freestanding houses. Mid-rise housing is generally

⁸⁸ Submission 118, NSW Department of Planning Housing and Infrastructure, pp 9-13.

⁸⁹ Submission 118, NSW Department of Planning Housing and Infrastructure, pp 13-14.

⁹⁰ Submission 118, NSW Department of Planning Housing and Infrastructure, pp 13-14.

⁹¹ Submission 118, NSW Department of Planning Housing and Infrastructure, pp 13-14.

⁹² Submission 118, NSW Department of Planning Housing and Infrastructure, p 7.

⁹³ Submission 118, NSW Department of Planning Housing and Infrastructure, p 7.

⁹⁴ NSW Government, Planning, Diverse and well-located homes: Low- and mid-rise housing, <https://www.planning.nsw.gov.au/policy-and-legislation/housing/diverse-and-well-located-homes>

understood to be 3-6 storey apartment buildings and mixed-use buildings, which includes ground floor shops and apartments on higher levels.⁹⁵

1.76 The first stage of the DWLH Program was implemented on 1 July 2024, with dual occupancies and semi-detached homes now being permitted to be developed in all low-density planning zones (known as the R2 Low Density Residential Zones) across New South Wales. However, some land is exempt from these changes including land with a high risk from natural disasters, land close to dangerous goods pipeline and land that includes a heritage item. Also exempt are the Bathurst, Hawkesbury, Blue Mountains and Wollondilly areas due to bushfire, flooding and evacuation risks.⁹⁶

1.77 Stage 2 will be announced later in 2024, and may include:

- introducing 'station and town centre precincts' as the basis for 'well-located areas', where increased density will be encouraged⁹⁷
- expanding the permissibility of other low-and mid-rise housing types to allow:
 - multi-dwelling housing (such as terraces and townhouses) in station and town centre precincts that are currently zoned as General Residential (Zone R1), Low Density Residential (Zone R2) and Medium Density Residential (Zone R3)⁹⁸
 - low-rise apartment buildings in station and town centre precincts that are currently zoned as General Residential (Zone R1) and Low Density Residential (Zone R2)⁹⁹
 - mid-rise apartment buildings in station and town centre precincts that are currently zoned as Medium Density Residential (Zone R3) and High Density Residential (R4)¹⁰⁰
- encouraging and facilitating the development of low-mid-rise housing types by introducing new development standards, such as building heights, floor space ratios and minimum lot sizes, within the station and town centre precincts.¹⁰¹

1.78 Initial public consultation on the proposed reforms was undertaken from 15 December 2023 to 23 February 2024, with almost 8,000 submissions being made to the public exhibiting of the *Explanation of Intended Effect: Changes to create low-and mid-rise housing*. Most submissions were from members of the community, with the most common concerns being in regard to traffic and

⁹⁵ NSW Government, NSW Government, Planning, Diverse and well-located homes: Low- and mid-rise housing.

⁹⁶ NSW Government, NSW Government, Planning, Diverse and well-located homes: Low- and mid-rise housing.

⁹⁷ NSW Government, NSW Government, Planning, Diverse and well-located homes: Low- and mid-rise housing.

⁹⁸ NSW Government, NSW Government, Planning, Diverse and well-located homes: Low- and mid-rise housing.

⁹⁹ NSW Government, NSW Government, Planning, Diverse and well-located homes: Low- and mid-rise housing.

¹⁰⁰ NSW Government, NSW Government, Planning, Diverse and well-located homes: Low- and mid-rise housing.

¹⁰¹ NSW Government, NSW Government, Planning, Diverse and well-located homes: Low- and mid-rise housing.

congestion, the protection of local character and the need for accompanying infrastructure and green spaces.¹⁰²

Committee comment

- 1.79** The Transport Oriented Development (TOD) Program and other related programs, such as the Diverse and Well-Located Homes Program, have been introduced in the context of a severe and worsening housing crisis in New South Wales. These programs seek to relax planning controls in order to increase housing supply in well-located areas, meaning areas with planned or existing infrastructure and access to jobs, services and other amenities. These reforms attempt to capitalise on existing infrastructure to bring down the costs of increasing housing supply and reduce unsustainable urban sprawl.
- 1.80** The committee was compelled and deeply concerned by the evidence from stakeholders who stressed the scope and magnitude of the housing crisis in New South Wales and the extraordinary impact it is having on individuals, business and communities.
- 1.81** It is evident that there is a serious mismatch between housing supply and demand, with this problem only expected to get worse as the population continues to grow. These growing demands have had a direct impact on housing affordability, with it being almost entirely inaccessible for people on low-medium incomes to live in areas with sufficient access to employment, transport and other services.
- 1.82** As it stands, housing in New South Wales is not affordable for many people. It is also not well-located, well-supported by necessary infrastructure and there is simply not enough of it. It is clear to the committee that the state is indeed facing a severe and entrenched housing crisis, and that in order to address this issue, it is necessary for the NSW Government to undertake urgent and bold policy reform.
- 1.83** The TOD program is central to the approach the government has announced it will take to address this issue. The Program proposes changing planning rules to increase housing supply in well-located areas and allow a variety of new land-uses in locations that are within walking distances of train and metro stations.
- 1.84** In the following chapters of this report, the committee will look at the merits of the TOD program and examine issues that were raised by stakeholders during the inquiry.

¹⁰² NSW Government, NSW Government, Planning, Diverse and well-located homes: Low- and mid-rise housing.

Chapter 2 Process to develop the TOD Program

The Transport Oriented Development (TOD) program was introduced as a key component of the NSW Government's response to an acknowledged housing crisis. This chapter examines the process to develop the TOD program, in particular the transparency and probity of the process to select the proposed TOD precincts. It explores stakeholders' views on the adequacy of consultation that occurred before and after the program announcement on 7 December 2023. Finally, it considers how the TOD program policies relate to pre-existing precinct plans, and how the TOD planning controls will interact with existing local and state planning controls.

Selection of the TOD program locations

- 2.1** The Transport Oriented Development (TOD) program was developed in an internal state government process led by the Department of Planning, Housing and Infrastructure (formerly known as the Department of Planning and Environment). Development of the program commenced in May 2023, and the program was publicly announced on 7 December 2023.¹⁰³
- 2.2** Noting significant stakeholder concerns about a lack of transparency in how TOD sites were selected, the committee examined the transparency and probity of the process that led to the selection of the proposed TOD precincts, as well as the development of the TOD program more generally.

Transparency of the site selection process

- 2.3** The Department of Planning, Housing and Infrastructure (DPHI) led the selection process for TOD program locations, as outlined in Chapter 1 [paras 1.65 – 1.72].¹⁰⁴ Key agencies consulted included Transport for NSW and Sydney Water.¹⁰⁵ An interagency Assessment Review Committee was involved in overseeing the shortlisting of potential precincts.¹⁰⁶
- 2.4** For Tier 1 locations, there was a 5-stage process including initial assessment/shortlisting against eligibility criteria, more detailed analysis of shortlisted stations, a planning and infrastructure review, a strategic review by an expert panel (the TOD Assessment Review Committee), and finally approval by the Minister for Planning and Public Spaces.¹⁰⁷
- 2.5** For Tier 2 locations, there was a 3-stage process including analysis against selection criteria, a planning and infrastructure review of shortlisted stations, and final approval by the Minister for Planning and Public Spaces.¹⁰⁸

¹⁰³ Submission 118, Department of Planning, Housing and Infrastructure, p 5.

¹⁰⁴ Submission 118, Department of Planning, Housing and Infrastructure, pp 8-14. See also Evidence, Ms Kiersten Fishburn, Secretary, Department of Planning, Housing and Infrastructure, 24 July 2024, p 2.

¹⁰⁵ Submission 118, Department of Planning, Housing and Infrastructure, pp 9-10; Evidence, Ms Fishburn, 24 July 2024, p 2.

¹⁰⁶ Submission 118, Department of Planning, Housing and Infrastructure, p 10.

¹⁰⁷ Submission 118, Department of Planning, Housing and Infrastructure, pp 8-13.

¹⁰⁸ Submission 118, Department of Planning, Housing and Infrastructure, pp 13-14.

2.6 Supplementing DPHI's submission, Ms Hanna Shalbaf, Acting Executive Director, Governance and Insights, Planning Land Use Strategy, Housing and Infrastructure, DPHI, noted that there were criteria related to 'balanced growth' applied to the Tier 1 (accelerated) precincts, which went through a greater number of stages of assessment and prioritisation. For Tier 2 areas (where the TOD SEPP will apply), the process for selecting those stations was initially the eligibility criteria and then more detailed planning and infrastructure advice.¹⁰⁹

2.7 Ms Shalbaf gave the following description of the selection process:

The assessment was undertaken over a number of different stages. ... we reviewed 305 heavy rail, metro and intercity stations. To identify and select the stations in the accelerated precincts, the first stage was that eligibility criteria. We were looking for those stations that are well located—in this case, within 30 minutes on the train line to a metropolitan centre, being Sydney, Parramatta, Wollongong, Newcastle and Gosford, enabling good access to jobs and services—and that also have capacity for additional homes near the transport station and also capacity on the Sydney train network to support additional growth, and where there was also existing residential land near that station.

The next stage was that prioritisation process ... That was assessing and ranking the shortlist of stations, initially looking for strategic alignment to a government strategy—for example, a local housing strategy or a regional plan—the planning status—and by that I mean the status and timing of a master plan or a rezoning—the percentage of fragmentation, the proportion of government-owned land and then ensuring that there was that balanced growth across the State.

That shortlist of stations then underwent further analysis, which is more detailed planning, infrastructure and advice from different infrastructure agencies including Sydney Water and some more detailed advice from Sydney transport as well, as well as a review of the open space needs. ... in relation to the TOD SEPP, it went through that same eligibility criteria and that more detailed planning and infrastructure analysis, including transport, water and open space, and some modelling done on the housing potential.¹¹⁰

2.8 Transport for NSW gave evidence of its involvement in the selection of sites, noting that the selection was largely based on high-level strategic analysis done iteratively with the Department of Planning, Housing and Infrastructure. Subsequently, the Department of Planning, Housing and Infrastructure led the development of transport studies for selected sites, that were placed on exhibition as at July 2024.¹¹¹

2.9 Sydney Water also told the committee it was consulted during the shortlisting of TOD sites. Ms Kate Miles, Head of System Planning and Land Acquisition, Sydney Water, advised that Sydney Water had responded to several rounds of inquiries between July and November 2023. Ms Miles added that Sydney Water's ability to service TOD sites was also independently reviewed and

¹⁰⁹ Evidence Ms Hanna Shalbaf, Acting Executive Director, Governance and Insights, Planning Land Use Strategy, Housing and Infrastructure, Department of Planning, Housing and Infrastructure, 24 July 2024, p 4.

¹¹⁰ Evidence, Ms Shalbaf, 24 July 2024, p 4.

¹¹¹ Evidence, Mr Simon Hunter, Chief Transport Planner, Transport for NSW and Mr Matt McKibbin, Executive Director, Planning for Places, Transport for NSW, 24 July 2024, pp 14-15.

affirmed by the now Department of Climate Change, Energy, the Environment and Water and Infrastructure NSW in February and March 2024.¹¹²

- 2.10** Homes NSW similarly said it was consulted and 'gave a lot of feedback to the department on the process and what they were doing, and that was taken on board'.¹¹³
- 2.11** The Transport Oriented Development Assessment Review Committee, which assessed the shortlist of stations, and made a recommendation for selection of the TOD Tier 1 accelerated precincts, comprised senior representatives from the former Department of Planning and Environment, the former Greater Cities Commission, Treasury, Transport for NSW, Infrastructure NSW, the Cabinet Office, the Office of Local Government and Department of Communities and Justice.¹¹⁴
- 2.12** While NSW Government stakeholders appeared satisfied with the level of consultation and cross-government coordination in the selection of sites, non-government stakeholders were less so. DPHI advised that 'targeted consultation' with industry peak bodies and Local Government NSW was undertaken between June 2023 and November 2023 to inform program development. The department noted that while records were kept of these meetings, 'no information was shared about the specific sites being recommended for the TOD program'.¹¹⁵
- 2.13** Property industry peak bodies appeared unimpressed with the level of consultation with them in the development of the TOD program, particularly the selection of sites. Mr Tom Forrest, Urban Taskforce, expressed a degree of confusion about how the selection criteria for the Tier 1 TOD sites had been applied, and noted that the property industry considers other sites equally viable.¹¹⁶ Ms Katie Stevenson, NSW Executive Director, Property Council of Australia, voiced disappointment that the industry 'who are responsible for delivering this housing, have not had an opportunity to be actively involved in this assessment process'.¹¹⁷ The Housing Industry Association argued that there was a lack of transparency around the selection of the 8 TOD program accelerated precincts and 31 program locations, noting that they had requested information from DPHI in February 2024, but were told it was commercial-in-confidence.¹¹⁸
- 2.14** Local Government NSW also criticised the lack of consultation that occurred during development of the TOD program.¹¹⁹ Some local councils expressed concern about the selection of particular locations, or lack of clarity around why some stations were chosen as Tier 1 or Tier 2 precincts and not others.¹²⁰

¹¹² Evidence, Ms Kate Miles, Head of System Planning and Land Acquisition, Sydney Water, 24 July 2024, p 13.

¹¹³ Evidence, Mr Michael Wheatley, Acting Head of Housing Portfolio, Homes NSW, 24 July 2024, p 62.

¹¹⁴ Submission 118, Department of Planning, Housing and Infrastructure, p 12.

¹¹⁵ Submission 118, Department of Planning, Housing and Infrastructure, p 21.

¹¹⁶ Evidence, Mr Tom Forrest, CEO, Urban Taskforce, 20 May 2024, p 2.

¹¹⁷ Evidence, Ms Katie Stevenson, NSW Executive Director, Property Council of Australia, 20 May 2024, p 3; See also Submission 59, Housing Industry Association, p 2.

¹¹⁸ Submission 59, Housing Industry Association, p 2.

¹¹⁹ Submission 139, Local Government NSW, p 6.

¹²⁰ See for example, Submission 29, Wollongong City Council, pp 4-5.

- 2.15** Local Councils also criticised the short time period between the announcement of the TOD program and the initial dates of introduction for the TOD SEPP. The program was announced on 7 December 2023, providing a truncated period for Council analysis of the program and adequate community consultation by Councils and Councillors due to the traditional Christmas/New Year holiday period. However, twelve of the thirteen councils which are part of the TOD Tier 2 program formed an agreement with the NSW Government on the implementation of the TOD program in their local areas. Notably, most councils who were invited to provide evidence to this inquiry declined to attend, as issues raised in their submissions had been resolved through the consultation undertaken by the Department.

Probity of the site selection process

- 2.16** As noted by stakeholders to this inquiry, decisions to 'upzone' land generate potential windfall gains for property owners.¹²¹ Before rezoning is publicly announced, information about potential rezoning is highly sensitive and valuable, and there is potential for conflicts of interest for those involved in the decision making.¹²² The limited information provided to external stakeholders regarding site selection is a probity measure.¹²³
- 2.17** DPHI's submission noted that 'due to its sensitive nature, the TOD program was developed under enhanced probity settings', including requiring members of the TOD Assessment Review Committee to declare any conflicts of interest at the start of each meeting and to sign a separate confidentiality agreement.¹²⁴ As site selection progressed, files concerning the process were moved to more secure storage with access limited to the TOD program team, and information shared internally within government on an 'as needed' basis only.¹²⁵
- 2.18** DPHI further noted that a probity advisor was engaged as part of the TOD development process. The probity adviser advised on the establishment of the Transport Oriented Development Assessment Review Committee, attended meetings, and provided oversight regarding other corruption prevention steps.¹²⁶
- 2.19** In evidence, Ms Kiersten Fishburn, Secretary, DPHI, highlighted the probity measures in place, while also acknowledging that there had been lessons learned during the process:

¹²¹ For example, Submission 168, Professor Peter Phibbs, p 7; Evidence, Professor Peter Phibbs, Emeritus Professor, Henry Halloran Research Trust, University of Sydney, 24 July 2024, pp 43-44.

¹²² See Submission 118, Department of Planning, Housing and Infrastructure, pp 20-21. Allegations of a potential conflict of interest involving the TOD program were aired in the Legislative Assembly on 9 February 2024. This was subsequently investigated by ICAC, which did not find evidence of corrupt conduct. See Legislative Assembly, *Hansard*, 8 February 2024, pp 54-55 (Mr Alistair Henskens); Independent Commission Against Corruption, Website, Media release, Statement regarding allegations concerning Ms Katie Joyner, 18 March 2024, <https://www.icac.nsw.gov.au/media-centre/media-releases/2024-media-releases/statement-regarding-allegations-concerning-ms-katie-joyner>.

¹²³ Submission 118, Department of Planning, Housing and Infrastructure, p 21.

¹²⁴ Submission 118, Department of Planning, Housing and Infrastructure, p 21.

¹²⁵ Submission 118, Department of Planning, Housing and Infrastructure, p 21.

¹²⁶ Submission 118, Department of Planning, Housing and Infrastructure, pp 9-10.

Throughout the site selection process the department had various probity measures in place, including a probity advisor, conflict of interest declarations, document management and storage, and information sharing on an as-needed basis only, within and outside the department. We have learnt from events which occurred during the processes and have taken steps to enhance record management practices and probity measures. We have also cast a wider review of our practices. A number of recommendations have been implemented and will continue to be ongoing.¹²⁷

- 2.20** Despite measures to keep potentially sensitive information confidential, some material relevant to the TOD program was inadvertently posted on the department's website in December 2023, and published in the media.¹²⁸ This inadvertent release of information led the NSW Government to bring forward the planned TOD program announcement 'to minimise misinformation in the public domain'.¹²⁹

Calls for release of analysis underpinning selection of TOD program sites

- 2.21** The confidentiality of the feasibility analysis underpinning the selection of TOD sites – even after the decision was made and the program announced – is an ongoing concern for several inquiry participants.

- 2.22** Several development industry organisations were critical of a lack of transparency in the feasibility analysis. Ms Katie Stevenson, Property Council of Australia stressed that the Property Council had been engaging with the government and contributing in good faith to negotiations, and called on the government to release the feasibility analysis that underpinned the selection of sites.¹³⁰ She highlighted the importance of the development industry being able to see the analysis to be able to advise on what 'would be able to be delivered and where the sensitivities lie'. She said:

We continue to call on the Government to release their analysis around which sites were selected and why. Also, as the work progresses and they undertake the necessary strategic planning work, it's absolutely vital that industry is at the table to be able to make sure that all of this important effort that's being put into this policy is able to realise new homes on the ground.¹³¹

- 2.23** Some local governments also suggested releasing the feasibility analysis would aid community understanding of the program. For example, Mr Sam Ngai, Mayor, Ku-ring-gai Council, criticised the lack of detail available to local councils regarding the modelling that guided choice of the TOD precincts. He suggested that having the modelling available could help the community understand why some sites were selected over other possible choices.¹³²

- 2.24** Some community advocates argued that keeping the feasibility analysis confidential undermined the transparency and accountability of the TOD program. For example, Mrs Kathy Cowley,

¹²⁷ Evidence, Ms Fishburn, 24 July 2024, p 3.

¹²⁸ Submission 118, Department of Planning, Housing and Infrastructure, p 21.

¹²⁹ Submission 118, Department of Planning, Housing and Infrastructure, p 21.

¹³⁰ Evidence, Ms Stevenson, 20 May 2024, p 6.

¹³¹ Evidence, Ms Stevenson, 20 May 2024, p 6.

¹³² Evidence, Mr Sam Ngai, Mayor, Ku-ring-gai Council, 20 May 2024, p 61.

Friends of Ku-ring-gai Environment Inc, suggested that keeping the modelling justifying the selection of the TOD areas confidential 'undermines trust in government' and also violates the principle of the *Environmental Planning & Assessment Act 1979* (EP&A Act).¹³³

2.25 Ms Christiane Berlioz, Member, Leadership Group, Better Planning Network, called for the government to release supporting maps and data, and questioned the assessment process to determine TOD sites:

Government has claimed Cabinet in confidence to avoid accountability. In the interests of transparency, the supporting data and maps of the analysis identifying the TOD stations should be publicly accessible. Feasibility studies must include provision of plans and costing for supporting infrastructure, and the draft SEPP must be put on public exhibition. Despite claims the assessment process to determine the TOD stations is evidence-based, the inappropriateness of certain stations or areas suggests that most of the assessment was actually achieved with desktop software.¹³⁴

2.26 When asked about the contents of the feasibility analysis, departmental officials noted that some of the factors regarding development feasibility and infrastructure servicing are sensitive to government. Therefore, information was presented only in a Cabinet setting, and thus is protected by Cabinet in confidence.¹³⁵

Consultation process following the TOD program announcement

2.27 As noted above, public announcement of the TOD program was brought forward to 7 December 2023 due to an inadvertent release of sensitive information on the DPHI website.¹³⁶ Following this announcement, the DPHI led a 'targeted' consultation process, with affected councils, peak bodies and non-government organisations.¹³⁷

2.28 While the details of the TOD site selection were kept confidential, there were earlier signals that the government was looking at transport oriented development as a concept.¹³⁸ As well as being an election commitment of the NSW Government, the general approach of focusing 'housing uplift' around public transport is a well-understood model of urban growth that has been a feature of planning in New South Wales and elsewhere for many years.¹³⁹

¹³³ Evidence, Mrs Kathy Cowley, Friends of Ku-ring-gai Environment Inc, pp 35-36.

¹³⁴ Evidence, Ms Christiane Berlioz, Member, Leadership Group, Better Planning Network, 20 May 2024, p 53.

¹³⁵ Evidence, Ms Monica Gibsons, Deputy Secretary, Planning, Land Use Strategy, and Ms Fishburn, Department of Planning, Housing and Infrastructure, 24 July 2024, p 4.

¹³⁶ Submission 118, Department of Planning, Housing and Infrastructure, p 21; NSW Government, Planning, A Shared Responsibility: The plan to begin addressing the housing crisis in NSW, 7 December 2023, <https://www.planning.nsw.gov.au/news/a-shared-responsibility-the-plan-to-begin-addressing-the-housing-crisis-in-nsw>

¹³⁷ Submission 118, Department of Planning, Housing and Infrastructure, pp 16-18.

¹³⁸ Submission 118, Department of Planning, Housing and Infrastructure, p 7. See also Australian Government, The Treasury, *National Housing Accord – implementation schedules – NSW*, June 2023, <https://treasury.gov.au/sites/default/files/2023-11/has-nsw.pdf>.

¹³⁹ Submission 118, Department of Planning, Housing and Infrastructure, pp 7-8.

- 2.29** DPHI advised that it had consulted with peak bodies on potential changes for enhanced transport oriented development and other housing measures from June 2023, with feedback from this consultation informing the development of the TOD program.¹⁴⁰
- 2.30** As noted in Chapter 1, and pointed out by stakeholders to this inquiry, related housing reforms were being developed concurrently with the TOD program and there was overlap in the consultation processes. A ministerial announcement relating to planning rules to fast track low and mid-rise housing, including near transport hubs, was made on 28 November 2023.¹⁴¹ The related *Explanation of Intended Effect: Changes to create low and mid-rise housing* was publicly exhibited from 15 December 2023 to 23 February 2024.¹⁴²
- 2.31** DPHI advised that, after the public announcement on the TOD program in early December 2023, it conducted initial briefings with heads of staff of seven councils, covering the eight TOD accelerated precincts (Tier 1 precincts). The department added that, following those initial briefings, the DPHI Secretary chaired briefings with councillors between January and March 2024.¹⁴³ Consultations with two other councils that share a border with North Sydney (which has a TOD accelerated precinct) were also held in February and March 2024.¹⁴⁴ DPHI further stated that council staff have been invited to participate in regular fortnightly project working groups for each precinct.¹⁴⁵
- 2.32** For the Tier 2 precincts, DPHI advised that it conducted initial briefings with the heads of staff of 14 affected councils, followed by an email of 19 December 2023 asking councils to provide specific feedback on the development standards, amenity and design controls and affordable housing mechanisms.¹⁴⁶ The department conducted a further round of briefings with 13 councils where the TOD SEPP will apply between January and February 2024, and an additional briefing with Willoughby Council on its request.¹⁴⁷
- 2.33** With regard to other community stakeholders, including community and environment groups and professional bodies, DPHI advised that it meets regularly with a range of stakeholder groups that represent the interests of their communities in monthly and quarterly forums. It noted that targeted briefings were held with planning, property development and community housing industry peak bodies following the TOD program announcement in December 2023.¹⁴⁸ It also noted there are a range of forums organised by DPHI's Planning System Stakeholder Team that provide opportunities for community and other stakeholders to input into the TOD program.¹⁴⁹

¹⁴⁰ Submission 118, Department of Planning, Housing and Infrastructure, p 17.

¹⁴¹ NSW Government, Planning, New planning rules to fast track low and mid rise housing, 28 November 2023, <https://www.planning.nsw.gov.au/news/new-planning-rules-fast-track-low-and-mid-rise-housing>

¹⁴² NSW Government, Planning, Diverse and well-located homes – Low-and mid-rise housing, <https://www.planning.nsw.gov.au/policy-and-legislation/housing/diverse-and-well-located-homes>

¹⁴³ Submission 118, Department of Planning, Housing and Infrastructure, p 15.

¹⁴⁴ Submission 118, Department of Planning, Housing and Infrastructure, p 15.

¹⁴⁵ Submission 118, Department of Planning, Housing and Infrastructure, p 15.

¹⁴⁶ Submission 118, Department of Planning, Housing and Infrastructure, p 16.

¹⁴⁷ Submission 118, Department of Planning, Housing and Infrastructure, pp 16-17.

¹⁴⁸ Submission 118, Department of Planning, Housing and Infrastructure, pp 17-18.

¹⁴⁹ Submission 118, Department of Planning, Housing and Infrastructure, p 18.

Stakeholder views on the consultation process

- 2.34** Many inquiry participants, including local councils, industry groups and community organisations, expressed dissatisfaction with the consultation process that followed the announcement of the TOD program in December 2023. The concerns related to the quality of the information provided as part of the process, and a sense that the process was rushed and poorly timed for stakeholders.
- 2.35** The Housing Industry Association expressed concern that the formal public exhibition process, involving an Explanation of Intended Effect (EIE) was not followed, and that the TOD program information brochure released in December 2023 contained little detail on many aspects of the proposed policy settings, leaving too many open questions.¹⁵⁰ The Association suggested that: 'Given the considerable public interest arising from the TOD program proposal, it would seem highly relevant that an EIE should have been placed on public exhibition'.¹⁵¹ The HIA further noted that failure to exhibit an EIE may not align with clause 3.30 of the *Environment Planning and Assessment Act (1979)*.¹⁵²
- 2.36** Speaking of the need for the TOD program to be led by a sound strategic plan, with evidence as to why planning decisions were made, Ms Sue Weatherley, President, Planning Institute Australia was similarly critical of the release of the first phase of the TOD program without an EIE. She suggested that providing a narrative in plain English of the impact of the planning rule changes, and more consultation, would have make it a better program.¹⁵³
- 2.37** Many councils expressed disappointment with the initial consultation. Speaking as President of Local Government NSW, Councillor Darriea Turley AM suggested the way the reforms were initially designed and announced did little to cultivate a positive partnership between state and local governments.¹⁵⁴ Local Government NSW noted that the current housing reforms, including TOD, represent a 'shifting of the dial' in the NSW Government's approach to delivering housing, toward more direction from the state government over local governments, where previously there had been more opportunity for local government to engage in strategic planning frameworks.¹⁵⁵ Ms Turley also provided evidence indicating that the work that was done with councils was reflected in the way that the tone of conversations shifted to councils providing more sites.¹⁵⁶
- 2.38** Several local governments were critical of the short time frame for consultation, as well as the amount of information provided to councils as part of that process.¹⁵⁷ Central Coast Council suggested that the information that had been provided to councils as part of the initial

¹⁵⁰ Submission 59, Housing Industry Association, p 3.

¹⁵¹ Submission 59, Housing Industry Association, p 3.

¹⁵² Submission 59, Housing Industry Association, p 3.

¹⁵³ Evidence, Ms Sue Weatherly, President, Planning Institute Australia, 7 June 2024, p 11.

¹⁵⁴ Evidence, Councillor Darriea Turley AM, President, Local Government NSW, 24 July 2024, p 26.

¹⁵⁵ Evidence, Mr David Reynolds, CEO, Local Government NSW, 24 July 2024, p 28.

¹⁵⁶ Evidence, Councillor Turley, 24 July 2024, p 27.

¹⁵⁷ For example, Submission 19, Woollahra Municipal Council; Submission 20, Central Coast Council, pp 1-2; Evidence, Cr Tanya Taylor, Mayor, Willoughby Shire Council, 20 May 2024, p 59.

consultation process was lacking in detail.¹⁵⁸ Mr Scott Duncan, Section Manager, Local Planning and Policy, Central Coast Council, acknowledged there had been more information available regarding the TOD SEPP maps and TOD instrument since that period.¹⁵⁹

- 2.39** Local Government NSW told the committee that while the process had started 'abruptly', communications had improved since the early announcements and people were working more deliberately on an individual council-by-council basis.¹⁶⁰ Some local council representatives acknowledged the efforts of the DPHI to engage in discussion.¹⁶¹
- 2.40** Local government representatives were particularly critical of the timing of the initial consultation with councils. Councillor Darcy Byrne, Mayor, Inner West Council, pointed out that council staff had only limited time between Christmas and Australia Day to prepare input to this process. He suggested most councils would be willing to contribute constructively to policy development if given a reasonable opportunity, but noted there had been delays throughout 2023 in releasing information that councils could respond to.¹⁶²
- 2.41** Councillor Tanya Taylor, Mayor, Willoughby City Council described the consultation for the TOD program as 'ad hoc, limited in scope and light in detail'. She noted the inconvenient timing of consultation over the end-of-year holiday period, and lack of direct consultation with communities other than 'limited information provided on the department's webpage'. She noted it was left to councils to engage with concerned communities, who were grappling concurrently with the TOD and concurrent housing SEPP changes.¹⁶³
- 2.42** Several community groups criticised the quality of community engagement or consultation around the TOD program.¹⁶⁴ Mr David Burden, Conservation Director, National Trust of Australia, suggested that community trust was undermined by shortcomings in the public exhibition of the proposal. He said that 'much of the information was not clearly defined' and 'not a single plan was exhibited as part of this proposal', so people tended to default to a worst case scenario.¹⁶⁵
- 2.43** Some stakeholder groups were more understanding of the short timeframe for consultation, welcoming the state government pushing ahead to take measures to address the housing crisis that are likely to generate opposition from some local government and community groups. In advocating for urgent measures to address housing affordability, the advocacy group YIMBY, suggested that calls for more community consultation were designed to delay much-needed

¹⁵⁸ Submission 20, Central Coast Council, pp 1-2; Evidence, Mr Scott Duncan, Section Manager, Local Planning and Policy, Central Coast Council, 7 June 2024, p 3.

¹⁵⁹ Evidence, Mr Duncan, 7 June 2024, p 3.

¹⁶⁰ Evidence, Mr Reynolds, 24 July 2024, p 27.

¹⁶¹ For example: Evidence, Mr Steven Head, General Manager, Hornsby Shire Council and Chair, General Managers' Advisory Committee, Northern Sydney Regional Organisation of Councils, 20 May 2024, p 25.

¹⁶² Evidence, Councillor Darcy Byrne, Mayor, Inner West Council, 20 May 2024, p 43.

¹⁶³ Evidence, Councillor Taylor, 20 May 2024, p 58.

¹⁶⁴ For example, Evidence, Ms Berlioz, 20 May 2024, p 52.

¹⁶⁵ Evidence, Mr David Burdon, Conservation Director, National Trust of Australia (NSW), 20 May 2024, p 34.

density reforms, and that, even if there were more consultation, certain community groups would still oppose greater density.¹⁶⁶

2.44 While flagging some concerns with the level of consultation on selection of the TOD sites and development of the TOD SEPP, spokesperson for the Property Council of Australia, Ms Katie Stevenson, welcomed the speed at which the reforms were moving.¹⁶⁷ Mr Tom Forrest, Urban Taskforce, said that, 'to be fair, the Government is still listening and talking with all the industry groups, as well as local councils, about some of the tweaks'.¹⁶⁸

2.45 The department defended its efforts to engage with councils following the TOD program announcement. Responding to suggestions that councils felt they had been 'ridden roughshod over', Ms Fishburn, Secretary, DPHI stressed that:

We have spoken to councillors and mayors, we have spoken to general managers and we have spoken to planning staff extensively. Councils have put forward additional TOD sites, which would certainly indicate that they're willing to engage in the program, and the conversations with councils continue on a daily basis around planning controls and the implementation of TODs and accelerated precincts.¹⁶⁹

2.46 She also noted that some councils were given more time to consult in their own communities to refine how the TOD program would roll out in their areas, including developing their own Local Environmental Plans.¹⁷⁰ She further noted that, while councils can sometimes be frustrated with the state government and vice versa, they all understand the acute pressure of the housing crises and councils have responded 'exceptionally maturely'.¹⁷¹ A demonstration of the consultation that did occur with councils through the refinement of the TOD policy is reflected in the number of councils that declined to attend the inquiry and the 12 councils that did form agreements on the policy with the government.

2.47 With regard to community calls for greater consultation, Ms Kiersten Fishburn, Secretary, DPHI, noted that the consultations were undertaken 'quite extensively' with councils rather than face to face with residents.¹⁷²

Opportunities for further consultation

2.48 While most stakeholders considered the initial consultation process to have been rushed, they noted that this had since improved. Councils in particular commented that the department had been open to consultation on the detailed rezoning proposals for the accelerated precincts, and the timing of implementation of the TOD SEPP in particular precincts.¹⁷³

¹⁶⁶ Mr Justin Simon, Chair, Sydney YIMBY, 20 May 2024, p 15.

¹⁶⁷ Evidence, Ms Stevenson, 20 May 2024, p 3.

¹⁶⁸ Evidence, Mr Forrest, 20 May 2024, p 3.

¹⁶⁹ Evidence, Ms Fishburn, 24 July 2024, p 11.

¹⁷⁰ Evidence, Ms Fishburn, 24 July 2024, p 3.

¹⁷¹ Evidence, Ms Fishburn, 24 July 2024, p 11.

¹⁷² Evidence, Ms Fishburn, 24 July 2024, p 10.

¹⁷³ For example, Evidence, Councillor Byrne, 20 May 2024, pp 41-44.

- 2.49** The department's website shows that draft rezoning proposals for Hornsby, Macquarie Park, Kellyville and Bella Vista were available for public feedback between 9 July and 23 August 2024. Those for Bankstown, Crows Nest and Homebush were on exhibition from 16 July to 30 August 2024.¹⁷⁴ An Explanation of Intended Effect (EIE) outlining the proposed planning policy changes affecting the TOD accelerated precincts was exhibited for public feedback from 9 July to 23 August 2024.¹⁷⁵
- 2.50** Departmental representatives told the committee that the department had been working closely with councils on the plans that were exhibited.¹⁷⁶ For example, Ms Sargeant, Executive Director, State Rezoning, Planning, Land Use Strategy, Housing and Infrastructure, DPHI, indicated there had been work with Canada Bay and North Strathfield councils on the Homebush precinct, which was based on a previous Parramatta Road corridor study. She said councillors had been briefed a number of times, and a lot of their feedback incorporated into the master plan that was exhibited.¹⁷⁷
- 2.51** Departmental representatives also advised that it would be considering submissions that came in through the exhibition process from communities, councils and landowners. They also noted that some extra face-to-face consultation sessions were held with certain affected communities.¹⁷⁸

Amendments to the program after consultation

- 2.52** The TOD SEPP was originally planned to come into effect from April 2024 in all 31 TOD Tier 2 precincts.¹⁷⁹ While the TOD SEPP itself was finalised by 29 April 2024,¹⁸⁰ implementation in 19 of the 31 precincts was deferred until later in 2024 or early 2025.¹⁸¹ The department's website notes that the NSW Government agreed to allow some councils to carry out local planning around these 19 stations, and that 'councils that worked with the department on this process will phase the introduction of new planning controls to allow for more detailed master planning

¹⁷⁴ NSW Government, Planning, Transport Oriented Development – Accelerated Precincts, <https://www.planning.nsw.gov.au/policy-and-legislation/housing/transport-oriented-development-program/accelerated-precincts>

¹⁷⁵ NSW Government Planning Portal, Proposed pathway changes to support Transport Oriented Development <https://pp.planningportal.nsw.gov.au/draftplans/under-consideration/proposed-pathway-changes-support-transport-oriented-development>

¹⁷⁶ Evidence, Ms Anthea Sargeant, Executive Director, State Rezoning, Planning, Land Use Strategy, Housing and Infrastructure, Department of Planning, Housing and Infrastructure, 24 July 2024, p 12.

¹⁷⁷ Evidence, Ms Sargeant, 24 July 2024, p 12.

¹⁷⁸ Evidence, Mr Sargeant, 24 July 2024, p 10.

¹⁷⁹ NSW Government, *Transport Oriented Development Program*, December 2023, <https://www.planning.nsw.gov.au/sites/default/files/2023-12/transport-oriented-development-program.pdf>, p 4.

¹⁸⁰ State Environmental Planning Policy (Housing) Amendment (Transport Oriented Development) 2024 under the Environmental Planning and Assessment Act 1979 (2024 no. 135), 29 April 2024.

¹⁸¹ Evidence, Ms Fishburn, 24 July 2024, p 3; See also NSW Government, Planning, Transport Oriented Development Program, <https://www.planning.nsw.gov.au/policy-and-legislation/housing/transport-oriented-development-program>.

around these stations to be completed'.¹⁸² It also noted that: 'Should a council fail to undertake local planning, nor provide equal or greater housing than proposed, the SEPP will come into effect in line with the published schedule.'¹⁸³

- 2.53** Councillor Darcy Byrne, Mayor, Inner West Council, said that there was much more consultation with local government in the lead up to the date on which the TOD SEPP was initially meant to be implemented (April 2024).¹⁸⁴ He advised that the TOD deferral in relation to Ashfield, Marrickville, Dulwich Hill and Croydon stations had given the council more time to complete their local environment plan and work collaboratively with the government on housing supply.¹⁸⁵
- 2.54** Other changes made after consultation with local councils included the addition of six extra TOD Tier 2 precincts. Ms Fishburn, Secretary, DPHI, advised that following the initial consultation on the TOD, some councils nominated additional Tier 2 precincts, which were added to the initial 31 precincts in April 2024.¹⁸⁶
- 2.55** Local Government NSW suggested that, while things had improved, there was still a need for much more engagement to ensure councils and the NSW Government are working together to address the housing crisis. Mr David Reynolds, Chief Executive, Local Government NSW, called for 'very deep and deliberate' engagement with councils about ongoing strategic planning across different local government areas, including engagement about the type of infrastructure that is required and how it will be funded, 'which sends important price signals about land'.¹⁸⁷
- 2.56** Some inquiry participants were supportive of the NSW Government taking a firm stance with regard to the TOD changes, where local councils were resisting the need for higher density in their areas. While acknowledging the importance of taking local government views into account, Mr Luke Turner, Western Sydney Leadership Dialogue, suggested that, in order to promote housing availability, the state government 'should place a higher weighting on the views of councils who are providing constructive alternatives to the same end goal'.¹⁸⁸
- 2.57** Dr Peter Tulip indicated he thought a cooperative outcome, where local councils negotiated to increase density in ways that allowed for maintenance of things like tree canopy would be better. However, he indicated support for state-led rezoning, and suggested that certain councils taking an uncompromising stance is leading to worse outcomes.¹⁸⁹

¹⁸² NSW Government, Planning, Transport Oriented Development Program.

¹⁸³ NSW Government, Planning, *Transport Oriented Development Program*.

¹⁸⁴ Evidence, Councillor Byrne, 20 May 2024, p 43.

¹⁸⁵ Evidence, Councillor Byrne, 20 May 2024, pp 41, 45

¹⁸⁵ Evidence, Councillor Byrne, 20 May 2024, pp 41, 45

¹⁸⁶ Evidence, Ms Fishburn, 24 July 2024, p 3; NSW Government, Planning, *Transport Oriented Development Program*.

¹⁸⁷ Evidence, Mr Reynolds, Chief Executive, Local Government NSW, 24 July 2024, p 27.

¹⁸⁸ Evidence, Mr Luke Turner, Western Sydney Leadership Dialogue, 20 May 2024, p 15.

¹⁸⁹ Evidence, Dr Peter Tulip, Chief Economist, Centre for Independent Studies, 7 June 2024, p 26.

- 2.58** As outlined above, the department indicated it has regular meetings such as monthly forums with various stakeholder groups, and is providing ongoing opportunities for input to the TOD program.¹⁹⁰

Interaction of the TOD program with other planning instruments

- 2.59** A common criticism of the TOD program came from planners and local governments who called for a greater emphasis on local, place-based planning, rather than a top-down, one-size-fits-all approach imposed by the state government. These stakeholders shared concerns that the TOD program is not based on detailed local knowledge, and does not sufficiently recognise previous planning strategies or master plans, or the need for local master planning. There were further concerns that discrepancies between the TOD SEPP and local development control plans could result in greater complexity and uncertainty in the planning system.

Compatibility with existing place-based plans

- 2.60** Many local government representatives and planners suggested it would be better to develop local place-based plans for particular precincts rather than have a one-size-fits all approach imposed from above.¹⁹¹ Some suggested that the TOD reforms are incompatible with existing place-based planning, such as existing master plans or planning proposals for particular sites, or that the TOD SEPP approach was not compatible with local conditions.¹⁹² Others suggested that well-designed place-based plans could do more to stimulate new housing supply, while also ensuring community amenity.¹⁹³
- 2.61** DPHI evidence demonstrates that the Government wants councils to do this work – the deferred commencement of some stations is to allow time for that to occur – and where councils do that work in other places, their local work will override the TOD SEPP.
- 2.62** Local Government NSW particularly emphasised the importance of local, place-based planning to create communities with adequate infrastructure and amenities, as well as timely provision of affordable housing. It suggested a need for more 'nuanced local conversations', and for greater partnership and engagement with local governments around planning for each precinct.¹⁹⁴ Summing up its position, Local Government NSW stated:

In general terms, it is a longstanding position of LGNSW that one-size-fits-all approaches to planning fail to give regard to the very different planning contexts and urban typologies in each precinct, and are contrary to principles of doing density well. Democratically elected councils are best placed to understand the constraints and opportunities in their local government areas. Councils know how and where growth and density can be most suitably accommodated, and at times this will include

¹⁹⁰ Submission 118, Department of Planning, Housing and Infrastructure, p 18.

¹⁹¹ For example, Evidence, Ms Turley, 24 July 2024, p 26; Evidence, Mr Head, 20 May 2024, pp 27-28; Evidence, Mr Todd Carney, Mayor, Penrith City Council, 24 July 2024, p 21.

¹⁹² For example, Submission 29, Wollongong City Council, p 5; Evidence, Mr Carney, 24 July 2024, p 21.

¹⁹³ For example, evidence, Mr Reynolds, 24 July 2024, p 28.

¹⁹⁴ Evidence, Ms Turley, 24 July 2024, p 26; Evidence, Mr Reynolds, 24 July 2024, p 30.

identifying certain areas for increased density while maintaining certain controls in others. The NSW Government should work with councils to plan for good growth and density in locations that can support it.¹⁹⁵

- 2.63** To demonstrate the benefits of a place-based master planned approach, Local Government NSW pointed to Canterbury-Bankstown Council's submission to the Government's TOD program. The submission found that the Council's place-based master planning produced a higher dwelling yield with an additional 715 dwellings compared to 468 additional dwellings under the TOD program. Mr David Reynolds, Chief Executive, Local Government NSW, reflected on the Council's analysis, stating that a place-based master planning approach has not only capacity benefits but also benefits for the environment, community, services and infrastructure:

They go to the issue of whether there's a better local outcome that can be achieved that potentially, in many places, gets a higher yield but that higher yield is able to be done more sensitively in relation to the environment, in relation to supporting amenity, and in relation to supporting infrastructure and services. The Canterbury-Bankstown example is one—and no doubt there will be others as these controls unfold—where nuanced local application of master planned outcomes still preserves the strategic intent of housing delivery but does it in a way that actually builds community in a positive sense.¹⁹⁶

- 2.64** Mr David Reynolds, Local Government NSW noted that under previous governments there had been 'sizeable strategic planning frameworks' from region plans through district to local strategic planning statements, and that local councils had been heavily involved in these.¹⁹⁷
- 2.65** The Planning Institute of Australia advocated for integrating a master planning element into the TOD SEPP, removing the one-size-fits-all rezoning approach where work could progress rapidly.¹⁹⁸ It also noted that the deferral of some TOD precincts to enable councils to undertake additional work to some extent reflected this intent.¹⁹⁹
- 2.66** Several local councils spoke of wanting to engage constructively with the NSW Government over planning for particular precincts, noting in some cases councils had existing master plans for areas that are now TOD precincts.²⁰⁰ Mr Darcy Byrne, Mayor, Inner West Council highlighted work that had already been done in the inner west regarding transport oriented development. He suggested that the local government was able to undertake its own upzoning around transport hubs through a local planning process, rather than having it imposed by the state government.²⁰¹

¹⁹⁵ Answer to question on notice, Local Government NSW, 19 August 2024, p 2.

¹⁹⁶ Evidence, Mr Reynolds, , 24 July 2024, p 28.

¹⁹⁷ Evidence, Mr Reynolds, , 24 July 2024, p 28.

¹⁹⁸ Evidence, Ms Weatherly, 7 June 2024, p 11.

¹⁹⁹ Evidence, Ms Weatherly, 7 June 2024, p 11.

²⁰⁰ For example, Submission 50, Ryde City Council; Evidence, Mr James Farrington, Director, Planning and Compliance Hornsby Shire Council, 20 May 2024, pp 25-26; Evidence, Ms Zoë Baker, Mayor, North Sydney Council, 7 June 2024, p 2; Evidence, Ms Weatherly, 7 June 2024, p 11.

²⁰¹ Evidence, Councillor Byrne, 20 May 2024, pp 41, 43.

- 2.67** Ms Clare Harley, Director, Planning and Environment, Strathfield Council spoke of that council's advocacy for a master planning process to ensure high-quality urban design to deliver liveable and connected communities. While indicating a desire to work in partnership with DPHI on plans for growth, she expressed concern about the short timeframe for the current process in the Homebush precinct, as it was due to meet a July 2024 exhibition date and November 2024 rezoning. She argued for allowing sufficient time for master planning to tackle the complexities of the Parramatta Road and its surrounds.²⁰²
- 2.68** Mr Todd Carney, Mayor, Penrith City Council, which includes the St Marys station precinct, referred to the potential of that local government's commitment to deliver housing, and the capacity of the area to accommodate its development targets. However, he suggested the one-size-fits-all TOD SEPP approach is not appropriate to achieve the desired outcomes in that location. He noted that the council's existing centres planning model provides a better basis for decision making to guide growth and change in St Marys. He noted the council was developing an evidence-based strategic planning framework – a masterplan – for the St Marys town centre to 'take a balanced and nuanced approach with planning controls that respond to detailed evidence and place-based analysis'.²⁰³ St Marys town centre master plan is expected to be delivered by April 2025, when the TOD SEPP would otherwise come into force.²⁰⁴
- 2.69** Mr James Farrington, Director Planning and Compliance, Hornsby Shire Council, spoke of the work that council had done to develop its own housing strategies to meet demand, using their own planning controls, in consultation with the local community and taking into account local environmental constraints. With regard to the Hornsby Town Centre, which is an accelerated precinct under TOD, he noted that the council had already done extensive work to prepare a Hornsby Town Centre Master Plan, which sets the vision for a town centre to deliver 4,900 dwellings and 4,500 jobs. He stressed that council's position is that 'if the strategy is done right at the local level, that's the primary issue'.²⁰⁵
- 2.70** Although not affected by the TOD reforms, City of Sydney Council expressed some concern about the one-size-fits-all approach of the Diverse and Well-Located Homes Program. Mr Ben Pechey, Executive Manager, Strategic Planning and Urban Design, City of Sydney Council, highlighted the already dense residential development in the City of Sydney area, and the existing planning controls of the council which generally encourage apartment buildings, as seen in the 12,000 dwellings coming in the Green Square area. He noted that Green Square is carefully master-planned to deliver high densities supported by infrastructure, which is achieved by layering floor space bonuses that can be awarded when infrastructure is delivered. He suggested that a new SEPP overlaid on local controls could give councils less ability to achieve a balance of density with community amenity, or to refuse developments that are not in keeping with the approach in the master plan.²⁰⁶
- 2.71** Mr Pechey further suggested that the Diverse and Well-Located Homes Program would not add impetus for growth in that area, but rather add 'complication, confusion and distraction' for

²⁰² Evidence, Ms Clare Harley, Director, Planning and Environment, Strathfield Council, 20 May 2024, p 41.

²⁰³ Evidence, Mr Carney, 24 July 2024, p 21.

²⁰⁴ Evidence, Mr Carney, 24 July 2024, p 21.

²⁰⁵ Evidence, Mr Farrington, 20 May 2024, pp 26-27.

²⁰⁶ Evidence, Mr Ben Pechey, City of Sydney Council, 24 July 2024, p 24.

applicants and for the council's approval processes, thus causing a reduction in the number of new homes rather than an increase.²⁰⁷

- 2.72** Some community groups expressed concern that local environment plans and local development control plans developed over years through consultative processes were being overridden. Ms Diana Pryde, Chatswood West Ward Progress Association, for example, spoke of her community's disappointment in participating in lengthy consultations on local plans, only to see proposed changes come over the top from the state government:

Our association has had a lot of input into the new LEP [Local Environmental Plan] and DCP [Development Control Plan]. The process for that DCP and LEP started in 2016 and was gazetted in 2023. That is seven years of consultation, and we were a big part of that, working constructively with the council. We feel very angry that that democratic process is sort of swept away with these proposed changes.²⁰⁸

- 2.73** On the other hand, some community stakeholders focused on the cost of housing for young people, and suggested that addressing the housing crisis requires a strong state government approach in the face of local council opposition to in-fill development. Mr Justin Simon, Chair, Sydney YIMBY argued that some calls for 'place based strategic planning' were a delaying tactic for people opposed to development in their area. He noted the slowness of some councils to move on large precinct up-zonings around metro stations, and welcomed the TOD approach to convince councils to 'finally' start planning for density around train stations.²⁰⁹ Mr Simon suggested that when councils do 'place based rezoning' it is 'less about good planning principles and more about annoying existing homeowners as little as possible', leading to development along major roads and in lower socioeconomic areas rather than in desirable and convenient locations, because it generates less opposition.²¹⁰

Interaction with other planning instruments

- 2.74** As noted in Chapter 1, the planning system in New South Wales has a range of controls under the legislative framework of the *Environmental Planning and Assessment Act 1979*, which include strategic plans, State Environmental Planning Policies (SEPPs), Local Environmental Plans and Local Development Control Plans. There are also guidelines, such the apartment design guidelines, that may be taken into consideration when assessing development applications.
- 2.75** The committee heard significant concerns about how a new TOD SEPP (and other recent reforms) would interact with existing planning controls, including Local Environmental Plans and Development Control Plans, and other state policies and guidelines. In addition, some stakeholders expressed uncertainty about how the TOD program interacts with recent changes to low- and mid-rise housing.²¹¹ Several stakeholders suggested that, without a clear hierarchy of controls, the new SEPP could create greater complexity and confusion in the planning system, which would be counterproductive to the quick approval and construction of new housing.

²⁰⁷ Evidence, Mr Pechey, 24 July 2024, p 22.

²⁰⁸ Evidence, Ms Diana Pryde, Chatswood West Ward Progress Association, 24 July 2024, p 50.

²⁰⁹ Evidence, Mr Simon, 20 May 2024, p 14.

²¹⁰ Evidence, Mr Simon, 20 May 2024, p 14.

²¹¹ For example, evidence Ms Merrill Witt, Save Greater Sydney Coalition, 20 May 2024, p 50.

2.76 The Planning Institute of Australia noted, while that a long-sought goal of the NSW Planning System has been to reduce the number and complexity of planning instruments applying to a single site, the TOD program will overlap with other ongoing reform initiatives and existing local plans, potentially complicating the system further.²¹² The Planning Institute recommended that the NSW Government update the planning portal with mapping of the TOD program, proposed low-and-mid-rise changes and existing planning instruments. It also called for greater clarity on the weight placed on existing merit-based controls in local environmental plans, development control plans and resolution of inconsistencies with other SEPPs.²¹³

2.77 Developers were concerned about possible uncertainty of how development applications would be assessed in TOD areas, if there was conflict between local controls and the TOD SEPP. Mr Tom Forrest, Urban Taskforce, outlined from a developer's perspective, the complexity that can arise from the existing layers of statutory controls – both state and local – and other planning instruments such as development controls and guidelines that guide councils in zoning and planning decisions:

We have statutory controls and we have guidelines. The statutory controls start with the Act. They go through to the SEPPs, the State environmental planning policies, and ministerial directions. Then you have local environment plans. They are all statutory. You can go to court. You can argue the case there is some capacity for some flexibility. ... But by and large you've got to comply with the controls unless you've got a merit-based argument as to why it is that you might not. You've also got the strategic plans, the region plan, district plan and the local strategic planning statement. In order to rezone a property, you must demonstrate strategic consistency with those documents. ... For the purposes of a development application, you then have development control plans locally and you have apartment design guidelines for where you might have apartments.²¹⁴

2.78 Mr Forrest suggested that in assessing development applications councils may give greater weight to guidelines rather than statutory controls, and such matters can end up in the courts to decide on the merits of the case:

Often councils will make their decisions based on the guidelines alone. They're often saying, "We're strongly committed to the guidelines as they're written." It ends up in court and the court will make a merit-based judgement on whether or not to give weight to the guidelines or the statutory provision or, ... most likely somewhere in between, because that's typically what courts do, taking into account the arguments from both the developers and the local council representatives.²¹⁵

2.79 Ms Katie Stevenson, Property Council of Australia, indicated that the Property Council had been advocating for clear guidance for assessors in dealing with conflicting controls.²¹⁶ Mr Forrest similarly called for a hierarchy of planning controls, in which the SEPP would override local development control plans (DCP).²¹⁷ Mr Forrest further argued that failing to ensure the

²¹² Submission 158, Planning Institute of Australia, p 3.

²¹³ Submission 158, Planning Institute of Australia, p 3.

²¹⁴ Evidence, Mr Forrest, 20 May 2024, p 10.

²¹⁵ Evidence, Mr Forrest, 20 May 2024, p 10.

²¹⁶ Evidence, Ms Stevenson, 20 May 2024, p 3.

²¹⁷ Evidence, Mr Forrest, 20 May 2024, p 5.

SEPP controls take precedence could reduce feasibility for developers, and ultimately undermine achievement of the government's housing objectives.²¹⁸

2.80 As the main consent authority in the planning system, several local councils also had concerns about the TOD SEPP and other recent housing reforms creating greater complexity, and hence uncertainty, in the planning system, as well as potentially limiting the ability of local councils to make decisions based on their local plans.

2.81 There was some concern from councils that the TOD SEPP would override existing local planning controls. Mr Head, in making an argument for greater ability of councils to develop cohesive place-based-plans at the local level, stated that: 'we understand that with TOD in place obviously those controls will override existing local controls'.²¹⁹ Referring to the low and mid-rise housing reforms, which apply around transport hubs, Woollahra Council expressed concern these would override the Local Environmental Plan and Development Control Plan, 'creating confusion and complexity in the planning system'.²²⁰

2.82 Several other councils highlighted the potential for greater confusion in the planning system. Mr Scott Duncan, Central Coast Council, suggested the TOD SEPP changes are not necessary, and instead create an extra, unnecessary layer of planning assessment:

...we consider that the TOD SEPP changes are unnecessary. They create an unnecessary layer of planning assessment where we've already conducted quite a lot of detailed planning. There are a lot of detailed master plans and development control plans that already apply to these TOD centres, and there are already complex planning controls which achieve comparable densities and heights when considering the lot amalgamation bonuses that are given in many of these TOD centres.²²¹

2.83 Lake Macquarie City Council detailed how discrepancies in planning controls could lead to slower approvals. Referencing the Teralba Precinct, Lake Macquarie City Council suggested the 24 metre height limit and other changes in the TOD SEPP are inconsistent with recent changes to the Lake Macquarie Local Environmental Plan and Development Control Plan. The council suggested that the discrepancies will make it more challenging to undertake a reasonable merit-based assessment for proposed developments. It further suggested this would lead to significant public objection to TOD development in Teralba, making the assessment process lengthier and more uncertain, and undermining the state government's objective for fast and efficient development assessment.²²²

2.84 City of Sydney Council also flagged the possibility that the new SEPPs associated with the housing reforms could increase the likelihood of court action, and slow down the approval process. Speaking of his experience as an expert witness in the Land and Environment Court, Mr Peter Cantrill, City of Sydney Council said:

²¹⁸ Evidence, Mr Forrest, 20 May 2024, p 10.

²¹⁹ Evidence, Mr Head, 20 May 2024, p 28.

²²⁰ Submission 19, Woollahra Council, p 3.

²²¹ Evidence, Mr Scott Duncan, Central Coast Council, 7 June 2024, p 2.

²²² Answer to questions on notice, Local Government NSW (input from Lake Macquarie City Council), 19 August 2024, p 3.

It's clear to me that the non-refusal standards for height and floor space will at times, on certain sites, be in conflict with other parts of the planning framework. There will be times when that conflict will not be resolved in the normal time period for development approvals and there will be deemed refusals taken by developers and that will proceed to the Land and Environment Court.

The Land and Environment Court will have to balance complex issues of not being able to refuse height, not being able to refuse floor space, but still meet the requirements of local environmental plans, development control plans and other SEPPs like the Apartment Design Guide within the Housing SEPP. How they will be balanced, that will take time. Not only will it take time, it will take effort and it will take a lot of money because experts will be called and they will need to give evidence. They go through several processes. We think that the first thing that will happen in the introduction of the low- and mid-rise reforms will be the slowing down of development approvals, meaning that these reforms could, in some places—and in our area in particular—lower the responsiveness of development to the demand of the market.²²³

- 2.85** Mr Cantrill further noted that while the Land Environment Court is charged to resolve things quickly and with greater certainty, the recent reforms are likely to increase the number of appeals to the court. Overall, he suggested that one consequence of the reforms would be that housing development becomes less responsive to the market, at least initially, as the reforms would increase the number of appeals to the court:

... it'll take a series of actions in the Land and Environment Court for principles to be established and for those principles then to be applied and the local government approval process and for those principles to be understood by developers making applications so that they can make their applications in a way that will give them the most timely approval time. We're saying initially one consequence of the way that these reforms have been applied— that's not to say the aim of the reform; it's just the way it's been applied—will be making housing development less responsive to the market. That will be resolved over time.²²⁴

- 2.86** Several academics gave evidence about the potential for misalignment between local government and statutory planning instruments creating a barrier to rapid delivery and community support for higher density housing. For example, Dr Nicole Cook spoke of a risk of mismatch between the NSW Government's proposed SEPPs, the Apartment Design Guidelines and local government development control plans leading to conflict.²²⁵ She suggested there is a need for some research into what housing types people need, and to tighten the statutory planning framework to achieve better planning controls that promote liveable apartments.²²⁶

- 2.87** Ms Merrill Witt, Save Greater Sydney Coalition, expressed concern that the TOD SEPP would water down application of the Apartment Design Guidelines, noting that the new section 147(3) expressly says that a consent authority is not obliged to require compliance with the design criteria specified in the ADG. She suggested this would lead to adverse amenity outcomes in

²²³ Evidence, Mr Peter John Cantrill, Program Manager – Urban Design, City of Sydney, 24 July 2024, p 25.

²²⁴ Evidence, Mr Cantrill, 24 July 2024, p 25.

²²⁵ Evidence, Dr Nicole Cook, University of Wollongong, 24 July 2024, p 32.

²²⁶ Evidence, Dr Cook, 24 July 2024, p 33.

terms of solar access, cross-ventilation and heating and cooling.²²⁷ Noting the example of an 'urban planning disaster' at Melbourne Docklands, she warned against creating precincts of apartments designed for investors that people do not want to live in long-term.²²⁸

- 2.88** Responding to concerns that the TOD SEPP would undermine councils' ability to determine the shape of development in their areas, Ms Fishburn stressed that local councils remain the consent authority, and councils would continue to be able to make assessments against their own local environment plan and local development plan controls.²²⁹ It was also reiterated that there is no change to the ADG or the application of the ADG in a council assessment in the TOD areas.

Committee comment

- 2.89** The committee acknowledges the pressing need to address the current housing crisis in New South Wales. In particular, there is a need to ensure that younger generations are not squeezed out of living in locations close to economic and social opportunities because of a lack of housing supply. Addressing this current crisis will require the active involvement of many stakeholders, including state and local governments, the development industry, business and other organisations, and also understanding and support from local communities.
- 2.90** We understand that the Transport Oriented Development (TOD) program has been introduced as a component of the government's strategy to boost supply of housing in convenient locations to make best use of existing infrastructure and amenity. Increasing housing density in established areas is a must if Sydney is to offer equitable access to housing. At the same time, moves to increase density are likely to generate resistance from some quarters, if it is not done well, and if the range of stakeholders are not brought on board.
- 2.91** The TOD program itself represents a top-down effort to stimulate more dense residential construction in areas with existing infrastructure through mass re-zoning. The areas to be re-zoned were selected by the NSW Government, with expedited external consultation as the program was developed. The committee notes that there are reasons for keeping information of potential future rezoning due to the commercial sensitivity, and appreciates the explanation provided to this inquiry of the selection criteria and process to select the TOD precincts.
- 2.92** That said, the committee also hears the ongoing calls of various stakeholders for greater transparency around the reasons for site selection. We consider that greater transparency around the site selection process, even retrospectively, could go some way to building the community support or at least understanding for the TOD program as a measure to address the housing crisis. We also consider that improved public communications in general on the reasons for the TOD reform and what the package of reforms means for communities are necessary to build trust and community support for the program.
- 2.93** While accepting that there are reasons for keeping aspects of the initial development of the TOD program internal to the NSW Government, the committee has been concerned at the evidence from multiple stakeholders on the quality of the consultation following the initial

²²⁷ Evidence, Ms Witt, 20 May 2024, p 51.

²²⁸ Evidence, Ms Witt, 20 May 2024, p 51.

²²⁹ Evidence, Ms Fishburn, 24 July 2024, p 6.

announcement of the TOD program in December 2023. It would appear that this consultation – possibly because it was pre-empted due to accidental early release of information – was rushed, poorly timed for stakeholders, and not supported by quality explanatory materials about the details and intentions of the reforms.

- 2.94** Effective consultation and communication about housing reforms are crucial both to ensuring reforms are calculated to achieve the intended outcomes, and to building stakeholder consensus around the need for and nature of the reforms. In this case, the management of the initial consultation seems to have put key stakeholders such as local governments offside, and would seem to be a missed opportunity to refine the program and build community understanding. It clearly led to a perception that the NSW Government was riding roughshod over local councils, and disregarding local knowledge and existing planning.
- 2.95** We acknowledge evidence that communication with local councils has improved since, that more information has been provided, and that there has been consultation on detailed planning for the eight accelerated precincts. In addition, some of the councils that requested more time to develop their own planning for the Tier 2 precincts were granted an extension. We also note the evidence from the Department of Planning, Housing and Infrastructure that there are existing forums through which they have ongoing stakeholder engagement across a range of planning matters.
- 2.96** Nevertheless, we call on the NSW Government to demonstrate that it is listening to and addressing the legitimate concerns that multiple stakeholders have had with its approach to consultation during development of the TOD program. This includes ensuring that engagement with local councils on areas affected by new state housing policies is genuinely collaborative, and ensuring there are mechanisms in place to communicate with affected stakeholders and communities.

Recommendation 1

That the NSW Government continue to work in collaboration with local councils and key stakeholders on building community understanding of housing reforms, including the TOD program.

- 2.97** The committee is concerned by evidence from councils that the one-size-fits-all nature of the TOD reforms is overriding strategic planning that has already been done in consultative processes over years, or not paying sufficient attention to local knowledge and conditions. We understand the state government seeking to quickly stimulate supply of new housing through opening up opportunities for infill development. However, we also understand the resistance this generates among some local communities who may legitimately feel that reforms imposed from above are not tailored to get the best results in their particular community. We consider it vital that housing reforms deliver 'density done well', that is appropriate to local contexts, and results in well-designed, liveable communities. The balance of evidence before this committee suggests that the best way to do this is through tailored, place-based plans that take into account the different circumstances of different communities.
- 2.98** Further, the committee is concerned by evidence from both developers and local councils that recent housing reforms including the TOD SEPP risk adding a layer of complexity to the

planning system, which could be counterproductive to achieving the intent of speeding up new home delivery.

- 2.99** There is evident tension between stakeholders calling for a more centrally-driven approach, by prioritising the TOD SEPP over other controls in the development approval process, and those who would want councils to have more flexibility to prioritise local development control plans and guidelines. While recognising the need at times for the state government to have levers to stimulate increased density, we also consider it important to ensure that the manner in which this is done does not override the ability of councils to promote density in a way that fits the needs and character of the local community, and ensures the quality and liveability of new housing stock. We also would not want to see this program result in delays to approvals and increased litigation.
- 2.100** We therefore call on the NSW Government to continue to work with stakeholders, including local councils and development industry representatives, to clarify how the TOD SEPP will operate alongside existing planning controls, and update the existing guidelines should there be any further uncertainty.

Recommendation 2

That the NSW Government continue to work with stakeholders, including local councils and development industry representatives, to clarify how the TOD SEPP will operate alongside existing planning controls, and update the existing guidelines should there be any further uncertainty.

Chapter 3 **The TOD program as a response to housing supply and affordability issues**

This chapter focuses on the appropriateness of the Transport Oriented Development (TOD) Program as a response to the housing crisis, considering evidence on its likely impact on the supply and affordability of housing. First, it considers how effective TOD is likely to be in the current economic climate at promoting the quantity and kind of new housing supply that is needed. Then it considers how TOD may improve affordability, both in the market generally, and through specifically dedicated 'affordable housing'. Finally, it notes issues raised by inquiry participants about features of the New South Wales housing market that affect housing affordability and security for residents, and could be considered as part of a broader suite of housing reforms.

Impact on housing supply

3.1 As noted in Chapter 1, the TOD program is one measure introduced alongside other planning changes to boost housing supply in well-located areas in line with ambitious targets agreed in the National Housing Accord. The committee was particularly interested to understand how much new housing is expected to be delivered as a result of the program.

How much new housing is the TOD program expected deliver?

3.2 As noted in Chapter 1 [paragraph 1.34-1.39], New South Wales has committed to deliver 377,000 well-located new homes by June 2029 as part of the National Housing Accord.²³⁰ The TOD program is a component of the NSW Government's plan to achieve this commitment.

3.3 The NSW Department of Planning, Housing and Infrastructure (DPHI) stated that Tier 1 of the TOD program – the eight accelerated precincts – is designed to create capacity for 47,800 new homes over 15 years, while Tier 2 – the 31 precincts near stations – should create capacity for 138,000 new homes over 15 years.²³¹ The estimated number of dwellings expected to be created due to the TOD Tier 2 program was 16,000 in the Housing Accord period (ie to June 2029).²³² These numbers have since been updated, there should be over 60,000 homes in the accelerated precincts over 15 years, and 37 stations with capacity for over 170,000 homes over 15 years in the TOD SEPP.

3.4 At the time of taking evidence, there were concerns expressed by local government representatives that the housing targets for each local government area were unclear, making it

²³⁰ Australian Government, The Treasury, *National Housing Accord – Implementation Schedule – New South Wales*, June 2023, <https://treasury.gov.au/sites/default/files/2023-11/has-nsw.pdf>.

²³¹ Submission 118, Department of Planning, Housing and Infrastructure, p 5.

²³² Evidence, Ms Monica Gibson, Deputy Secretary, Planning, Land Use Strategy, Housing and Infrastructure, Department of Planning, Housing and Infrastructure, 24 July 2024, p 3. Ms Gibson indicated this figure took account of additional stations nominated by some councils and changes to the timing of the TOD rollout at others, see Evidence, Ms Gibson, 24 July 2024, p 4. Estimates for total potential 'dwelling uplift' capacity of the 23 precincts at which TOD rollout had commenced by July 2024 were provided in: Answers to question on notice, DPHI, 20 August 2024, pp 2-3.

difficult for local councils to develop their own planning strategies to deliver the targets.²³³ There were calls from local councils and other advocates for the NSW Government to be more transparent with councils about dwelling targets.²³⁴ The committee was informed that information about local targets was made available to councils on 29 May 2024.²³⁵

Concerns that the program will not achieve housing supply targets

- 3.5** The TOD program comes in a context of slowing residential construction in New South Wales in recent years.²³⁶ There was broad support among many inquiry participants for the concept of transport oriented development as a way to boost housing supply in well-connected areas with existing infrastructure. That said, there were some concerns about whether the TOD program as designed would do enough to stimulate new housing supply. The TOD program itself changes zoning and planning arrangements, but ultimately how many new homes are delivered depends on the development industry responding to these changes. As discussed below, it takes time for the market to respond to changes, and there are other issues impacting viability for developers at the moment.
- 3.6** Development industry representatives highlighted the significant increase to current rates of building required in order to achieve the National Housing Accord Target over five years. Mr Tom Forrest, Urban Taskforce, pointed out that there were 48,000 homes completed and 41,000 homes commenced in the last year across the state, which is: 'not going to get us anywhere close to the 75,000 per year we need to get to [the target]'.²³⁷ Ms Katie Stevenson, Property Council of Australia, suggested the TOD reforms represent 'just a drop in the ocean' of what is needed to deliver the 377,000 new homes over the next five years as per the Housing Accord target.²³⁸
- 3.7** DPPI representatives noted that it will take a while for industry to respond to planning changes, and it was too early as of July 2024 to see the impact of the TOD reforms on development applications.²³⁹ The department advised, however, that councils have seen strong developer interest in acquiring and amalgamating properties, and that they expect to see the first

²³³ Evidence, Councillor Darcy Byrne, Mayor, Inner West Council, 20 May 2024, p 46; Evidence, Mr David Reynolds, Save Greater Sydney Coalition, 20 May 2024, p 50; Evidence, Mr James Farrington, Hornsby Shire Council, 20 May 2024, p 27;

²³⁴ Evidence, Councillor Byrne, 20 May 2024, p 46; Evidence, Mr Reynolds, 20 May 2024, p 50; Evidence, Mr Steven Head, Chair of Northern Sydney Regional Organisation of Councils (NSROC) General Managers Committee, 20 May 2024, p 27.

²³⁵ Answers to questions on notice, Northern Sydney Regional Organisation of Councils, 20 June 2024, p 1

²³⁶ NSW Productivity and Equality Commission, *Review of housing supply challenges and policy options for New South Wales: Final Report*, August 2024, p 19.

²³⁷ Evidence, Mr Tom Forrest, CEO, Urban Taskforce Australia, 20 May 2024, p 11.

²³⁸ Evidence, Ms Katie Stevenson, NSW Executive Director, Property Council of Australia, 20 May 2024, p 4.

²³⁹ Evidence, Ms Kiersten Fishburn, Secretary, Department of Planning, Housing and Infrastructure, 24 July 2024, p 3.

development applications for TOD locations in early 2025, approximately 9-12 months after the commencement of the Housing SEPP Amendment (Transport Oriented Development).²⁴⁰

Current issues affecting the pace of residential construction

- 3.8** There are acknowledged challenges in the economic environment at present affecting the feasibility of residential construction in New South Wales.²⁴¹ Factors identified by the NSW Productivity Commission include high interest rates and construction costs, which increase the costs and risks faced by developers, limits on the capacity of the sector due to public infrastructure projects, and a shortage of construction workers.²⁴²
- 3.9** Many inquiry participants gave evidence suggesting the major constraints on residential construction are due to the current economic environment rather than the planning system. Mr Ben Pechey, City of Sydney Council, summarised this view:
- As many submissions have outlined, current low levels of housing production are predominantly due to a combination of economic factors that affect the housing market. Creating more planning capacity will not solve these problems. It will provide the market with more locations to respond to demand when the cost of production and the price of housing return to equilibrium.²⁴³
- 3.10** Local Government NSW pointed out that while councils have a role in approving new development, they do not control the take-up and pace of housing delivery, which is driven by market factors.²⁴⁴ As noted in Chapter 2, several councils had concerns that the TOD program would create greater complexity in the planning system, which could slow down delivery of new homes.²⁴⁵
- 3.11** Some academics questioned whether the TOD planning changes would address key constraints currently impacting the sector. Professor Peter Phibbs, Emeritus Professor, University of Sydney, cautioned against assuming the reason for low output of housing supply in Sydney relates to lack of apartment sites. Citing figures of the number of approved apartment developments in Greater Sydney that have not obtained a building certificate, he argued that the main reason for apartments not being built is the lack of feasibility due to sky-rocketing construction and finance costs.²⁴⁶

²⁴⁰ Answer to question on notice, Department of Planning, Housing and Infrastructure, 20 August 2024, p 1.

²⁴¹ NSW Productivity and Equality Commission, *Review of housing supply challenges and policy options for New South Wales: Final Report*, August 2024, p 10.

²⁴² NSW Productivity and Equality Commission, *Review of housing supply challenges and policy options for New South Wales: Final Report*, August 2024, pp 10-12.

²⁴³ Evidence, Mr Ben Pechey, Executive Manager Strategic Planning and Urban Design, City of Sydney, 24 July 2024, p 22.

²⁴⁴ Evidence, Ms Darriea Turley, AM, President, Local Government NSW, 24 July 2024, pp 26 and 29.

²⁴⁵ For example, evidence, Mr Pechey, 24 July 2024, p 22

²⁴⁶ Evidence, Professor Peter Phibbs, Emeritus Professor, Henry Halloran Research Trust, University of Sydney 24 July 2024, p 39.

- 3.12** There were, however, some inquiry participants who saw the planning system as a significant constraint on development, and supported the TOD program as one way to address that. For example, Mr Brendan Coates, Grattan Institute, described upzoning as the 'number one priority' to get more housing built, 'because that's where we see the biggest constraint at the moment'.²⁴⁷ Dr Peter Tulip, Centre for Independent Studies similarly described zoning restrictions as the highest priority to address in housing policy. He suggested that 'planning restrictions increase the cost of an average apartment in Sydney by 60 per cent'.²⁴⁸
- 3.13** Asked to explain his assertion that planning issues are a key constraint on supply, given numbers of approved dwellings not being built, Mr Coates, cited the example of Auckland, which undertook mass upzoning to increase its 'zone capacity', and saw a boost in housing. He said that:
- If you want to see more housing arising from this process, allowing more zone capacity is the best way to do it. It de-risks and diversifies the development process. You will see an expansion in the number of developers, who's doing it.²⁴⁹
- 3.14** While supportive of the TOD program as a concept, representatives of the development industry stressed that rezoning some areas, while important, will not on its own address the key viability constraints for developers.²⁵⁰ Development industry representatives highlighted several factors – only some of which relate to the planning system – that are currently impacting the viability for developers, and hence rate of residential construction. They included:
- increasing costs of construction in a difficult economic environment, including scarcity of building materials and labour²⁵¹
 - lack of profitability leading to building companies 'going broke'²⁵²
 - imposts of developer contributions making development in some areas unviable²⁵³
 - lengthy assessment timeframes, and a shortage of town planners qualified to assess development applications, in both state and local government²⁵⁴
 - banks considering the planning system in New South Wales to be a risk.²⁵⁵
- 3.15** The committee notes that the majority of these factors are outside of the remit of the planning system and are not something that that the TOD program could address.
- 3.16** Some local councils acknowledged that their resources to carry out master planning and assess development applications are stretched. These stakeholders called for the state government to

²⁴⁷ Evidence, Mr Brendan Coates, Economic Policy Program Director, Grattan Institute, 7 June 2024, p 23.

²⁴⁸ Evidence, Dr Peter Tulip, Chief Economist, Centre for Independent Studies, 7 June 2024, p 24.

²⁴⁹ Evidence, Mr Coates, 7 June 2024, p 21.

²⁵⁰ For example, evidence, Ms Stevenson, 20 May 2024, pp 2-3.

²⁵¹ Evidence, Ms Stevenson, 20 May 2024, p 7; Evidence, Mr Forrest, 20 May 2024, pp 9, 11.

²⁵² Evidence, Ms Stevenson, 20 May 2024, p 7; Evidence, Mr Forrest, 20 May 2024, p 11.

²⁵³ Evidence, Ms Stevenson, 20 May 2024, p 11.

²⁵⁴ Evidence, Ms Stevenson, 20 May 2024, p 9, p 11

²⁵⁵ Evidence, Mr Forrest, 20 May 2024, p 8.

assist councils with funding to expedite planning controls.²⁵⁶ The committee also heard that some councils are having issues with availability of qualified and experienced planning staff, though felt that council staff are best placed to understand the context in which they operate and make decisions.²⁵⁷

- 3.17** NSW Building Commissioner, Mr David Chandler, noted a range of issues that have been affecting the rate of residential construction, including the cost and availability of land, cost of construction, and accessibility of finance to quality developers capable of delivering sound medium-sized apartment buildings.²⁵⁸ He highlighted the role of the financial sector, suggesting lenders need to apply more governance to a loan than has been the case to ensure sound lending practices.²⁵⁹

Calls for the program to go further to increase viability for developers

- 3.18** Development industry representatives argued that the TOD planning changes should go further in order to increase viability for developers.²⁶⁰ Their suggestions for extending the TOD program included calls to:

- expand the area covered by the TOD program, to include more Tier 1 accelerated precincts in areas of high viability for developers,²⁶¹ and more Tier 2 precincts, potentially including all heavy rail and metro stations²⁶²
- increase the radius of Tier 2 precincts from 400 to 800 metres around stations to increase the area available for development²⁶³
- increase height allowances and floor space ratios under the TOD SEPP, to make construction commercially viable²⁶⁴
- increase government contributions for community infrastructure, and improve government coordination around the infrastructure needed to build and sustain communities²⁶⁵

²⁵⁶ For example, Evidence, Councillor Byrne, 20 May 2024, p 48; Evidence Ms Clare Harley, 20 May 2024, pp 44-48; Evidence, Mr Steven Head, NSROC, 20 May 2024, p 31.

²⁵⁷ Evidence, Mr Head, NSROC, 20 May 2024, p 31; see also answers to questions on notice, NSROC, 20 June 2024, p 1.

²⁵⁸ Evidence, Mr David Chandler, NSW Building Commissioner, 24 July 2024, p 59.

²⁵⁹ Evidence, Mr Chandler, July 2024, p 59.

²⁶⁰ For example, Submission 119, Property Council of Australia, pp 1-2.

²⁶¹ Evidence, Mr Forrest, 20 May 2024, pp 2, 5; Submission 125, Urban Taskforce, p 2.

²⁶² Submission 125, Urban Taskforce, p 2.

²⁶³ For example, Submission 119, Property Council of Australia, p 2; Evidence Ms Stevenson, 20 May 2024, p 4.

²⁶⁴ Evidence, Ms Stevenson, 20 May 2024, pp 2-3; Mr Forrest, 20 May 2024, pp 3-4.

²⁶⁵ Evidence, Ms Stevenson and Mr Forrest, 20 May 2024, p 7; Submission 125, Urban Taskforce, pp 6-7.

- provide greater clarity over planning decisions, such as through a ministerial direction or clear indication in the TOD SEPP that the SEPP controls take precedence over local development control plans²⁶⁶
- invest in more town planners, and other measures to speed up consideration of development applications.²⁶⁷

3.19 Developers argued that more certainty over the application of the TOD SEPP over local development control plans is needed to avoid disputes over planning approvals and that, without more certainty, banks are reluctant to lend to developers, making construction commercially unviable.²⁶⁸

3.20 There was some community support among 'YIMBY' advocacy groups for the TOD reforms to go further. For example, Mr Justin Simon, Chair, Sydney YIMBY supported increasing the radius around stations where the TOD SEPP would apply from 400 to 800 metres. He also called for the NSW Government to support an ongoing program in which a few extra stations would be brought into the TOD program every year.²⁶⁹ He agreed that the TOD SEPP should override local development control plans to avoid unnecessary court action.²⁷⁰

3.21 Mr Eamon Waterford, CEO, Committee for Sydney, suggested there may be a need to offer incentives through the TOD program to start construction sooner, such as offering increased building heights for developers who can start construction in the short term.²⁷¹

3.22 The NSW Productivity Commission report released in August 2024 expressed support for the TOD planning changes, and suggested they could be expanded further in the eastern and northern suburbs close to Sydney's CBD.²⁷² The report called for a dramatic scaling up of the TOD program and for all stations in Sydney to be treated as TODs.

Arguments that the program is not well designed to stimulate supply

3.23 On the other hand, there were arguments from inquiry participants, including academics and local governments, that the TOD reforms are not well enough designed to stimulate supply in the specific locations in current market conditions.

3.24 The Planning Institute of Australia, while supportive of the TOD concept, highlighted the limitations of rezoning as a way to address the housing crisis. Ms Sue Weatherley explained:

The planning system primarily controls the location, ultimate capacity and scale of development and not speed. While the TOD program can enable the right housing in the right places, it cannot get more housing constructed. Ensuring that the built forms

²⁶⁶ Evidence, Ms Stevenson and Mr Forrest, 20 May 2024, p 10.

²⁶⁷ Evidence, Ms Stevenson 20 May 2024, p 9.

²⁶⁸ Evidence, Ms Steven and Mr Forrest, 20 May 2024, pp 4, 5, 8, 10.

²⁶⁹ Evidence, Mr Justin Simon, Chair, Sydney YIMBY, 20 May 2024, p 14.

²⁷⁰ Evidence, Mr Simon, 20 May 2024, p 18.

²⁷¹ Evidence, Mr Eamon Waterford, Chief Executive Officer, Committee for Sydney, 20 May 2024, p 22.

²⁷² NSW Productivity and Equality Commission, *Review of housing supply challenges and policy options for New South Wales: Final Report*, August 2024, pp 11-12.

and neighbourhoods meet the 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 delivering affordable housing and supporting infrastructure.²⁷³

- 3.25** Several academics also highlighted the limits of a mass rezoning program to deliver new housing in the short term.²⁷⁴
- 3.26** Professor Peter Phibbs, Emeritus Professor, Henry Halloran Research Trust, University of Sydney, questioned the economic thinking behind the recent reforms from a number of angles.²⁷⁵ He argued it 'makes no sense' to apply the same zoning rules across all of the precincts when the housing markets in different parts of greater Sydney are so different. He called for more targeted, place-specific measures, warning that the blanket six-storey provision was short-sighted and could effectively sterilise land that would be needed for higher density development later.²⁷⁶ He also suggested the approach is likely to undermine effective collaboration between state and local governments because it does not distinguish between local governments who have performed well on density, and those that have frustrated past state government efforts.²⁷⁷
- 3.27** Several local governments argued that planning constraints are not the only, or even the major, factor hindering supply, and questioned whether the TOD reforms would have the desired effect on supply. Citing recent research by KPMG, Ms Darreia Turley AC, speaking for Local Government NSW, noted some frustration among councils that approved development applications do not always translate to new dwellings being built.²⁷⁸ For the TOD reforms to achieve the desired outcome, Local Government NSW suggested other changes are needed to address market-related constraints that are affecting the construction of dwellings, noting that this could see hundreds of existing approvals translate into actual housing construction.²⁷⁹
- 3.28** Some local governments suggested that TOD was not likely to result in much housing yield in their area, due to unsuitability of the selected TOD location or low developer interest. For example, the Central Coast Council stated that there was unlikely to be much new construction resulting from the TOD SEPP in Tuggerah or Wyong.²⁸⁰ Central Coast Council highlighted the limits of local governments' influence over delivery of housing, and stressed the importance of economic reforms outside of the planning framework to assist with housing stress.²⁸¹

²⁷³ Evidence, Ms Sue Weatherley, NSW Division President, Planning Institute of Australia, 7 June 2024, p 11

²⁷⁴ For example, Evidence, Professor Bill Randolph, Professor of Planning, UNSW Sydney, 24 July 2024, p 41.

²⁷⁵ Submission 168, Professor Phibbs, pp 1-7.

²⁷⁶ Submission 168, Professor Phibbs, p 3.

²⁷⁷ Submission 168, Professor Phibbs, p 5.

²⁷⁸ Evidence, Ms Turley, 24 July 2024, p 29; see also answers to questions on notice, Local Government NSW, 19 August 2024, p 2: 'recent research by KPMG showed there were 11,170 dwellings approved but not yet commenced in the Sydney region as of December 2023, with 80 per cent of these being apartments or townhouses'.

²⁷⁹ Evidence, Ms Turley, 24 July 2024, p 26, p 29.

²⁸⁰ Evidence, Mr Scott Duncan, Section Manager, Local Planning and Policy, Central Coast Council and Ms Sarah Hartley, Senior Strategic Planner, Local Planning and Policy, Central Coast Council, 7 June 2024, pp 3-7; Answers to questions on notice, Central Coast Council, 20 June 2024, pp 1-2.

²⁸¹ Answers to questions on notice, Central Coast Council, 20 June 2024, p 3.

- 3.29** Ms Zoë Baker, Mayor, North Sydney Council noted that while the council was committed to achieving its housing targets, the council could not force people to put in development applications and build apartments quickly. She noted that there is a big time lag between planning proposals and rezoning and the time period in which development applications actually come to council, and an even longer gap once approved before construction starts.²⁸² She also noted that construction delays due to issues about the cost of finance and fragility of the construction sector are 'well beyond' the capacity of local government to address.²⁸³
- 3.30** Other councils argued that the TOD zoning would have limited, or even a negative impact on housing supply in their locality, as the affected areas were already subject to planning arrangements encouraging density. For example, Georges River Council suggested the proposed TOD changes would have minimal impact in Kogarah, where much of the area within 400 metres of the station already zoned MU1 (mixed use), with existing controls exceeding those proposed under the TOD SEPP.²⁸⁴ They expressed concern that the application of the TOD SEPP in the area zoned MU1 would displace employment floor space and make it difficult for the council to meet its job targets.²⁸⁵ The committee notes that the TOD SEPP does not apply to MU1 zones – this is something that was amended following consultation with councils.
- 3.31** Mayor of Penrith City Council, Mr Carney, suggested the one-size-fits-all rezoning approach of the TOD SEPP applied in the St Marys town centre, where there is already 'unrealised zone capacity', could negatively impact on viability of development projects by 'artificially raising expectations' and driving up land values.²⁸⁶
- 3.32** Some local government representatives suggested that, in order to boost housing supply, the TOD reforms should do more than simply change zoning and planning arrangements. For example, Mr Steven Head, speaking on behalf of NSROC, called for clarification on how the reforms would address barriers to existing and future dwelling construction, in terms of feasibility, addressing land banking, and finding sufficient qualified and experienced organisations that can deliver housing.²⁸⁷
- 3.33** Several academics reflected on the type of housing that is likely to be supplied, noting that leaving it to the market may not result in adequate supply of diverse, family-friendly accommodation to meet the needs of the growing number of families with children wanting to live in well-located, dense areas.²⁸⁸ Dr Philip Oldfield noted a tendency of developers to build one or two bedroom apartments with standardised layouts primarily geared towards investors, and apartments are rarely designed with families in mind.²⁸⁹ Some academics called on the

²⁸² Evidence, Ms Zoë Baker, Mayor, North Sydney Council, 7 June 2024, p 7.

²⁸³ Evidence, Ms Baker, 7 June 2024, p 7.

²⁸⁴ Submission 18, Georges River Council, p 4; Evidence, Ms Merrill Witt, Save Greater Sydney Coalition, 20 May 2024, p 51.

²⁸⁵ Submission 18, Georges River Council, p 4.

²⁸⁶ Evidence, Mr Carney, 24 July 2024, p 21.

²⁸⁷ Evidence, Mr Head, NSROC, 20 May 2024, p 25.

²⁸⁸ For example, Evidence, Dr Sophie-May Kerr, 24 July 2024, p 31; Evidence, Dr Shanaka Herath, Senior Lecturer – Urban Economics / Course Director Planning, UTS, 24 July 2024, p 3; Evidence, Dr Philip Oldfield, Head of School of the Built Environment and Professor of Architecture, UNSW Sydney, 24 July 2024, p 32

²⁸⁹ Evidence, Dr Oldfield, 24 July 2024, p 32

government to consider whether the TOD program could do more to mandate provision of more diverse housing stock, and also to ensure that a short term focus on supply does not compromise long-term liveability or weaken design requirements.²⁹⁰

Calls for stronger government leadership, different models to deliver housing

- 3.34** Several inquiry participants were skeptical that the market-led approach of the TOD program would deliver the needed boost to housing supply in the current context. A number of academics in particular called for stronger government intervention and different models of housing delivery, including more direct government delivery, to ensure that new housing supply meets the needs of residents.
- 3.35** Noting that what developers find most profitable may not align with communities' housing needs or preferences, Professor Bill Randolph suggested that making the TOD approach work would require strong government intervention and leadership. This, he argued, is needed to: lessen the risk and uncertainty for developers; increase integration of land use and infrastructure planning; and build trust among those impacted that the reforms will deliver expectations in terms of affordability, build quality, staging and social displacement.²⁹¹
- 3.36** In arguing for government to play a leading role to build community trust around density reforms, Professor Randolph noted that there are existing government agencies such as Landcom that are equipped to play a more direct role in housing delivery. He suggested that Landcom could act to resume land, undertake site assembly, support the planning implementation process, and then offer the site to the market for developers to tender for delivery of specific outcomes.²⁹²
- 3.37** Dr Shanaka Herath noted that developers make judgments about what to build based on profitability, rather than the needs of families. He cited recent research on the Liverpool area showing that, with the increase in construction costs, developers increasingly chose to design and build smaller apartments, despite evidence that more families with children are living in apartments, and require more space.²⁹³
- 3.38** Dr Nicole Cook citing Liverpool as an example of a region struggling to attract development even with a 'permissive' planning context, suggested that different delivery models are needed to produce housing that is affordable and sustainable. She suggested this could include, for example, public-private partnerships, government leading in prototyping, innovative financing mechanisms, or other models yet to be developed.²⁹⁴
- 3.39** As another argument for government to take a more hands-on role in housing delivery, Dr Philip Oldfield told the committee that the best apartments around the world are being delivered by non-private developers, not the market. He cited examples of social housing and

²⁹⁰ Evidence, Dr Kerr, 24 July, p 31; Evidence Dr Herath, 24 July, p 31; Evidence, Dr Oldfield, 24 July, p 32.

²⁹¹ Evidence, Professor Randolph, 24 July 2024, p 41.

²⁹² Evidence, Professor Randolph, 24 July 2024, pp 41-42.

²⁹³ Evidence, Dr Herath, 24 July 2024, pp 31-32, p 37.

²⁹⁴ Evidence, Dr Nicole Cook, University of Wollongong, 24 July 2024, p 37.

government-led housing in Vienna, Barcelona and Scandinavia that are delivering the highest quality apartments.²⁹⁵

- 3.40** Finally, there were also calls from some community advocacy groups for more government leadership. Ms Maire Sheehan, speaking on behalf of the Residents Action Coalition, noted that the NSW Government had shifted away from being involved in any kind of development since the late 80s, but since that time market costs have increased and housing has become less affordable. She called for the government to 'reclaim its role as an active developer in the public interest ... in collaboration with local councils and communities'.²⁹⁶

Impact on housing affordability

- 3.41** While inquiry participants were nearly unanimous on the need to address Sydney's increasingly unaffordable housing market, the committee heard mixed views on whether the TOD program is appropriately designed to improve housing affordability. Inquiry participants questioned whether the planning changes were addressing the drivers of unaffordability, and whether, even if TOD does generate increased supply, that would necessarily lead to improved affordability. There were issues raised about potentially perverse impacts of mass-rezoning, which increases the value of land. There were also calls to consider how this value could be shared in a way that promotes housing affordability.

Concerns the TOD program is not the best way to increase housing affordability

- 3.42** Several academics warned against assuming that mass-upzoning to allow increased density would necessarily increase affordability. Professor Peter Phibbs noted that mass up-zoning can increase the price of housing, benefiting owners of existing detached houses, by making their sites more valuable.²⁹⁷ Ultimately, he suggested that mass upzoning would make apartments cheaper, but detached houses more expensive, and that a more strategic way to address affordability would be to make rezoning more strategic and focused, limiting the amount of detached housing that is rezoned.²⁹⁸
- 3.43** Professor Bill Randolph questioned whether an approach that leaves it to the market would necessarily deliver the right kind of housing in the needed quantities to boost affordability. He noted that it is not in developers' interest to build so many houses or apartments that prices come down. He also pointed out that developers find it more profitable to build high-rise, rather than the low-and middle-rise needed to fill the 'missing middle' in Sydney's housing market.²⁹⁹
- 3.44** A number of stakeholders suggested that, even if the TOD reforms generate more housing supply, that will not necessarily address the current issues of housing affordability. Mr John

²⁹⁵ Evidence, Dr Oldfield, , 24 July 2024.

²⁹⁶ Evidence, Ms Máire Sheehan, Member of Residents Action Coalition, 24 July 2024, p 49.

²⁹⁷ Evidence, Professor Phibbs, 24 July 2024, p. 39; Submission 168, Professor Peter Phibbs, p 4.

²⁹⁸ Evidence, Professor Phibbs, 24 July 2024, p 44.

²⁹⁹ Evidence, Professor Randolph, 24 July 2024, p 41.

Brockhoff, Planning Institute of Australia, said that increasing supply, particularly if the new housing comes on slowly, is not guaranteed to reduce the price of housing to live in.³⁰⁰

3.45 Mr David Reynolds, Save Greater Sydney Coalition, suggested the TOD program was responding to a 'construction crisis' rather than a 'housing crisis'. He argued that it is not addressing the underlying causes of affordability, such as land banking, conversion of affordable housing into luxury accommodation, lack of investment in social housing, construction labour shortages, macro-economic cost pressures, inflation, higher interest rates, population growth, empty dwellings and short-term rentals.³⁰¹

3.46 Some local councils were doubtful that rezoning to allow greater density would increase affordability.³⁰² Ms Zoë Baker, Mayor, North Sydney Council, noted that her local government area, which contains the accelerated TOD precinct of Crows Nest metro station, is already one of the three most densely-populated local government areas. She told the committee that increasing density has not increased affordability:

Our experience is the more dwellings that are built in North Sydney, the higher the prices are. They are at historic highs now and they are climbing. Private supply alone is not going to make any material difference to affordability in inner urban areas such as ours.³⁰³

3.47 On the other hand, some inquiry participants were certain that boosting supply would increase affordability. Dr Peter Tulip from The Centre for Independent Studies stated categorically that: 'increased supply reduces the cost of housing'.³⁰⁴ While acknowledging that there are other constraints in the housing market, he suggested that were Sydney to follow the example of Auckland, which did city-wide up-zoning, there would likely be reduction in housing costs. Based on the experience of Auckland, he argued: 'The experience we have is relaxation of zoning restrictions leads to a boom in construction followed soon after by substantial reductions in housing costs'.³⁰⁵

3.48 Other inquiry participants highlighted ongoing debate about what can be learnt from Auckland's upzoning experience, noting issues with the methodology and interpretation of the research.³⁰⁶ Some stakeholders cited Dr Cameron K Murray and Dr Timothy Helm, who published a critique on one of the major studies of the effect of Auckland's 2016 upzoning on new housing production. Invited by the committee to comment on Dr Tulip's testimony, Dr Murray responded that the evidence from Auckland 'is not as strong as many believe'.³⁰⁷ He provided

³⁰⁰ Evidence, Mr John Brockhoff, RPIA (Fellow), National Policy Director, Planning Institute of Australia, 7 June 2024, p 14.

³⁰¹ Evidence, Mr David Reynolds, Committee member, Save Greater Sydney Coalition, 20 May 2024, p 50.

³⁰² Evidence, Mr Todd Carney, Mayor, Penrith City Council, 24 July 2024, p 21.

³⁰³ Evidence, Ms Baker, 7 June 2024, p 2.

³⁰⁴ Evidence, Dr Tulip, 7 June 2024, pp 19-20.

³⁰⁵ Evidence, Dr Tulip, 7 June 2024, p 20.

³⁰⁶ For example, Correspondence from Mr David Reynolds, Convenor, Save Greater Sydney Coalition received 23 June 2024 (challenging the research); Evidence, Mr Brendan Coates, 7 June 2024, p 21 (broadly supports the research).

³⁰⁷ Correspondence, Dr Cameron K Murphy, received 17 June 2024.

additional commentary about contextual factors in Sydney and Auckland that impact on housing costs.³⁰⁸

- 3.49** Mr Brendan Coates from the Grattan Institute argued that, whatever 'the specifics of the tit-for-tat arguments in the academic literature' regarding the impact of up-zoning in Auckland, 'most economics would certainly still subscribe to the idea that up-zoning has led to more housing in New Zealand'. He suggested that the weight of the literature rests with up-zoning and that up-zoning is necessary to increase the chances of meeting the ambitious targets set in the National Housing Accord.³⁰⁹
- 3.50** Conversely, citing an article recently published in *The Economist*, Professor Peter Phibbs suggested that what had been seen in Auckland was that extra construction put downward pressure on rents compared to comparable New Zealand cities, but there had not been change in housing prices.³¹⁰ One of the reasons given for this was that up-zoning had made houses more expensive.³¹¹ Thus, Professor Phibbs suggested, it is possible to have a strategy that is trying to make housing cheaper, but makes it more expensive. He argued that having a more detailed local plan which rezones industrial land into residential land or limits the number of detached housing areas that are up-zoned to areas that are feasible or likely to generate a lot of supply would be a more effective strategy.³¹²

Who benefits from rezoning decisions?

- 3.51** Noting the potential of mass-upzoning to deliver a windfall gain for some property owners, Professor Phibbs further suggested the government could do more to share the value generated, rather than allowing existing homeowners to capture it without making a contribution to affordable housing.³¹³ Professor Phibbs pointed out that there are examples of value-sharing arrangements in place in Victoria and the ACT.³¹⁴
- 3.52** Picking up the point about the windfall gains generated by mass-upzoning, Professor Bill Randolph noted that the decision to upzone is a public one, and the public should expect to benefit from the value the rezoning creates. Noting there are different ways through which value-sharing can be done, such as public resumption of land at a fair value, or developer contributions, he suggested the government could negotiate for value-sharing arrangements within the TOD program.³¹⁵
- 3.53** Mr Brendan Coates, Grattan Institute, also noted the prospect of using windfall gains taxes, as Victoria has done, to capture the benefit of the zoning uplift. He argued that this is an efficient way to fund the kinds of changes to infrastructure needed to support growth in those

³⁰⁸ Correspondence, Dr Murphy, received 17 June 2024.

³⁰⁹ Evidence, Mr Coates, Grattan Institute, 7 June 2024, p 20.

³¹⁰ Evidence, Professor Phibbs, 24 July 2024, p 40.

³¹¹ Evidence, Professor Phibbs, 24 July 2024, p 40.

³¹² Evidence, Professor Phibbs, 24 July 2024, pp 40 and 43-44.

³¹³ Submission 168, Professor Peter Phibbs, 24 July 2024, p 7; Evidence, Professor Phibbs, 24 July 2024, pp 43-44.

³¹⁴ Evidence, Professor Phibbs, 24 July 2024, pp 45-46.

³¹⁵ Evidence, Professor Randolph, 24 July 2024, p 45.

communities.³¹⁶ He noted that the ACT Government has had lease variation charges of 75 percent of the land value uplift for 30 years.³¹⁷

The TOD program's contribution to social and affordable housing

- 3.54** Regardless of the TOD program's impact on affordability of market housing, several inquiry participants underlined the need for dedicated affordable housing provisions to address pressing affordability issues for low-income households. Speaking on behalf of the Community Housing Industry Association, Mr Michael Carnuccio suggested that even the most ambitious targets for new housing supply would not reduce prices enough for low-income houses to afford market housing.³¹⁸
- 3.55** The committee heard that the TOD program can impact delivery of social and affordable housing both through specific provisions requiring developers to build affordable housing as a part of new developments, and also by allowing for greater density on sites that are already used for social housing.
- 3.56** As noted in Chapter 1, under the National Housing Accord, New South Wales committed to deliver 3,100 affordable housing dwellings by 2029. By June 2023, the NSW Government had already identified a pipeline of 2,100, and indicated it was undertaking further assessment of additional sites for the proposed delivery of the additional 1,000.³¹⁹ Most of these dwellings will be delivered on Landcom and Transport Asset Holding Entity owned sites.³²⁰
- 3.57** The information about the TOD program published on the DPHI's website describes the affordable housing provisions in the program as follows:
- For Tier 1 accelerated precincts: 'Affordable housing held in perpetuity will make up 15 per cent of homes in the 8 precincts. The exact proportion of affordable homes in these precincts will be based on feasibility testing, undertaken as part of the master planning process. Opportunities for affordable housing in these locations will look to achieve the maximum benefit from the sites through planning controls for increased height and floor space ratio.'³²¹
 - For Tier 2 precincts: 'A mandatory minimum 2% affordable housing contribution will apply for all new developments. The existing in-fill affordable housing provisions set out in the Housing SEPP 2021 will also continue to apply in the SEPP locations'.³²²

³¹⁶ Evidence, Mr Coates, 7 June 2024, p 24. See also submission 208, Grattan Institute, p 9.

³¹⁷ Evidence, Mr Coates, 7 June 2024, p 24. See also submission 208, Grattan Institute, p 9.

³¹⁸ Evidence, Mr Michael Carnuccio, 7 June 2024, p 12.

³¹⁹ Australian Government, The Treasury, *National Housing Accord – Implementation Schedule – New South Wales*, June 2023, <https://treasury.gov.au/sites/default/files/2023-11/has-nsw.pdf>.

³²⁰ Australian Government, The Treasury, *National Housing Accord – Implementation Schedule – New South Wales*, June 2023.

³²¹ NSW Government, *Transport Oriented Development Program*, December 2023, <https://www.planning.nsw.gov.au/sites/default/files/2023-12/transport-oriented-development-program.pdf>, p 5.

³²² NSW Government, *Transport Oriented Development Program*, December 2023, p 10.

- 3.58** While inquiry participants generally acknowledged the need for more affordable housing in Sydney, there were mixed views on the adequacy and feasibility of the specific provisions in the TOD program.

Adequacy and feasibility of the affordable housing targets

- 3.59** The Planning Institute of Australia argued that affordable housing is vital for any transport-oriented development policy, and supported a mandatory minimum contribution for affordable housing as part of the TOD program.³²³
- 3.60** The Community Housing Industry Association (CHIA) NSW welcomed the TOD program, along with the low and mid-rise housing reforms, as a response to the housing crisis. The CHIA indicated support for the mandatory affordable housing requirements applying to 39 precincts under the TOD Program, noting that there were not currently any affordable housing requirements applying to these areas.³²⁴
- 3.61** The NSW Rental Commissioner expressed support for the potential of transport oriented development to deliver increased affordability in the rental market through provision of social and affordable housing alongside increased private rental supply. The Commissioner suggested there is an opportunity within the TOD program to increase the target for social and affordable housing through mandatory and voluntary planning agreements, citing examples from the UK where there is a long-established requirement for private developers to include social and affordable housing in their projects.³²⁵
- 3.62** Mr Eamon Waterford, Committee for Sydney, pointed out that Sydney has a low percentage of social and affordable housing stock, at 4 per cent, which is much lower than London (20 per cent), Hong Kong (30 per cent) and Singapore (80 per cent).³²⁶ He suggested a long-term goal should be to bring Sydney's affordable housing provisions in line with other global cities, with affordable housing required to be provided in every development in the city, so that affordable housing is not only delivered in outer suburbs.³²⁷
- 3.63** Ms Merrill Witt from the Save Greater Sydney Coalition contrasted the affordable housing targets in the TOD program with London, which now has a 50 per cent affordable housing target and is 'making great strides'.³²⁸ Responding to criticisms that London's affordable housing target is too high and stifles development because of costs imposed on developers, the Save Greater Sydney Coalition provided additional data which they argued shows that the 50 per cent target had not been inherently restrictive in increasing supply.³²⁹

³²³ Submission 158, Planning Institute of Australia, 24 July 2024, p 4.

³²⁴ Submission 133, Community Housing Industry Association, p 1.

³²⁵ Submission 138, NSW Rental Commissioner, NSW Fair Trading, p 6.

³²⁶ Evidence, Mr Eamon Waterford, CEO, Committee for Sydney, 20 May 2024, p 15.

³²⁷ Evidence, Mr Waterford, 20 May 2024, p 21.

³²⁸ Evidence, Ms Witt, 20 May 2024, p 53.

³²⁹ Answers to questions on notice, Save Greater Sydney Coalition, 20 June 2024, p 6.

- 3.64** From a council's perspective, Mr Darcy Byrne, Inner West Council, called for more a more ambitious affordable housing target to be combined with the rezoning proposals.³³⁰
- 3.65** Dr Nicole Cook, University of Wollongong, noted the potential of TOD to gentrify existing affordable housing in some locations, and suggested that increasing the proportion of affordable housing in new developments to more than 2 per cent would be necessary to offset some of those impacts.³³¹
- 3.66** Some inquiry participants indicated their understanding was that the 2 per cent affordable housing requirement in the TOD SEPP was expected to increase over time, however there was nothing in the published plans about such a requirement.³³² Mr John Brockhoff, National Policy Director, Planning Institute of Australia, suggested that, for the sale of market confidence, it would be desirable to signal to developers that there is an expectation to provide below-market housing to low and moderate income earners, and what the expectation may grow to in future.³³³ Ms Sue Weatherley, Planning Institute of Australia, suggested that the intention to increase the 2 per cent over time should be embedded in the SEPP itself, to provide a clear signal to the development sector.³³⁴
- 3.67** Noting the NSW Government has said it is looking to increase the 2 per cent target over time, Mr Jeremy Gill, Head of Policy, Committee for Sydney, suggested the government look at models in other cities, and think about the role of government-owned land where there could be more direct intervention into provision of social and affordable housing.³³⁵
- 3.68** Development industry representatives questioned the feasibility of the affordable housing provisions in the TOD program for developers. Ms Katie Stevenson, Property Council of Australia suggested the affordable housing requirements could be impeding new developments as developers do their analysis to see what is viable.³³⁶ Mr Tom Forrest, Urban Taskforce, suggested it would be practically impossible for developers to achieve the 30 per cent bonus [floor space ratio] for achieving the affordable housing target in Tier 1 precincts if the TOD SEPP does not override existing council planning controls such as setback requirements.³³⁷
- 3.69** Mr Forrest further suggested that an affordable housing 'levy' such as the 2 per cent provisions under the TOD program, is effectively adding to the cost of housing for people buying in the market. He suggested that affordable housing is necessary, but should not come at the cost of people already struggling to purchase housing.³³⁸
- 3.70** Some community advocates were skeptical about developers' claims that the affordable housing targets would impact on feasibility. Mr Jeremy Gill, Committee for Sydney, suggested that

³³⁰ Evidence, Councillor Darcy Byrne, Mayor, Inner West Council, 20 May 2024, p 43.

³³¹ Evidence, Dr Cook, 24 July 2024, p 33.

³³² For example, Evidence, Mr Carnuccio, 7 June 2024, p 13; Evidence Ms Weatherley, 7 June 2024, pp 13-14.

³³³ Evidence, Mr Brockhoff, 7 June 2024, p 15.

³³⁴ Evidence, Ms Weatherley, 7 June 2024, p 13.

³³⁵ Evidence, Mr Jeremy Gill, Head of Policy, Committee for Sydney, 20 May 2024, p 22.

³³⁶ Evidence, Ms Stevenson, 20 May 2024, p 6.

³³⁷ Evidence, Mr Forrest, 20 May 2024, p 3.

³³⁸ Evidence, Mr Forrest, 20 May 2024, p 7.

developer's complaints about feasibility of the 2 per cent target were only relevant for land already acquired, whereas it would become less of an issue in future as it would be factored into the purchase price of land.³³⁹

Practicality of the affordable housing requirements

- 3.71** Various inquiry participants expressed concerns about lack of detail and impracticality of the affordable housing requirements under TOD, particularly for the Tier 2 precincts where a 2 per cent affordable target could equate to less than one actual unit.
- 3.72** While describing the proposed affordable housing contributions in the TOD program as 'positive moves', the Planning Institute of Australia called out a lack of information about how the schemes will be designed and implemented to maximise yield of affordable housing within the TOD precincts. It argued that implementation, management and procurement are crucial factors in a successful affordable housing scheme, and should be considered in advance of upzoning.³⁴⁰
- 3.73** Several local council representatives made comments about the practicality of the TOD program's affordable housing requirements. Mr Steven Head, NSROC noted a lack of clarity in the TOD arrangements as to how the affordable housing units will be managed into the future. He stated that more detail is required on how developers receiving the affordable housing height bonus will be required to dedicate homes or any additional units provided through that process in perpetuity.³⁴¹ Mr Scott Duncan, Central Coast Council also noted a lack of detail in the TOD SEPP on how the affordable housing would be transferred to community housing providers.³⁴² He suggested there are more efficient models that could be looked at, such as an affordable housing contribution scheme.³⁴³
- 3.74** Mr Darcy Byrne, Mayor, Inner West Council, noted that council had 'real questions' about how the 2 per cent target would work, especially for small unit blocks where 2 per cent 'is not an actual dwelling'.³⁴⁴ This was also a concern of Mr Scott Duncan, Central Coast Council, who passed on concerns from community housing providers about the impracticality of managing one unit in a block of 50.³⁴⁵
- 3.75** Both developers and community housing providers also questioned the practicality of the affordable housing arrangements, particularly for Tier 2 precincts. Speaking from the developer perspective, Mr Tom Forrest, Urban Taskforce, questioned the idea that affordable housing needs to be delivered in the form of physical space in each development, noting that in a relatively small development of less than 50 apartments, the 2 per cent target would equate to less than one affordable unit.³⁴⁶ Ms Katie Stevenson, Property Council of Australia, suggested

³³⁹ Evidence, Mr Gill, 20 May 2024, p 22.

³⁴⁰ Submission 158, Planning Institute of Australia, 24 July 2024, p 4.

³⁴¹ Evidence, Mr Steven Head, NSROC, 20 May 2024, p 25.

³⁴² Evidence, Mr Duncan, 7 June 2024, p 3.

³⁴³ Evidence, Mr Duncan, 7 June 2024, pp 3, 6.

³⁴⁴ Evidence, Councillor Byrne, 20 May 2024, p 43.

³⁴⁵ Evidence, Mr Duncan, 7 June 2024, p 3.

³⁴⁶ Evidence, Mr Forrest, 20 May 2024, p 6.

the government also acknowledges it is not an ideal model, but is 'the best that they can deliver now'.³⁴⁷

- 3.76** Development industry representatives said that, to their knowledge, community housing providers would prefer to deal with multiple units in a single building rather than dispersed properties.³⁴⁸ Ms Katie Stevenson, Property Council of Australia, said that PCA members were hearing from community housing providers that the model is difficult, causing inefficiency and complication.³⁴⁹ Mr Michael Carnuccio, CHIA, confirmed that community housing providers generally prefer the economies of scale and efficiency of having multiple properties in one building.³⁵⁰
- 3.77** With regard to the 2 per cent affordable housing requirement in Tier 2 precincts, Mr Michael Carnuccio, CHIA, noted that currently under the SEPP it must be onsite provision of housing. He indicated the complexity of providing 2 per cent housing in small developments was an issue CHIA had raised with the government, and expressed hope that local councils could put in place schemes that allowed a cash contribution in lieu of onsite provision in cases where the 2 per cent did not make sense. He noted that the provision of affordable housing units across multiple buildings raised complexities from the point of view of property management and strata fees, and was not very efficient.³⁵¹
- 3.78** In relation to how affordable housing is delivered, Mr David Chandler, NSW Building Commissioner, was optimistic about the capacity of community housing providers (CHPs) to work with developers to deliver new housing stock. He suggested community housing providers are now a 'mature and capable market', and a chosen co-developer with private developers. He suggested doing everything possible to 'enable CHPs to do more faster'.³⁵²
- 3.79** Several stakeholders provided feedback on the affordable housing requirement, that while it was a low initial percentage, it was a good starting place. The committee heard that as a relatively new mechanism for the market in New South Wales, a low starting point to be scaled up over time was a good course of action to allow the market time to adjust.
- 3.80** Dr Sophie-May Kerr noted a tension between the need for larger apartments to meet the needs of families and the need for affordable housing. She noted examples from overseas where jurisdictions have offered incentives to the private market to deliver family friendly apartments, coupled with affordability targets. She noted an opportunity for the NSW Government to investigate models to incentivise the private market to deliver family-friendly affordable apartments, as well as to investigate potential non-market modes of delivery.³⁵³

³⁴⁷ Evidence, Ms Stevenson, 20 May 2024, p 6.

³⁴⁸ Evidence, Mr Forrest, 20 May 2024, p 6.

³⁴⁹ Evidence, Ms Stevenson, 20 May 2024, p 6.

³⁵⁰ Evidence, Mr Carnuccio, 7 June 2024, p 15.

³⁵¹ Evidence, Mr Carnuccio, 7 June 2024, p 13.

³⁵² Evidence, Mr Chandler, 24 July 2024, p 64.

³⁵³ Evidence, Dr Kerr, UNSW Sydney, 24 July 2024, p 38.

Impact on public housing delivery

- 3.81** With regard to public housing, Mr Michael Wheatley, Homes NSW, noted that the rezonings under the TOD program were a good outcome for Homes NSW. He indicated that Homes NSW has 24 assets within all of the TOD sites, with about 315 dwellings. With the rezoning, Homes NSW would be able to significantly increase the density on those sites to almost 2,000 dwellings.³⁵⁴ While there is not an existing program to 'uplift' those sites, Mr Wheatley indicated that Homes NSW is conducting analysis, and doing pipeline planning across the whole portfolio as part of the NSW Government's commitment to deliver 8,400 homes.³⁵⁵
- 3.82** Several inquiry participants including developers, pro-density community groups and local councils called for more direct government investment and/or role in delivering social and affordable housing.³⁵⁶ For example, Mr Darcy Byrne, Mayor, Inner West Council said that while rezoning to create more homes on the private market is 'obviously essential', large scale investment in new public housing is also necessary. He indicated the Inner West Council wanted to see 1,000 new public housing dwellings in the inner west.³⁵⁷
- 3.83** Noting constraints in generating supply in the housing market at present, Mr Brendan Coates, Grattan Institute, suggested there is a role for government to get more social housing built now, or to finance the construction of housing.³⁵⁸
- 3.84** From a developer's perspective, Mr Forrest, Urban Taskforce called for a strong contribution from both state and federal governments for social and affordable housing. Noting that the federal government has now put 'quite a decent amount' of funding on the table through the National Housing Accord, Mr Forrest called for the state government to put more in its budget.³⁵⁹

Other considerations

- 3.85** Inquiry participants raised a range of broader issues affecting housing security and affordability at the moment, which they suggested the NSW Government should consider as part of a broader suite of measures to address the housing crisis.
- 3.86** One set of issues was the need to ensure amenity and liveability of communities as density is increased, and to ensure that there is adequate funding for community infrastructure to enable denser living.³⁶⁰ These are considered in Chapter 4.

³⁵⁴ Evidence, Mr Michael Wheatley, Homes NSW, 24 July 2024, pp 61-62.

³⁵⁵ Evidence, Mr Wheatley, 24 July 2024, p 62.

³⁵⁶ For example, Evidence, Mr Gill, 20 May 2024, p 22; Evidence, Mr Forrest, 20 May 2024, p 7; Evidence, Ms Josefa Sobski, Haberfield Association 20 May 2024, p 35; Mrs Kathy Cowley, Friends of Ku-ring-gai Environment Inc, 20 May 2024, p 36; Mr David Reynolds, Save Greater Sydney Coalition, 20 May 2024, p 50.

³⁵⁷ Evidence, Councillor Byrne, 20 May 2024, p 49.

³⁵⁸ Evidence, Mr Coates, 7 June 2024, p 24.

³⁵⁹ Evidence, Mr Forrest, 20 May 2024, p 7.

³⁶⁰ See, for example, Submission 158, Planning Institute of Australia, pp 1-2.

- 3.87** Two other sets of issues considered below relate to the operation of strata title for high-density developments and issues in the rental market that affect the availability as well as affordability of appropriate long term rental accommodation for diverse residents.

Operation of strata title for homeowners

- 3.88** Several inquiry participants called for greater consideration to be given in the TOD program – and other efforts to lift density through supply of apartments – to the way strata title works, and the complex, long term financial and legal responsibilities of apartment owners.
- 3.89** Professor Cathy Sherry expressed concern that the TOD program and other current reforms are focusing almost exclusively on the initial creation of housing supply, with 'little to no focus on the long-term life of that housing and the experience of individuals, families and communities living in it'.³⁶¹ She pointed out that medium and high density housing, which falls under strata title, creates complex legal relationships and financial responsibilities for those that buy into them.³⁶²
- 3.90** Professor Sherry stressed a need for the government to genuinely understand how strata works as it promotes higher density housing, and noted that there are 'huge problems in strata, with exploitation, with strata managers, with embedded networks'.³⁶³ She suggested that a major concern with the TOD program as currently designed is that it incentivises complex arrangements for private property developments, setting private citizens up to manage complex infrastructure which they do not have the skills to do.³⁶⁴
- 3.91** While acknowledging that medium to high density development and its complexity is unavoidable, Professor Sherry suggested it should be possible to minimise legal and financial complexity associated with development through careful consideration of the law at the point of planning and development.³⁶⁵ Professor Sherry called for a government department with genuine expertise in the area to have responsibility for the beginning and whole life of a strata development, to make sure that strata is able to foster the 'kind of liveable, decent housing that citizens deserve'.³⁶⁶
- 3.92** Professor Hazel Easthope, UNSW, also called for greater understanding of the implications of strata ownership, both for liveability, and also for future urban renewal. She argued that focusing on creating homes, rather than dwelling targets is critical to get the social licence necessary to make the TOD program a success. She highlighted that one aspect of this is understanding how apartments are different to houses, in that they are collectively managed through strata schemes,

³⁶¹ Submission 37, Professor Cathy Sherry, p 1.

³⁶² Submission 37, Professor Cathy Sherry, p 2-5.

³⁶³ Evidence, Professor Cathy Sherry, Macquarie Law School and Executive Member, Smart Green Cities 24 July 2024, p 46.

³⁶⁴ Evidence, Professor Sherry, 24 July 2024, p 41; see also Submission 37, Professor Cathy Sherry, pp 3-4.

³⁶⁵ Submission 37, Professor Cathy Sherry, p 6.

³⁶⁶ Evidence, Professor Sherry, 24 July 2024, p 46.

and typically more risky and complex to manage. These risks and costs are ultimately borne by the property owners, rather than developers.³⁶⁷

- 3.93** Professor Easthope also pointed out that the ownership arrangements for strata properties makes them much more difficult to redevelop or replace buildings later. She suggested that 'serious thought' needs to be given to what will happen to strata developments being built now in 50 years time.³⁶⁸
- 3.94** From the developers' perspective, Urban Taskforce, also saw a need for strata reform, to enable redevelopment in well-located precincts that have seen previous densification, such as 3-storey units built in the 1960s and 70s. Urban Taskforce highlighted that these are increasingly expensive to maintain, have lower building standards, poor thermal performance and lower amenity.³⁶⁹ Urban Taskforce suggested that the current strata framework is holding back urban renewal in many parts of Sydney, and called for a review of arrangements around strata schemes to balance the interests of genuine homeowners against the broader benefits of urban renewal.³⁷⁰
- 3.95** Responding to questions about whether the TOD program needed to be informed by a deeper understanding of how strata works, NSW Fair Trading indicated that the NSW Government is pursuing tranches of legislative reform following a 2021 review of strata laws.³⁷¹ It indicated:

The NSW Strata and Property Services Commissioner's priorities are to restore confidence and boost consumer protection for NSW residents engaged in real estate transactions, and for those who are buying, owning or living in strata. The Government has provided a funding boost in this year's Budget to allow the Commissioner to educate owners' corporations and hold strata agents to account. The funding will increase resourcing in complaints handling, dispute resolution and compliance inspectors. It will also enable uplift in professional standards for those who serve these communities and an increased focus on ensuring owners' corporations meet their legal obligations.³⁷²

Issues in the rental market

- 3.96** Several inquiry participants – including both opponents and supporters of the TOD reforms – called out issues in the rental market that they suggested need to be addressed as part of a package to address the housing crisis. This included consideration of ways that TOD could influence the availability of appropriate rental stock, as well as issues that affect the viability of renting as a long-term housing option.
- 3.97** A number of community advocates who were broadly unsupportive of increased density in their areas suggested that there were alternative ways that the government could be addressing the

³⁶⁷ Evidence, Professor Hazel Easthope, Professor of Urban Studies, City Futures Research Centre, UNSW Sydney, 24 July 2024, p 42.

³⁶⁸ Evidence, Professor Easthope, 24 July 2024, p 42.

³⁶⁹ Submission 125, Urban Taskforce, p 6.

³⁷⁰ Submission 125, Urban Taskforce, p 6.

³⁷¹ Answer to question on notice, NSW Fair Trading, 20 August 2024, p 1.

³⁷² Answer to question on notice, NSW Fair Trading, 20 August 2024, p 2.

housing crisis, such as through taxing properties left vacant, or cracking down on the short stay accommodation sector.³⁷³

- 3.98** Other community advocates, who were more supportive of higher density living to address housing affordability, suggested the government could be doing more to promote diversity and choice in the rental sector, such as encouraging more build-to-rent and institutional ownership of rentals.³⁷⁴
- 3.99** Researcher Dr Sophie-May Kerr suggested that the TOD program could do more to promote availability of suitable rental accommodation by having targets for family-friendly apartments, or allowing local councils to set targets for family-friendly apartments according to local need.³⁷⁵ Dr Kerr added that the government could do more to promote non-market family-friendly rental supply, or develop stock using design principles that could be replicated by the private sector.³⁷⁶
- 3.100** To make renting a more secure long-term option, some stakeholders called for greater protection of renters' rights through legislation.³⁷⁷
- 3.101** The NSW Rental Commissioner, Ms Trina Jones noted the importance of the rental market for over two million New South Wales residents who are renters, which includes families and people who will rent for their whole lives.³⁷⁸ She acknowledged the New South Wales rental market is currently facing significant pressure, exacerbated by a lack of diverse supply and growing unaffordability.³⁷⁹ She indicated the TOD program has the potential to 'significantly improve' the rental landscape by increasing diverse supply, improving affordability and creating 'diverse, well-connected communities'.³⁸⁰
- 3.102** Ms Jones also indicated that the government had been talking to potential build-to-rent providers. She suggested that, while the build-to-rent market is in its infancy, there is potential in the TOD program to support more build-to-rent programs.³⁸¹ She further noted that the TOD program, as part of the program to deliver the Housing Accord, is providing an opportunity to build confidence of different types of investors to invest in New South Wales.³⁸²
- 3.103** The NSW Fair Trading submission outlined a number of consultation processes underway on potential reforms to the rental market to improve the situation of renters.³⁸³

³⁷³ For example, evidence, Ms Jozefa Sobski, Haberfield Association, 20 May 2024, p 35; Mrs Cowley, 20 May 2024, p 36; Evidence Mr Reynolds, 20 May 2024, p 50.

³⁷⁴ For example, Evidence, Mr Waterford, 20 May 2024, p 16.

³⁷⁵ Evidence, Dr Kerr, 24 July 2024, p 31.

³⁷⁶ Evidence, Dr Kerr, 24 July 2024, p 31.

³⁷⁷ For example, evidence, Councillor Byrne, 20 May 2024, p 49.

³⁷⁸ Evidence, Ms Trina Jones, NSW Rental Commissioner, 24 July 2024, p 57. See also Submission 138, NSW Fair Trading, pp 1-4.

³⁷⁹ Evidence, Ms Jones, 24 July 2024, p 57; See also Submission 138, NSW Fair Trading, pp 1-4.

³⁸⁰ Evidence, Ms Jones, 24 July 2024, p 57.

³⁸¹ Evidence, Ms Jones, 24 July 2024, p 63.

³⁸² Evidence, Ms Jones, 24 July 2024, p 64.

³⁸³ Submission 138, NSW Fair Trading, pp 4-5.

Committee comment

- 3.104** As noted previously, the committee understands that the TOD program has been introduced as one component of the NSW Government's response to the housing crisis. We acknowledge that addressing Sydney's pressing housing supply and affordability issues requires prompt action, and that increasing density in established areas with good access to transport, employment and amenity is a reasonable approach. We note that many stakeholders including academics, planners, developers and community advocates were supportive of transport oriented development as a concept.
- 3.105** While aware that the TOD program cannot be expected to be a panacea for all of Sydney's current housing issues, we would hope to see the program designed in a way that has maximum effect on housing supply and affordability, without undermining the long-term amenity and liveability that residents value. Through this inquiry, we heard some legitimate concerns about whether the TOD program as designed is well enough targeted to achieve the intention of stimulating new housing supply and addressing affordability across the different parts of Sydney where it is to be rolled out, particularly during the Housing Accord period. We note whilst the overall target for New South Wales is 377,000 homes during the Housing Accord period, the government projects that at least 16,000 homes are anticipated to be delivered by June 2029 due to the TOD Tier 2 program, noting that this does not include new homes delivered under the TOD Tier 1 program or the Diverse and Well-located Homes program.
- 3.106** The committee has heard conflicting views on whether the mass-upzoning approach used in the TOD program is likely to result in the desired levels of new housing supply, given other pressing constraints in the economic environment at present, most notably the high costs of construction and finance. While there is some support for the upzoning around transport hubs – and even calls for it to go further – there are also concerns that the TOD package does not do enough to address other constraints, or to promote diverse stock of well-designed housing that suits a range of residents, including families.
- 3.107** We understand the issues and economics are complex, and that there is currently more detailed work happening on how the TOD program in particular localities will be rolled out. As part of this process, we recommend that the government consider the evidence on drivers of housing supply and affordability, and ensure the program is tailored in particular locations to stimulate supply while also considering how the program can promote liveable precincts with high amenity and diverse, good quality housing stock that meets community needs. Further, while not limited to the TOD program areas, we also call on the government to consider the evidence on the range of constraints impacting residential construction at present, in particular the economic feasibility of building both new infill developments and new greenfields developments, and to develop appropriate measures within its remit to address them. The committee acknowledges that a lot of the changes discussed in this section are out of the state government's control, and require advocacy to the Commonwealth and private industry for solutions.

Recommendation 3

That the NSW Government consider evidence on drivers of housing affordability and ensure that detailed planning for the current and any future TOD precincts is tailored for specific localities and considers how the program can best promote housing supply that meets community needs.

Recommendation 4

That the NSW Government develop a package of measures to address current constraints impacting on residential construction in New South Wales.

- 3.108** With regard to the likely impact of the TOD program on housing affordability, the committee notes legitimate questions raised about the impact of a blanket rezoning approach on land values and housing affordability, and who benefits from the value created. We note stakeholder suggestions that there could be ways to share this value, such as through a greater government role in resuming land prior to redevelopment, or introduction of a windfall tax scheme such as in Victoria and the ACT.
- 3.109** While the TOD program contains specific provisions for affordable housing, this committee notes concerns from several stakeholder groups that the provisions are not clearly spelt out or practical for either developers or the community housing sector. The committee also acknowledges stakeholder calls for greater clarity on what will happen to affordable housing targets under the scheme in future. We call on the NSW Government to continue the work on a clear framework for affordable housing under the TOD program, in consultation with developers, community housing providers and local governments. This should provide clarity on management arrangements for affordable housing stock, how the ongoing delivery and management of affordable housing will be monitored, and a schedule for any increase of the affordable housing targets over time. The committee notes that the department has already committed to publishing a schedule.

Recommendation 5

That the NSW Government continue the work on a framework for affordable housing under the TOD program.

- 3.110** The committee acknowledges that there is an array of issues in Sydney's housing market at present that are contributing to issues with housing affordability and security. We agree with stakeholders that there is a need for greater government investment and leadership in many ways that are not focused on or limited to the TOD Program.
- 3.111** Where housing reforms are designed to encourage higher density living in the form of apartments, we encourage the government to take a long-term view to ensure that quality and liveability of communities is not traded off for short-term gains through weakening design

standards (considered in more detail in Chapter 4). We also encourage the government to take a more active role in ensuring that the management arrangements for apartment buildings are considered upfront, and do not subject apartment owners to undue legal complexity and financial risk through unworkable strata schemes, or become a deterrent to urban renewal where needed in future.

- 3.112** Recognising that the housing crisis is complex, and many strands of work are needed to begin to address it, we particularly underline stakeholder calls for: greater investment in public housing; greater involvement in delivery of different models of housing; reforms to make the rental market an affordable long-term and secure option for renters; and greater focus on the operation of strata to ensure both liveability and workability of strata arrangements for apartment owners without compromising future urban renewal. The committee notes that these issues are largely outside the state government's responsibility and the Department of Planning, Housing and Infrastructure is not responsible for strata.

Recommendation 6

That the NSW Government continue to address the broad range of issues contributing to the housing crisis, noting in particular:

- continued investment in public housing
 - continued involvement of Government in delivery of different housing typologies
 - maintaining design standards and building quality for apartments
 - continuing progressing legislation to reform the rental market and make renting fairer for all renters
 - reviewing the operation of strata title to minimise legal complexity and financial risk for apartment owners, and provide for possibility of future urban renewal.
-

Chapter 4 Planning for a liveable, sustainable city

As the TOD program seeks to increase density in metropolitan areas, many stakeholders raised concerns about the impact of increased density on the liveability, character, employment opportunities and environmental sustainability of affected communities. This chapter considers the adequacy of the planning and funding for community infrastructure to support density under the NSW Government's housing reforms. It then notes issues of design standards and building quality, before considering stakeholder concerns about the TOD program's impact on the character and heritage value of affected communities. Finally, it explores the environmental impacts of the reforms, with particular focus on issues of tree canopy, deep soil and open space.

Planning for community infrastructure and amenity to support increased density

- 4.1** Stakeholders raised concerns about the planning for community infrastructure, amenity, services and jobs required to support increased density under the TOD program and low- and mid-rise housing reforms. Their concerns, as discussed below, included lack of planning for community infrastructure, amenity, services and jobs, and the need for greater investment in supporting infrastructure and amenity.
- 4.2** Stakeholders also called for a place-based, master planning approach to ensure that communities' needs for housing, infrastructure and amenity are met. The interaction between the TOD program and master plans is discussed in more detail in Chapter 2.

Planning for community infrastructure, amenity, services and employment

- 4.3** Inquiry participants repeatedly voiced concerns about the adequacy of planning for infrastructure, amenities, services and jobs to support the increased density proposed under the Transport Oriented Development (TOD) program and the low- and mid-rise housing reforms. Stakeholders argued that without proper infrastructure planning and employment opportunities, increased density could strain already overstretched infrastructure and services.
- 4.4** For example, Ms Clare Harley, Director, Planning and Environment, Strathfield Council, raised concerns about the capacity of local schools and hospitals to accommodate the proposed increases in population density in the Homebush TOD area and how this demand will be met:

If we get a very significant uplift in population, we will need new schools. We want to understand how that's going to happen. We want to understand how the health precinct will be grown, such as hospital beds. Where are those going to come from? We're talking about thousands of people moving into an area.³⁸⁴

- 4.5** Councillor Tanya Taylor, Mayor of Willoughby Council, echoed these concerns, particularly around the strain on transport and educational infrastructure in her area, highlighting that the 'community already contends with congestion and inadequate bus services and schools that are running out of space'. The Mayor, who advised considerable work had already been done by

³⁸⁴ Evidence, Ms Clare Harley, Director, Planning and Environment, Strathfield Council, 20 May 2024, p 44.

the council to meet these needs together with the demand for housing, emphasised that there is 'nothing to indicate that additional infrastructure is coming' under the TOD program.³⁸⁵

- 4.6 Representing the Northern Sydney Regional Organisation of Councils, Mr Steven Head suggested there needs to be further analysis and solutions identified for the impact of large increases in population and dwelling numbers on community infrastructure, including waste collection and processing infrastructure, as well as hospitals, schools and open space.³⁸⁶

Road and rail capacity

- 4.7 Stakeholders expressed concern that a comprehensive analysis of road and rail infrastructure and service capacity had not occurred during the development of the TOD program. For example, Local Government NSW, referencing Cumberland City Council's submission to the TOD program, questioned whether there had been an analysis of local road conditions, given that areas like Berala and Lidcombe - Tier 2 TOD precincts - have 'existing capacity constraints on the local road networks ... particularly during commuter peak periods'.³⁸⁷
- 4.8 In response to these concerns, Mr Simon Hunter, Chief Transport Planner, Transport for NSW (TfNSW), explained that site selection for the TOD program was based on a 'high-level strategic analysis, particularly on the rail and public transport networks, up until 2036'. For Tier 1 precincts, Mr Matt McKibbin, Executive Director, Planning for Places, TfNSW advised that an assessment of both road and rail networks, focusing on 'the degree of congestion ... during peak periods' had been provided to the Department of Planning, Housing and Infrastructure. However, Mr McKibbin clarified that road congestion issues would be addressed more substantively during the rezoning process.³⁸⁸
- 4.9 Mr McKibbin highlighted that for Tier 1 accelerated TOD precincts currently on exhibition there are now 'specific transport statements which have looked at local traffic congestion and have also identified infrastructure which can be delivered to address those concerns'.³⁸⁹
- 4.10 For Tier 2 precincts, Mr McKibbin agreed there had been no detailed analysis of road constraints during selection of the sites. Instead, Mr McKibbin noted that 'assessment of traffic congestion, or traffic issues, would be undertaken at the development assessment stage'.³⁹⁰
- 4.11 Responding to questions about whether TfNSW had considered the cumulative impact of having four TOD precincts on the T1 North Shore Line, Mr Hunter explained that the assessment of capacity was that the line 'could support the objectives of the TOD program'. This was determined by a range of factors, including existing capacity and patronage forecast

³⁸⁵ Evidence, Councillor Tanya Taylor, Mayor, Willoughby City Council, 20 May 2024, pp 58-59.

³⁸⁶ Evidence, Mr Steven Head, Northern Sydney Regional Organisation of Councils, 20 May 2024, p 25.

³⁸⁷ Submission 139, Local Government NSW, p 13.

³⁸⁸ Evidence, Mr Simon Hunter, Chief Transport Planner, Transport for NSW (TfNSW), 24 July 2024, p 15 and Evidence, Mr Matt McKibbin, Executive Director, Planning for Places, TfNSW, 24 July 2024, p 14.

³⁸⁹ Evidence, Mr McKibbin, 24 July 2024, p 14.

³⁹⁰ Evidence, Mr McKibbin, , 24 July 2024, p 15.

changes, and the opening of significant new infrastructure such as Sydney Metro City and Southwest.³⁹¹

Water and Sewerage Constraints

- 4.12** Several councils and stakeholders expressed concerns about the ability of the existing water and sewerage infrastructure to service the proposed density increases. Ms Zoë Baker, Mayor of North Shore Council, pointed out that St Leonards, a Tier 1 TOD precinct, has 'limited trunk capacity for wastewater' as noted in the Sydney Water Growth Servicing Plan 2024-2029. Noting this limitation, the Mayor argued that the TOD program 'had not adequately addressed delivery of capacity upgrades in the precinct'.³⁹²
- 4.13** Ms Kelsie Dadd, Spokesperson, Save Marrickville Residents Group, expressed similar concerns for Marrickville. Ms Dadd highlighted that the 'stormwater system in parts of Marrickville dates back to the 1890s', arguing that the TOD program will place 'strain on our old and struggling wastewater system'.³⁹³
- 4.14** Ms Kate Miles, Head of System Planning and Land Acquisition, Sydney Water responded to concerns about the capacity of Sydney's water infrastructure. She explained that Sydney Water had been actively involved in planning and that their capacity to service TOD precincts was 'independently reviewed and affirmed' by Infrastructure NSW. She asserted for the majority of the TOD precincts, 'we have existing capacity to meet the growth, or we're already delivering the upgrades required'. However, she acknowledged that areas like Bankstown and Homebush would need 'accelerated delivery of investments' by one to two years to meet capacity demand.³⁹⁴
- 4.15** For Tier 2 precincts, Ms Miles advised that capacity assessments have occurred for these sites, with expected growth in these areas requiring 'minimal additional investment'.³⁹⁵
- 4.16** Ms Miles countered the concerns that ageing infrastructure determines capacity of the water system, suggesting that there was 'a misconception that age of infrastructure is a factor in determining capacity ... this is not the case'. Ms Miles highlighted that renewal of infrastructure is 'planned and accounted for', with the number of breaks and bursts in the network not factored into capacity determinations.³⁹⁶
- 4.17** Ms Kelsie Dadd, Save Marrickville Residents Group disagreed with Sydney Water's assessment about capacity and ageing infrastructure, highlighting that there remain concerns amongst the community that have not been addressed by Sydney Water:

We see now in Marrickville people having a look at the stormwater systems and seeing they are totally inadequate. They are blocked. Sydney Water have said they've fixed them, and pictures go up on Facebook of them not being fixed, so I don't think that

³⁹¹ Evidence, Mr Hunter, 24 July 2024, pp 15-16.

³⁹² Evidence, Ms Zoë Baker, Mayor, North Shore Council, 7 June 2024, p 2.

³⁹³ Evidence, Ms Kelsie Dadd, Spokesperson, Save Marrickville Residents Group, 24 July 2024, p 51.

³⁹⁴ Evidence, Ms Kate Miles, Head of System Planning and Land Acquisition, Sydney Water, 24 July 2024, p 13.

³⁹⁵ Evidence, Ms Miles, 24 July 2024, p 13.

³⁹⁶ Evidence, Ms Miles, 24 July 2024, p 13.

Sydney Water really understands what's happening with their ageing water systems. They're not showing us in Marrickville that they're aware of the problems.³⁹⁷

School Capacity

- 4.18** The committee heard concerns about the capacity constraints of school infrastructure under the housing reforms, with stakeholders calling for a collaborative approach across government departments and agencies to respond to this issue. For example, Haberfield Association Inc. noted that primary schools in the Inner West local government area were already 'well over capacity for their sites' and argued that the government's housing reforms would necessitate the construction of additional school sites. The Association raised similar capacity constraints for health care, transport and other public services, with their concern about the 'cost of this infrastructure, and/or the adverse impact on residents if it is not delivered, is not adequately or satisfactorily considered'.³⁹⁸
- 4.19** Western Sydney Leadership Dialogue, who expressed strong support for the TOD program raised concerns about existing school capacity in the North West and the need to ensure adequate planning to address this issue. Acknowledging TOD precincts like Bella Vista and Kellyville were already at 200 per cent capacity, Mr Luke Turner, Executive Director, Policy and Advocacy, Western Sydney Leadership Dialogue noted that planning decisions 'are made based on data that is really quickly out of date, such as has been the pace of population growth in places particularly close to that new North West metro'. Mr Turner stated 'more needs to be done' to address capacity issues, calling for better coordination between state planning policies and infrastructure agencies to address this critical gap in services.³⁹⁹
- 4.20** Ms Lisa Harrington, Acting Deputy Secretary, School Infrastructure NSW, detailed the agency's level of engagement with DPHI ahead of the TOD program announcement. She highlighted the agency's enrolment growth audit and the growth area schools plan currently underway, adding that planning for the TOD growth areas is very similar to this work. Ms Harrington advised that conversations ahead of the TOD announcement were around the 'work that we've got underway to understand where there's need so that we can make sure that's aligning with Planning's work'.⁴⁰⁰
- 4.21** When asked whether Schools Infrastructure NSW undertook a site analysis similar to Transport for NSW, Ms Harrington advised they engaged with DPHI 'regularly to make sure that we are aligning ... to make sure to make sure that schools are in the communities where they're needed and to make sure there's enabling infrastructure as well'. She also stressed that 'while it's important to make sure we understand where Planning's focusing, the rubber really hits the roads for us when we start to get a sense of the number of dwellings and the type of dwellings'.⁴⁰¹

³⁹⁷ Evidence, Ms Dadd, 24 July 2024, p 51.

³⁹⁸ Submission 79, Haberfield Association Inc., pp 2-3.

³⁹⁹ Evidence, Mr Luke Turner, Executive Director, Policy and Advocacy, Western Sydney Leadership Dialogue, 20 May 2024, p 19.

⁴⁰⁰ Evidence, Ms Lisa Harrington, Acting Deputy Secretary, School Infrastructure NSW, 24 July 2024, p 16.

⁴⁰¹ Evidence, Ms Harrington, 24 July 2024, p 17.

- 4.22** To support high-density TOD precincts, Ms Harrington advised that 'we are developing more land-efficient urban schools of between five and seven storeys in height', adjacent to 'transport hubs and sports fields to encourage walkable and rideable communities'.⁴⁰²
- 4.23** Regarding land acquisition for new schools, Ms Harrington noted that disclosing specific plans was not in the Department's or taxpayer's interest but explained that a 'land acquisition strategy' was underway, following recommendations from the enrolment growth audit, to ensure land is acquired early 'so that we are not paying more than what we need to'.⁴⁰³
- 4.24** Ms Harrington also spoke about School Infrastructure's shift toward standardised school designs, which would enable quicker planning and cheaper construction.⁴⁰⁴
- 4.25** To ensure communities' needs for supporting infrastructure and amenity are met, there were calls for a place-based strategic master planning approach to the NSW Government's housing reforms.⁴⁰⁵ This is discussed in more detail in chapter 2.

Investment in community infrastructure and amenity

- 4.26** According to the NSW Government, \$520 million has been committed to funding community infrastructure such as road upgrades, active transport and open spaces in Tier 1 TOD precincts. For Tier 2 precincts, the NSW Government advised that local councils will be 'encouraged to invest the money they collect from local development contributions to make improvements to local infrastructure'. In addition, the Housing and Productivity Contribution, which is a 'development charge that will help fund the delivery of essential state infrastructure in high-growth areas' will continue to apply in these locations.⁴⁰⁶
- 4.27** Broadly, there was concern about the level and timing of government investment in planning and delivery of community infrastructure necessary to support the housing reforms.⁴⁰⁷ For example, Ms Clare Harley, Director, Planning and Environment, Strathfield Council called for more funding support to ensure that community infrastructure and amenities are provided in a 'timely manner'. Ms Harley explained that planning for local infrastructure in open space embellishment 'happens early in the development of the precinct'. For this to occur, Ms Harley called for 'seed funding' so that the planning and delivery of these improvements can occur.⁴⁰⁸

⁴⁰² Evidence, Ms Harrington, 24 July 2024, p 14.

⁴⁰³ Evidence, Ms Harrington, 24 July 2024, p 20.

⁴⁰⁴ Evidence, Ms Harrington, 24 July 2024, p 20.

⁴⁰⁵ See for example: Submission 139, Local Government NSW, pp 7-8; Evidence, Councillor Darriea Turley, AM, President, Local Government NSW, 24 July 2024, p 26; Evidence, Mr Head, 20 May 2024, p 25; Evidence, Ms Sue Weatherley, NSW Division President, Planning Institute Australia, 7 June 2024, p 16; Evidence, Mr John Brockhoff, PIA (Fellow), National Policy Director, Planning Institute Australia, p 18.

⁴⁰⁶ Submission 118, Department of Planning, Housing and Infrastructure, p 5.

⁴⁰⁷ See for example: Submission 157, Penrith City Council, pp 2-4; Submission 150, Blue Mountains City Council, pp 11-12; Submission 159, Ku-ring-gai Council, pp 4 and 6; Submission 139, Local Government NSW, p 13; Submission 125, Urban Taskforce, p 4.

⁴⁰⁸ Evidence, Ms Harley, 20 May 2024, p 41.

- 4.28** Councils also raised concerns about their local contributions fund plans, emphasising that their plans do not account for the increased density and population, and therefore do not adequately provide for the community infrastructure required to support the resulting development.⁴⁰⁹ It was argued that rezoning and development under the housing reforms will not be captured by existing contributions plans, leaving councils unable to capture contributions towards community infrastructure. In this regard, there were calls for the NSW Government to allow time for councils to update their plans and provide funding assistance for this to occur.⁴¹⁰
- 4.29** More specifically, concern was raised about how funding for Tier 1 of the program will be allocated between the eight accelerated precincts and the lack of government funding for part 2 of the program. In expressing their concerns, inquiry stakeholders advocated for greater investment in both parts of the TOD program, and called for alternative funding mechanisms to be used, for example, special infrastructure contributions.

Tier 1 precincts

- 4.30** Councils with precincts under Tier 1 of the TOD program in their local government area expressed concern about the Government's commitment of \$520 million for community infrastructure and its allocation between the eight accelerated precincts.⁴¹¹
- 4.31** In particular, Ms Zoë Baker, Mayor, North Shore Council, noted the lack of detail in how 'that amount will be divided between the eight precincts', asserting that the funding 'will not touch the sides of the need or deliver for the additional density in the accelerated TOD precincts'.⁴¹²
- 4.32** The Mayor referred to Crows Nest – a Tier 1 TOD precinct and part of the existing St Leonards and Crows Nest 2036 Plan (2036 Plan) which requires the precinct absorb 6,683 new dwellings and corresponding infrastructure. The Mayor described Crows Nest as an area that already has an 'infrastructure deficit'. She suggested that the 'deficit is intensified for the planned 2036 population', with the TOD program to 'add to that again without any plan or certainty about the delivery of the essential infrastructure'.⁴¹³
- 4.33** The Mayor also highlighted that the Special Infrastructure Contribution in place to deliver community infrastructure under the 2036 plan was 'recently recently abolished as a result of the housing and productivity contribution order', stressing that funding for 'vital infrastructure under the existing 2036 Plan' remains 'extremely uncertain'. Turning to the TOD program, the Mayor was supportive of a Special Infrastructure Contribution to fund delivery of community infrastructure in the Crows Nest precinct, noting that the council intends to advocate for this funding arrangement to be made:

One of the things that I am sure we will be putting to the department of planning is that there may need to be a special contribution for this TOD precinct in order to deliver it over and above the \$520 million, and a contribution that comes back to the

⁴⁰⁹ Submission 18, Georges River Council, p 5; Submission 129, The Hills Shire Council, pp 4-5.

⁴¹⁰ Submission 18, Georges River Council, p 5; Submission 157, Penrith City Council, pp 3-4.

⁴¹¹ See for example: Submission 85, Hornsby Shire Council, p 4; Evidence, Ms Baker, 7 June 2024, p 3; Evidence, Mr Sam Ngai, Ku-ring-gai Council, 20 May 2024, p 66; Submission 146, Willoughby City Council, p 3.

⁴¹² Evidence, Ms Baker, 7 June 2024, p 3.

⁴¹³ Evidence, Ms Baker, 7 June 2024, pp 3-4.

council areas to ensure that it's not just collected and delivered within the whole of the region, that it's delivered where the building is going to be and where the population will be living.⁴¹⁴

- 4.34** Echoing similar concerns for Macquarie Park – a Tier 1 TOD precinct, Mr Wayne Rylands, Chief Executive Officer, City of Ryde highlighted the council's estimate of funds for supporting infrastructure is 'around \$770 million'. With this in mind, Mr Rylands asserted that the government's allocated funds divided amongst the Tier 1 precincts is 'almost meaningless'. Mr Ryland acknowledged Macquarie Park's ability to absorb additional density, however, stressed the need for a 'clear plan' on how development is 'actually going to get in there and work without putting the rest of our system into meltdown, without impacting on employment and without still having this lack of infrastructure'.⁴¹⁵

Tier 2 precincts

- 4.35** Ms Katie Stevenson, New South Wales Executive Director, Property Council of Australia, who welcomed the NSW Government's funding commitment for community infrastructure in Tier 1 of the program, highlighted the lack of funding for Tier 2 precincts. Ms Stevenson called for a 'proportional increase' in funds for community infrastructure so that as 'communities grow and change, there is adequate provision made to make sure that they continue to be great places to live and, in fact, they improve'.⁴¹⁶

- 4.36** In responding to questions about how these funds should be raised, Ms Stevenson was of the view that funding should be from the government as opposed to developer contributions, noting the economic difficulties for developers within the current market:

It's a very difficult economic environment. Materials are more expensive. Labour is very expensive. There's a lot of competition. And residential development is not the first amongst equals. It's a very difficult space for developers to work in at the moment. Raising developer contributions, requiring that to come off the cost of development, is not the answer, in our view. It should come from ConFund. Government makes all sorts of decisions around how to allocate State Government funding, and we would call for them, as part of the upcoming budget, to be strategic.⁴¹⁷

- 4.37** Dr Shanaka Herath, Senior Lecturer – Urban Economics / Course Director Planning, University of Technology Sydney, also expressed concern at the lack of Government funding for Tier 2 TOD precincts. Dr Herath stressed that it was 'crucial' for Government to provide infrastructure funding 'up-front' to these areas, potentially through small infrastructure incentives for council, arguing that without this investment people will have to 'live in local areas without amenities, with working from home being very prevalent these days, it will have an impact on wellbeing as well as productivity'.⁴¹⁸

⁴¹⁴ Evidence, Ms Baker, 7 June 2024, p 9.

⁴¹⁵ Evidence, Mr Wayne Ryland, Chief Executive Officer, 20 May 2024, p 32.

⁴¹⁶ Evidence, Ms Katie Stevenson, New South Wales Executive Director, Property Council of Australia, 20 May 2024, p 7.

⁴¹⁷ Evidence, Ms Stevenson, 20 May 2024, p 7.

⁴¹⁸ Evidence, Dr Shanaka Herath, Senior Lecturer – Urban Economics / Course Director Planning, University of Technology Sydney, 24 July 2024, p 35.

- 4.38** Dr Herath highlighted that currently, \$200 million is available in incentives to councils to build small local infrastructure 'only if they exceed their housing targets'. Dr Herath argued that this 'assistance should be based on the target dwelling numbers; otherwise, we are setting them up for failure' resulting in 'more dwellings without adequate local amenities and services'.⁴¹⁹
- 4.39** Councils in Tier 2 precincts similarly called for additional support. Councillor Darcy Byrne, Mayor of Inner West Council stressed the need for government support in providing public and open spaces alongside housing developments:
- ...it would be a good idea that—if councils are willing to come on board, take responsibility and deliver new homes—there should be funds available to improve public spaces and open spaces in those communities, particularly in places like ours that are already very dense.⁴²⁰
- 4.40** The Mayor highlighted the challenges in Inner West, where new parks are rare, citing the example of Rozelle Parklands, which faced 'a few complications'. He called on the NSW Government to create 'funds as an incentive for councils to step up and deliver new homes so that they can also provide new open and green spaces'.⁴²¹

Liveable communities: design and building quality

- 4.41** Many stakeholders gave evidence that there is a need to consider design and building quality when planning for increased density under the TOD program. This includes the:
- need to consider building standards, thermal performance and design principles
 - need for family-friendly apartments close to amenities

Building standards, thermal performance and design principles

- 4.42** There was discussion about the need for strong building standards, thermal performance, and design principles to ensure that new developments as part of the TOD program are sustainable and liveable. For example, Dr Nicole Cook expressed concern that the Apartment Design Guidelines (ADGs) do not fully commit to maximising tree canopy, which is essential for climate adaptation, reducing energy costs and encouraging 'people to want to live in areas'. Dr Cook warned that 'if we overlook that question of canopy and if it isn't more clearly prioritised in our planning instruments, we are going to risk having apartments that are not ready for the climate extremes that we're seeing'.⁴²²
- 4.43** Dr Cook also expressed concern about the thermal performance of housing under the program, questioning whether the National Construction Code (NCC) seven-star thermal rating will apply to 'apartment buildings of up to five storeys' as information available suggests they are 'excused'

⁴¹⁹ Evidence, Dr Herath, 24 July 2024, p 32 and 35.

⁴²⁰ Evidence, Councillor Darcy Byrne, Mayor, Inner West Council, p 43.

⁴²¹ Evidence, Councillor Byrne, p 43.

⁴²² Evidence, Dr Nicole Cook, Senior Lecturer, Geography and Sustainability, University of Wollongong, 24 July 2024, p 34.

from this standard.⁴²³ Dr Cook highlighted the impact of poor thermal performance, referring to a study of apartment types and design in the Liverpool local government area which found 'the thermal performance of...recently built apartments was exacerbating health issues'.⁴²⁴

4.44 Ms Merrill Witt, Committee Member, Save Greater Sydney Coalition, further raised concerns about recent changes to the ADGs, specifically the weakening of building separations and setbacks. She argued that this 'watering down' would 'create adverse amenity outcomes and a reduction in the number of units with adequate solar access and cross-ventilation', leading to an 'increase and unsustainable reliance on mechanical heating and cooling'.⁴²⁵

4.45 Mr Brendan Coates, Economic Policy Program Director, Grattan Institute, emphasised the importance of quality design in new housing, noting that once a property is built, 'it stays there for decades'. He highlighted those initiatives like the 'pattern book' being introduced by the NSW Government are valuable for ensuring better design outcomes, not just in terms of building height but also in how well developments are constructed and how they impact their surroundings.⁴²⁶

4.46 Mr Michael Wheatley, Acting Head of Housing Portfolio, Homes NSW, emphasised the need for design excellence in public housing projects, particularly for apartment buildings, explaining how they achieve design excellence across all projects, regardless of tenure:

We are working with the Government Architect on our internal processes and procedures to improve design excellence, especially in apartments—so residential flat buildings and other projects. Obviously, larger projects all go through the design excellence process. We believe in being tenure blind. When you drive past a new Homes NSW development, you shouldn't be able to tell whether it is public or market. It should just look like great housing. That extends to both the sustainability outcomes, and we are committing to all the high standards, the benchmarks, and it also includes accessibility levels as well because we have to provide housing that really does help ageing in place. All of the various aspects of good design and design excellence are a key driver for us.⁴²⁷

Family-friendly apartments

4.47 Linked to the discussions above, inquiry stakeholders discussed the need to increase the supply of 'family-friendly' apartments, particularly three-and-four bedroom units, in TOD precincts. Stakeholders also raised the challenges in meeting this demand. Mr Eamon Waterford, Chief Executive Officer, Committee for Sydney voiced his support for such housing, noting that whilst older generations are less inclined to raise families in apartments, younger generations are more 'excited about that opportunity'. He attributed this shift in attitude to the 'trade-off for a

⁴²³ Evidence, Dr Cook, 24 July 2024, p 34.

⁴²⁴ Evidence, Dr Cook, 24 July 2024, p 34.

⁴²⁵ Evidence, Ms Merrill Witt, Committee Member, Save Greater Sydney Coalition, 20 May 2024, p 50.

⁴²⁶ Evidence, Mr Brendan Coates, Economic Policy Program Director, Grattan Institute, 7 June 2024, p 23.

⁴²⁷ Evidence, Mr Michael Wheatley, Acting Head of Housing Portfolio, Homes NSW, 24 July 2024, p 62.

backyard' to 'access to great public amenity' and advocated for mandating a percentage of family friendly apartments required under the TOD program.⁴²⁸

- 4.48** Mr Luke Turner, Executive Director, Policy and Advocacy, Western Sydney Leadership Dialogue echoed Mr Waterford's sentiments, noting the 'generational shift in attitudes towards apartment living'. Mr Turner pointed out that it is often 'cheaper for developers to build a three- or four-bedroom house on koala habitat' in Greater Sydney than to construct family apartments in TOD precincts, calling for policy reforms to address this imbalance.⁴²⁹
- 4.49** Mr Justin Simon, Chair, Sydney YIMBY, identified two major barriers to developing family-friendly apartments in TODs: parking requirements and building design restrictions. Mr Simon noted that councils often mandate 'two parking spots for a three-bedroom apartment', which makes such projects 'a lot harder to pencil'. He also emphasised the importance of 'dual-aspect' designs for larger family apartments, which limit the amount of 'dead space' that developers have to fill. However, Mr Simon argued that council rezonings often result in short wider buildings, limiting the potential for such designs'.⁴³⁰
- 4.50** Academics expressed similar views about the need for family-friendly apartments in housing developments and the lack of such stock in the TOD program.⁴³¹ In particular, Dr Sophie-May Kerr highlighted the shift in need for such housing, referred to census data which found 'one in four apartments are home to families with children, and in some local government areas this is as high as one in two'.⁴³²
- 4.51** In this regard, academics raised specific concerns about the design guidelines for apartments under the TOD program and how the NSW Government should assess and meet the demand for family-friendly apartments on a place-by-place basis.⁴³³ For example, Dr Phillip Oldfield, Head of School of the Built Environment and Professor of Architecture, UNSW Sydney, referred to the Apartment Design Guide (ADG), which developments under the TOD program are required to align with, as 'positive'. However, noting evidence about the need for family-friendly apartments and the fact that the 'ADG itself is now 10 years old', Dr Oldfield advocated for revision of the ADG to ensure this demand is met:

We found that developers prefer one- and two-bedroom apartments and standardised layout, primarily to meet the needs of investor purchases. In contrast, parents of children desire a more diverse range of apartment layouts in terms of privacy, supervision and shared spaces, notably influenced by the age of children.

...

⁴²⁸ Evidence, Mr Eamon Waterford, Chief Executive Officer, Committee for Sydney, 20 May 2024, p 17.

⁴²⁹ Evidence, Mr Turner, 20 May 2024, p 17.

⁴³⁰ Evidence, Mr Justin Simon, Chair, Sydney YIMBY, 20 May 2024, p 17.

⁴³¹ Evidence, Dr Herath, 24 July 2024, pp 31-32; Evidence, Dr Sophie-May Kerr, Research Associate, City Futures Research Centre, UNSW Sydney, 24 July 2024, p 31; Evidence, Dr Philip Oldfield, Head of School of the Built Environment and Professor of Architecture, UNSW Sydney, p 32.

⁴³² Evidence, Dr Kerr, 24 July 2024, p 31.

⁴³³ Evidence, Dr Kerr, 24 July 2024, p

There is the opportunity to revise the ADG with our recently accumulated knowledge and evidence to ensure provisions are in place to better support the next generation of apartments in New South Wales including, for instance, better provision of family-friendly apartments.⁴³⁴

- 4.52** Similarly, Dr Sophie-May Kerr, Research Associate, City Futures Research Centre, UNSW Sydney supported amendments to the TOD program to address this 'glaring gap'. Dr Kerr stated this could be achieved through amendments to the ADG or the TOD State Environmental Planning Policy itself. Dr Kerr also advocated for councils to 'retain the ability to set more ambitious targets' in 'response to local need'. She highlighted precedent where councils have required a greater mix of family-friendly apartments, noting a mandate of '20 or 25 per cent of new apartments being family friendly would align with the numbers that we're seeing currently in that space'.⁴³⁵
- 4.53** Echoing similar sentiments, Dr Nicole Cook, Senior Lecturer, Geography and Sustainability, University of Wollongong, stressed that these types of controls 'should be informed by place-based analysis of families in apartments in those town centres ... working out statistically ... in some of those areas what proportion of those apartments is occupied by families'. Dr Cook noted her research with Dr Shanaka Herath, University of Technology Sydney which found around 50 per cent of apartments in the Liverpool town centre were occupied by families with children. Dr Cook explained that as a result of this research, modifications to the town centre Development Control Plan were made in June 2024 that now requires 20 per cent three-bedroom homes in new apartment buildings.⁴³⁶
- 4.54** In calling for more 'family-friendly' apartments under the TOD program, inquiry stakeholders also advocated for such housing to be accompanied by family-friendly amenities, like green space and social infrastructure. For example, Mr Jeremy Gill, Head of Policy, Committee for Sydney, stressed the importance of planning for childcare, school capacity, other community infrastructure and open space provisions to ensure there is support to raise families over the long term.⁴³⁷
- 4.55** This view was supported by academics. Dr Kerr argued that family-friendly neighbourhood amenities such as green space, social infrastructure, safe active mobility routes, childcare and schools that 'keep pace with housing growth' are 'really critical'.⁴³⁸

Valuing heritage

- 4.56** DPPI advised that the TOD program 'establishes a policy position to balance delivery of the development envisaged and conservation established by councils in their Local Environmental Plan (LEP) – because housing and heritage co-exists and should continue to do so.'⁴³⁹ The department explained that:

⁴³⁴ Evidence, Dr Oldfield, 24 July 2024, p 32.

⁴³⁵ Evidence, Dr Kerr, 24 July 2024, p 31 and 33.

⁴³⁶ Evidence, Dr Cook, 24 July 2024, pp 32-33.

⁴³⁷ Evidence, Mr Jeremy Gill, Head of Policy, Committee for Sydney, 20 May 2024, p 17.

⁴³⁸ Evidence, Dr Kerr, 24 July 2024, p 31.

⁴³⁹ Submission 118, Department of Planning, Housing and Infrastructure, p 22.

- state and local heritage items are managed by state or local government bodies respectively
- locally listed items are identified in Schedule 5 of an LEP and can include either specific items or heritage conservation areas
- heritage protection controls for sites that currently trigger assessment under an LEP or Development Control Plan remain in place with the introduction of the TOD SEPP
- for Tier 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 Tier 2 sites, the TOD SEPP 'will be layered on top of existing LEP and DCP controls ... to enable land uses including residential flat buildings and shop-top housing'.⁴⁴⁰

4.57 Some inquiry stakeholders, particularly community advocacy groups and some councils, argued that the Transport Oriented Development (TOD) Program does not pay sufficient regard to heritage values and protections.

4.58 Mr David Burdon, Conservation Director of the National Trust of Australia expressed his concern that heritage conservation and legislation in New South Wales is increasingly being seen as 'optional' compared to other areas of the world. Mr Burdon emphasised that the 'one-size-fits-all' nature of the TOD reforms 'does not consider heritage listing' and 'ignores things like topography, street widths, setbacks and the current transport infrastructure'.⁴⁴¹

4.59 Rather, Mr Burdon stressed the need to ensure heritage is respected when increasing housing density. This includes adopting a 'long-term' approach to planning for housing density as opposed to a 'short-term strategy' like the TOD program, with 'site-specific consideration' given to heritage a part of this process.⁴⁴²

4.60 Mr Burdon also emphasised the complementary nature of heritage and development if 'done well'. Mr Burdon argued this is the case for heritage conservation areas with higher densities, like Potts Point, and for low density areas like Ku-ring-gai which have heritage conservation areas with more green space:

If we look at Ku-ring-gai and some of these places... There are houses in existing suburbs with existing setbacks and existing—and that might be to the front of the street—green areas and all that sort of thing. There could be new development adjacent to any heritage item that is sympathetic to that item. But when you bring in blanket reforms ... so there are zero setbacks or very small setbacks, then you start to affect those things. ... We outlined a recent student housing development in Summer Hill, a very well known heritage part of Sydney. It includes about 180 new student residences next to and incorporating the old ambulance station at Summer Hill, and it's been done extremely well. Yes, this can be done, but it needs to be done respecting the existing controls.⁴⁴³

⁴⁴⁰ Submission 118, Department of Planning, Housing and Infrastructure, p 22.

⁴⁴¹ Evidence, Mr David Burdon, Conservation Director of the National Trust of Australia, 20 May 2024, p 35.

⁴⁴² Evidence, Mr Burdon, 20 May 2024, p 35.

⁴⁴³ Evidence, Mr Burdon, 20 May 2024, p 40.

- 4.61** Turning to more specific concerns raised in local government areas, Mrs Kathy Cowley, President, Friends of Ku-ring-gai Environment Inc., expressed similar concern about the 'one-size-fits-all' approach under the TOD program, highlighting the impact of this approach on Ku-ring-gai's heritage conservation areas:
- The TODs will have an unacceptable impact on Ku-ring-gai's heritage conservation areas and local heritage items. Ku-ring-gai is known for having the best collection of twentieth-century domestic architecture in Australia and has been attributed of being worthy of national significance. The TOD SEPP will impact more than 530 properties within heritage conservation areas, including more than 100 listed heritage items.⁴⁴⁴
- 4.62** In a similar vein, Mr Sam Ngai, Mayor of Ku-ring-gai Council expressed serious concern that the requirement for council to deliver 4,500 – 5,000 new homes in each TOD precinct will 'impact 23 of Ku-ring-gai's heritage conservation areas'. The Mayor shared his concerns about the program's impact on heritage had been raised with the Minister for Planning and Public Spaces. This includes questions about how the garden-style character of these heritage conservation areas will be compatible with TOD's maximum height and FSRs, and why Killara, an area with 83 per cent of the precinct being a heritage conservation area, had been chosen over other areas.⁴⁴⁵
- 4.63** Ms Zoë Baker, Mayor, North Shore Council was concerned that for Crows Nest and St Leonards – Tier 1 TOD precincts – the process is 'so expedited that we're not going to be able to have the careful analysis' of heritage impacts that formed part of the council's existing plan to increase housing and employment targets in the area. In this regard, the Mayor highlighted that the existing plan was designed to minimise overshadowing on the heritage conservation areas.⁴⁴⁶
- 4.64** Likewise, Mr Frank Howarth, Chair of the Heritage Council of NSW, noted there was concern during the development of the TOD program that accelerated priority TOD precincts 'would run the unnecessary risk of impacts to heritage conservation area... [and] irrevocably change the character and amenity of these important areas'. Whilst now supportive of Tier 1 of the program following further consideration of this issue by the Department for Planning, Housing and Infrastructure, Mr Howarth advised there was still concern about the 'need for better integration of heritage into strategic planning processes' and 'more guidance...on minimising the impacts to heritage from development adjacent to heritage places'.⁴⁴⁷
- 4.65** In this regard, Mr Howarth called for the development of 'design guidelines for adjacent development' to 'help create precincts which are sensitive to and integrated with the heritage values and character of the suburbs'.⁴⁴⁸
- 4.66** Contrasting with the evidence from councils and community advocates, there were concerns from developers that existing protections for heritage are too restrictive and will prevent the TOD program from achieving its intended outcome – to increase the capacity for housing

⁴⁴⁴ Evidence, Mrs Kathy Cowley, President, Friends of Ku-ring-gai Environment Inc., 20 May 2024, p 36.

⁴⁴⁵ Evidence, Mr Ngai, 20 May 2024, pp 61 and 64.

⁴⁴⁶ Evidence, Ms Baker, 7 June 2024, pp 7-8.

⁴⁴⁷ Evidence, Mr Frank Howarth, Chair of the Heritage Council of NSW, pp 36-37.

⁴⁴⁸ Evidence, Mr Howarth, 20 May 2024, pp 36-37.

around transport hubs. In particular, Mr Tom Forrest, Chief Executive Officer of Urban Taskforce Australia, remarked that under existing settings 'the smallest amount of a heritage item on a site ... pretty much rules out that entire site' from benefitting from height and density allowances.⁴⁴⁹

- 4.67** By not providing a more flexible approach to how heritage values are protected, Mr Forrest argued that the TOD program is 'unnecessarily respectful of heritage' and that the program should align heritage protections with those already prescribed in other legislation:

I think that we need to respect the heritage in practical ways, in the way that the Heritage Act already does. That is to say if there's a heritage item, you put in a [Development Application], you ensure that it respects the heritage item, you ensure that you are improving the heritage value of that item, but it doesn't mean you don't get the full [Floor Space Ratio] and height advantage that would apply to that property. I think the same philosophy should apply here.⁴⁵⁰

- 4.68** In response to concerns about the heritage impact of the TOD program, Ms Monica Gibson, Deputy Secretary, Planning, Land Use Strategy, Housing and Infrastructure, Department of Planning, Housing and Infrastructure, confirmed that significant consideration was given to heritage conservation areas and heritage constraints in the selection of sites for the program and the proposals for floor space ratios and height controls under the TOD SEPP. Ms Gibson added that the Department has 'published some additional guidance to support the TOD SEPP, and that guidance also talks to the specifics, the heritage matters'.⁴⁵¹

Interaction of TOD program with existing heritage conservation controls

- 4.69** According to section 3.28 of the *Environmental Planning and Assessment Act 1979* (EP&A Act), State Environmental Planning Policies (SEPPs) prevail over Local Environmental Plans (LEPs). Specifically, in the event of an inconsistency between a SEPP and an LEP, the SEPP will override the LEP.⁴⁵² As noted above, however, DPHI informed the committee that existing heritage protections under an LEP or DCP remain in place with the introduction of the TOD SEPP.
- 4.70** As discussed in Chapter 2, the committee heard differing understandings from stakeholders about how the hierarchy of planning controls was likely to play out with the introduction of the TOD SEPP. This would appear a concern for many inquiry participants when it comes to the potential for conflict between the TOD SEPP and heritage controls under councils' Local Environmental Plans.
- 4.71** Ms Jozefa Sobski, Vice President, Haberfield Association Inc., argued that the TOD SEPP includes 'non-refusal standards' which 'turn off heritage protections'.⁴⁵³ Mr David Burdon, National Trust NSW expressed doubts, noting that he was 'not convinced that the actual

⁴⁴⁹ Evidence, Mr Tom Forrest, Chief Executive Officer, Urban Taskforce Australia, 20 May 2024, p 3.

⁴⁵⁰ Evidence, Mr Forrest, 20 May 2024, pp 3-4.

⁴⁵¹ Evidence, Ms Monica Gibson, Deputy Secretary, Planning, Land Use Strategy, Housing and Infrastructure, Department of Planning, Housing, and Infrastructure, 24 July 2024, p 5.

⁴⁵² *Environmental Planning and Assessment Act 1979 (NSW)*, s 3.28.

⁴⁵³ Evidence, Ms Jozefa Sobski, Vice President, Haberfield Association Inc., 20 May 2024, p 35.

heritage protections ... still being given to local councils will be sufficient'. He warned that 'ultimately, I think that we will see this tested in the courts. If a council does try and protect an area for heritage reasons, I think it will be challenged'.⁴⁵⁴

4.72 As noted in Chapter 2, developers noted potential for conflict across different levels of planning controls, and called for greater certainty. Mr Tom Forrest, CEO, Urban Taskforce preferred that the SEPP controls take precedence over Local Environmental or Development Control Plans in order to give effect to the TOD objectives.⁴⁵⁵ Ms Katie Stevenson, Property Council of Australia, similarly called for greater clarity from the government around the hierarchy of policy objectives and guidance on what should prevail in the assessment of development applications.⁴⁵⁶

4.73 Departmental officials responded to the concerns raised about conflicts in the planning framework affecting heritage protections. According to Ms Monica Gibson, Department of Planning, Housing, and Infrastructure the TOD SEPP applies to heritage conservation areas, and specific heritage-listed items remain exempt from the policy. She added: 'councils' heritage provisions in their LEP and councils' development controls for heritage conservation areas—will continue to apply'.⁴⁵⁷ There was guidance published in May 2024 to this regard.

4.74 Ms Kiersten Fishburn, Secretary, Department of Planning, Housing and Infrastructure, advised that in the event of a conflict between the TOD SEPP and heritage conservation area development controls in the LEP, the TOD SEPP would not override the LEP, with the council remaining the consent authority with regard to development in heritage conservation areas:

Councils have been dealing with development in heritage conservation areas for many decades. Their controls do change...but councils will be able to continue to make assessments, as they always have done, about appropriateness against their own LEP controls and their own DCP controls as well.⁴⁵⁸

4.75 Ms Gibson acknowledged that appeals against council development assessments would ultimately be determined by the Land and Environment Court, providing further clarity about what factors would be taken into consideration by the council or court in the event of a conflict between the planning policies and controls:

The matters that would be considered in the assessment—for example, in a situation where the height controls are higher in the SEPP than they are in the council LEP and a proponent makes an application using that new height—that would need to be assessed about impact on heritage values and the heritage conservation area would continue to apply. ...Where the impacts are significant on those heritage values, they are certainly merits-based matters that council would consider and a consent authority like the court would also consider.

The fact that a height, in itself, might exist does not override or replace the need for the merits assessment on the implications of that height, be it overshadowing, be it privacy

⁴⁵⁴ Evidence, Mr Burdon, 20 May 2024, pp 37-38.

⁴⁵⁵ Evidence, Mr Forrest, 20 May 2024, pp 4-5.

⁴⁵⁶ Evidence, Ms Stevenson, 24 July 2024, p 4.

⁴⁵⁷ Evidence, Ms Gibson, 24 July 2024, pp 5-6.

⁴⁵⁸ Evidence, Ms Kiersten Fishburn, Secretary, Department of Planning, Housing and Infrastructure, 24 July 2024, p 6.

issues, or be it matters that affect the heritage values of that area.they all need to be contemplated in a merits-base assessment.⁴⁵⁹

Environmental impacts and concerns

4.76 Finally, stakeholders gave evidence on the impact of the TOD program on surrounding environments. These include:

- potential environmental benefits of greater density to reduce urban sprawl
- loss of tree canopy, deep soil and open green space
- lack of regard for flood and bushfire risk
- need to balance increased development with positive environmental outcomes.

Environmental trade off between infill development and urban sprawl

4.77 In support of the TOD program, some inquiry participants highlighted the environmental advantages of in-fill development compared to the alternative of developing in 'greenfields' areas in the outer fringes of Sydney. Mr Eamon Waterford, Chief Executive Officer, Committee for Sydney argued that TOD developments that increase density can be 'nature-positive' if 'done well'. He noted an 'interesting contradiction' in how we interface with nature in that getting people into well-designed communities further away from national parks can actually protect those natural assets and waterways.⁴⁶⁰

4.78 Mr Justin Simon, Chair of Sydney YIMBY, similarly suggested that TOD provides an alternative to urban sprawl, and will lead to less loss of trees on the urban fringes, where 'we're cutting down koala habitat every single day to build housing'.⁴⁶¹

4.79 Not all inquiry participants were convinced that the TOD program would reduce urban sprawl. Mr Jeff Angel, Director, Total Environment Centre noted that while 'this new planning process and approach' had been 'promoted as a way of reducing urban sprawl', the trade-off was 'not working'. He highlighted an ongoing 'march of housing into koala habitat in the Macarthur and Wilton area and insufficient protections in the Cumberland Plain Conservation Plan as examples.⁴⁶²

4.80 Advocates for greater density to reduce urban sprawl noted a need for the TOD program to consider impacts on the urban environment, including in terms of temperature, deep soil and tree canopy, but suggested there are alternatives to maintaining tree canopy on private property in established suburbs. Mr Eamon Waterford, Committee for Sydney, noted that his organisation had been advocating for the TOD planning controls to enable a larger amount of space on each site to have deep soil to enable trees on every site.⁴⁶³

⁴⁵⁹ Evidence, Ms Gibson, 24 July 2024, pp 6-7.

⁴⁶⁰ Evidence, Mr Waterford, 20 May 2024, p 23.

⁴⁶¹ Evidence, Mr Simon, 20 May 2024, p 24.

⁴⁶² Evidence, Mr Jeff Angel, Director, Total Environment Centre, 20 May 2024, p 51.

⁴⁶³ Evidence, Mr Waterford, 20 May 2024, p 23.

- 4.81** There were also some suggestions that there should be prioritisation of where trees are maintained, based around the community amenity provided. Mr Justin Simon, Chair of Sydney YIMBY stressed the importance of ensuring TOD developments prioritise retention of existing 'street trees' in established areas to ensure environmental benefits as well as amenity are achieved. Mr Simon commented that street trees are 'going to be the most valuable' as opposed the trees at the back of a property, as they 'cool where people walk' and enhance livability in the area.⁴⁶⁴ Mr Simon, also advocated to remove or relax height controls under the TOD, explaining that this would allow for more deep soil planting.⁴⁶⁵
- 4.82** In response to questions about the environmental impact of removing trees to increase density, Mr Simon contrasted the need for cooling effects of trees in eastern Sydney compared to the much hotter areas of Western Sydney: 'People in eastern Sydney are going to experience temperatures five to 10 degrees less than in Western Sydney where we're cutting down koala habitat every single day to build housing on the fringe'.⁴⁶⁶
- 4.83** Local councils focused on the need to ensure good environmental outcomes in their areas, and warned against trading off amenity or environmental outcomes in one part of the city for another. For example, Mr Dyalan Govender, Acting Head of Planning, Willoughby City Council, emphasised the substantial health risks posed by heat island impacts in Sydney's urban areas, stating: 'If we don't do something about it, the cost to that future community will be substantial'. Mr Govender highlighted tree canopy as one of the most effective tools available to combat this issue, cautioning against downplaying its importance based on regional comparisons: 'It would be a very dangerous proposition that we should blunt that instrument on the basis of some sort of comparison across geographical areas'.⁴⁶⁷
- 4.84** Similarly, Mr Sam Ngai, Mayor, Ku-ring-gai Council expressed concern over the idea that regions with more existing tree cover, like eastern Sydney, could afford to lose trees. He countered the argument, stating 'the reason why the eastern part of Sydney is more resilient is because we have more trees'. The Mayor reinforced that rather than reducing tree cover in areas with existing canopy, the focus should be on increasing trees in Western Sydney.⁴⁶⁸

Loss of tree canopy, deep soil and open green space

- 4.85** Inquiry stakeholders focused on quality of local urban environments raised various concerns about the potential adverse environmental impacts of the TOD program, particularly loss of tree canopy, deep soil and open green space.
- 4.86** Ku-ring-gai Council highlighted the crucial need for tree canopy to mitigate the urban heat island effect by providing shade, enhancing evaporating cooling and fostering natural cooling processes. The council argued that the TOD program will result in significant loss of tree canopy

⁴⁶⁴ Evidence, Mr Waterford, 20 May 2024, p 23 and Evidence, Mr Simon, , 20 May 2024, p 23.

⁴⁶⁵ Evidence, Mr Simon, 20 May 2024, p 24.

⁴⁶⁶ Evidence, Mr Simon, 20 May 2024, p 24.

⁴⁶⁷ Evidence, Mr Dyalyn Govender, Acting Head of Planning, Willoughby City Council, 20 May 2024, p 65.

⁴⁶⁸ Evidence, Mr Ngai, 20 May 2024, p 65.

and an increasing urban heat island effect in the local government area.⁴⁶⁹ Mr Sam Ngai, Mayor of the Council, emphasised this concern in evidence, stating that whilst the NSW Government's target is to achieve '40 per cent urban tree canopy by 2036', the TOD program's current floor space ratios and height controls would 'lead to 20 per cent at most'.⁴⁷⁰

- 4.87** Other councils in TOD precincts detailed their concerns about the loss of mature trees and tree canopy already occurring in their local government areas as a result of development and public infrastructure.⁴⁷¹ In particular, Ms Zoë Baker, Mayor of North Sydney Council explained that '3,000 mature trees had been lost over the last two years as a result of the Western Harbour Tunnel and Warringah Freeway upgrade works'. In this regard, the Mayor believed it was 'really important' for environmental sustainability measures, in particular, deep soil, tree cover, and green space to be 'part of any consideration under the work that the department is doing with council on the TOD'.⁴⁷²
- 4.88** Similarly, Mr Jeff Angel, Director of the Total Environment Centre expressed support for increased density near transport nodes, provided it is 'done well', but was concerned about the loss of mature tree canopy and adequacy of deep soil provisions under the TOD program. Mr Angel noted that the government 'has not estimated' this impact, and replacement rules—such as planting saplings—are 'no substitute'. Mr Angel called on the NSW Government to identify 'how they're going to counterbalance that loss of canopy'.⁴⁷³
- 4.89** Likewise, Ms Kathy Cowley, Friends of Ku-ring-gai Environment argued that there is no capacity for tree renewal under the TOD due to the 'inadequate provision of deep-soil landscaping and protection of seed bank'.⁴⁷⁴
- 4.90** Linked to discussions about the loss of tree canopy and the adequacy of deep soil provisions under the TOD program, was concern for the lack of regard for open and green space. Mr Angel referred to the Total Environment Centre's proposal for a 'blue-green grid' of connected 'open spaces from street to local park to major green and waterway spaces implemented for Sydney, noting that there had been no response from the government. He called for a 'more environmentally aware vision for Sydney' beyond housing density 'dominated by the developer lobby in the planning process'.⁴⁷⁵
- 4.91** Others echoed similar concerns for open space in their local government area, with Professor Catriona McKenzie, Representative, Croydon Action Group questioning the consideration given to open green space in the Tier 2 TOD precinct, Croydon – an area with already limited open space:

Green space has been specifically cited by the Hon. Paul Scully as being taken into consideration in the selection of the TOD SEPP locations. Yet Burwood LGA has only 10 metres squared of open space per resident, representing the lowest amount of public

⁴⁶⁹ Submission 159, Ku-ring-gai Council, p 7.

⁴⁷⁰ Evidence, Mr Ngai, 20 May 2024, p 58.

⁴⁷¹ Evidence, Ms Baker, 7 June 2024, p 9 and Evidence, Councillor Taylor, 20 May 2024, p 65.

⁴⁷² Evidence, Ms Baker, 7 June 2024, p 9.

⁴⁷³ Evidence, Mr Angel, 20 May 2024, pp 52, 56-57.

⁴⁷⁴ Evidence, Ms Cowley, 20 May 2024, p 36.

⁴⁷⁵ Evidence, Mr Angel, 20 May 2024, p 52.

open space per capita in New South Wales. The closest open public space from Croydon station is 800 metres. Within that 400-metre radius, there are no open public spaces, currently.⁴⁷⁶

- 4.92** Similar concerns were raised by Mr Sam Ngai, Mayor, Ku-ring-gai Council, who stressed the importance of ensuring open space is a short-term priority in planning and delivery of housing:

The one thing that cannot be left till next decade is public open space because our kids will no longer have a yard and our community needs public places to meet. In the Roseville precinct alone, we expect 5,000 new dwellings, but the only open space is a small war memorial garden next to the highway.⁴⁷⁷

Consideration of flood and bushfire risk

- 4.93** Some inquiry stakeholders raised concern about the lack of regard or assessment of flood and bushfire risks in the TOD SEPP and low- and mid-rise housing reforms. In particular, Ms Christiane Berlioz, Better Planning Network, argued that 'natural hazards such as bushfire and coastal inundation have not even been considered' despite the *Environmental Planning and Assessment Act 1979* requiring such considerations at both strategic planning and development assessment stages.⁴⁷⁸
- 4.94** Mr Steven Head, General Manager of Hornsby Shire Council and Chair of the Northern Sydney Regional Organisation of Councils, called for the NSW Government to 'exclude bushfire- and flood-prone land' from the TOD SEPP, arguing that insufficient attention had been given to these risks.⁴⁷⁹
- 4.95** Echoing this call for Government to exclude these areas from the TOD SEPP, Ms Jan Primrose, STEP Inc. further stressed that a 'strategic bushfire study' should have been conducted prior to gazetting the SEPP and diverse homes programs, in accordance with the RFS Planning for Bushfire Protection 2019. She noted the inconsistency with the Government's housing reforms, stating that while the diverse homes program excludes developments on bushfire-prone land, 'you can allow a six-storey apartment block' in these areas under the TOD SEPP, which 'makes no sense'.⁴⁸⁰
- 4.96** Further concerns about flood risks were raised regarding specific locations like Tuggerah, where Mr Scott Duncan, Central Coast Council, highlighted that much of the land identified under the Tuggerah TOD precinct is constrained by 'significant flooding constraints' as well as topographical and ecological challenges. Mr Duncan noted that the council had previously concluded that these areas were inappropriate for high-density development and had instead

⁴⁷⁶ Evidence, Professor Catriona McKenzie, Representative, Croydon Action Group, 24 July 2024, p 51.

⁴⁷⁷ Evidence, Mr Ngai, 20 May 2024, p 58.

⁴⁷⁸ Evidence, Ms Christiane Berlioz, Member, Leadership Group, Better Planning Network, 20 May 2024, p 52.

⁴⁷⁹ Evidence, Mr Head, 20 May 2024, p 25. See also, Submission 135, NSROC, p 3.

⁴⁸⁰ Evidence, Ms Jan Primrose, Representative, STEP Inc., 24 July 2024, pp 52 and 54.

planned the Tuggerah Gateway Precinct as a more viable alternative due to its proximity to infrastructure and fewer environmental constraints.⁴⁸¹

Need to balance increased development with positive environmental outcomes

- 4.97** Some councils also emphasised the need to balance plans for increased housing density with positive environmental outcomes, highlighting work already underway in their local government areas to achieve this balance.
- 4.98** Inner West Council, which is currently developing its Local Environmental Plan, emphasised its commitment to balancing housing development with environmental sustainability. The council highlighted a range of strategic initiatives in place that focus on the need for tree canopy retention and enhanced public spaces. For example, the Tree Development Control Plan (DCP), which establishes a framework for tree canopy retention or, where retention is not possible, replacement planting on development sites.⁴⁸²
- 4.99** Mr Dylan Porter, Manager, Planning and Place, Strathfield Council added that alongside changes to their Local Environmental Plan to support housing density, their Development Control Plans (DCPs) are being revised to ensure that developments align with the area's character, particularly in relation to tree canopy and open space:

So whilst we're making changes to our LEP to increase permissible uses, we're also making changes to our DCPs to make sure that the particular attributes and qualities of Strathfield are retained and, as best we can, embedded in those planning controls so we're getting a form of the development that is—in terms of character, appearance and outcomes around open space and tree canopy— consistent with the prevailing characteristics of Strathfield.⁴⁸³

Committee comment

- 4.100** The committee acknowledges the considerable concerns raised by stakeholders regarding the adequacy of planning and investment in infrastructure to support the increased density proposed under the Transport Oriented Development (TOD) program and associated low- and mid-rise housing reforms. It was consistently emphasised that current utilities, transport, employment opportunities and educational infrastructure are already under strain and that without significant and timely upgrades, further densification will exacerbate these challenges.
- 4.101** The committee acknowledges that as density increases, there is a parallel need for planning and investment in open green spaces, local transport, including roads and public transport, utilities, employment opportunities and other community infrastructure such as schools and healthcare and emergency services. In this regard, the committee notes the concern by stakeholders that there has been lack of planning and investment consideration given to these important aspects of the community in the NSW Government's housing reforms. Notwithstanding evidence by

⁴⁸¹ Evidence, Mr Scott Duncan, Section Manager, Local Planning and Policy, Central Coast Council, 7 June 2024, pp 4-5.

⁴⁸² Answers to questions on notice, Inner West Council, 25 June 2024, p 1. See also, Evidence, Councillor Byrne, pp 46-47.

⁴⁸³ Evidence, Mr Dylan Porter, Manager, Planning and Place, Strathfield Council, 20 May 2024, p 46.

the relevant government agencies that planning and investment in supporting infrastructure and amenity is going to support increased density, the committee cannot ignore the many calls for more to be done in this regard.

- 4.102** As discussed in chapter 2, the committee heard evidence advocating for a place-based, master planning approach to developing in areas impacted by the housing reforms. The committee considers that a place-based approach to planning is necessary to respond to the unique infrastructure and amenity needs of local communities. The Committee acknowledges that, in places where Council came to agreement on TOD staging, Councils were given an opportunity to do master planning.
- 4.103** The committee notes the concerns about the level of investment in the NSW Government's housing reforms, particularly Tier 1 and 2 TOD precincts. Noting the evidence received, we are particularly concerned about how the current allocation of funds for Tier 1 of the program will be divided between the eight accelerated precincts and whether these funds will meet the needs of the community. Even more concerning, is the lack of funding support from the government for Tier 2 precincts. The committee notes the concern from stakeholders, both in support of the program or against, that existing funding mechanisms will be insufficient to meet the increased demand for community infrastructure and amenity.
- 4.104** With this in mind, the committee agrees that further funding considerations are needed under the housing reforms. This will enable community infrastructure and services needs to be met alongside the delivery of housing. The committee therefore recommends that the NSW Government consider focusing infrastructure funding through the Urban Development Program to areas of growth, including TOD locations, to ensure that community infrastructure and amenity needs are delivered alongside housing.

Recommendation 7

That the NSW Government consider focusing infrastructure funding through the Urban Development Program to areas of growth, including TOD locations, to ensure that community infrastructure and amenity needs are delivered alongside housing.

- 4.105** The committee acknowledges concerns raised by stakeholders regarding building standards, thermal performance, and design principles in the TOD program. The evidence presented provides a compelling case for maintaining robust design and building standards, particularly concerning thermal performance, energy efficiency and overall liveability. Relaxing these standards to assist in housing development would potentially result in longer term issues of poor-quality housing stock.
- 4.106** The committee acknowledges concerns raised by stakeholders about the lack of provision for employment lands and lack of clarity regarding job targets within the TOD precincts, particularly in the eastern economic corridor. The committee notes that the Explanation of Intended Effect documents for the TOD Accelerated Precincts do contain a number of jobs that will be created and/or retained in each of these precincts, totalling almost 100,000 jobs across the precinct.

Recommendation 8

That the NSW Government maintain the existing robust design and building standards throughout new housing reforms to ensure long term liveability of new developments.

- 4.107** In particular, we note that there may be inconsistencies in the NSW Government's housing reforms and national thermal performance standards for housing. This inconsistency needs to be rectified, with the national thermal rating applied to development under the TOD program. As we have heard, poor thermal performance can lead to health risks. The committee notes that any change to the code is a matter for the Commonwealth Government.
- 4.108** Moreover, we acknowledge that there has been a shift in need for family-friendly apartments as more families want to live in dense areas close to transport and amenities. With this in mind, the committee agrees with the view that this growing demand for family-friendly housing stock should be given greater consideration in the housing reforms. Consideration should include design principles that are conducive to families, for example, diverse apartment layouts in terms of privacy, supervision and shared spaces.
- 4.109** The committee notes that local government areas have put in place mandates for family friendly housing stock. However, we are disappointed to hear that this has not occurred under the NSW Government's housing reforms. The committee accepts that a mandate for the provision of such housing may have market challenges. We also note the view that place-based analysis of local government areas will be essential to ensure this demand is met. Nonetheless, the committee believes these issues should be given consideration and recommends that the NSW Government investigate measures to encourage the delivery of family-friendly apartments as part of its housing reforms.
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Recommendation 9

That the NSW Government investigate measures to encourage the delivery of family-friendly apartments as part of its housing reforms.

- 4.110** The committee acknowledges serious concern that the inclusion of heritage conservation areas in the TOD program will negatively impact these areas, in some cases, altering their garden-style character and imposing height control and floor space ratios incompatible with their heritage. These are legitimate concerns that need closer consideration by the NSW Government.
- 4.111** The department confirmed that local planning controls, including heritage controls, continue to apply, with the councils retaining the authority to assess development in heritage conservation areas under the TOD. With this in mind, the committee notes the concerns that the planning framework hierarchy, where State Environmental Planning Policies override Local Environmental Plans, will result in an increase of disputes between council and developers in the courts, for not only heritage matters but other conflicts that will arise in the planning framework. The committee agrees with these concerns and refers to recommendation 2 in chapter 2, which calls on the NSW Government to continue to clarify how the TOD SEPP will operate alongside existing planning controls, and update guidelines should there be any further uncertainty.
-

- 4.112** Finally, the committee understands that greater density of existing urban areas may be necessary to reduce the biodiversity loss and other impacts associated with urban sprawl. At the same time, we are deeply concerned that the current Transport-Oriented Development (TOD) program makes insufficient provision for mitigating negative impacts of increased density, including the potential loss of tree canopy and deep soil in urban areas.
- 4.113** In particular, the committee notes concerns that the provisions under the TOD program could lead to a significant reduction in the number of mature trees in metropolitan areas. As noted by many stakeholders, these trees provide significant amenity and climate benefits, and we do not accept the argument that reduction of trees in metropolitan areas is an acceptable trade-off for limiting urban sprawl in western Sydney.
- 4.114** The committee notes that there has not been an analysis on the loss of mature tree canopy as part of the NSW Government's housing reforms, nor is there a clear plan to avoid or minimise mature tree loss. Mature trees cannot be readily replaced, and their value in providing both amenity and environmental benefits should not be overlooked. Where loss of mature trees is unavoidable, there need to be mandated, genuine compensatory measures to deliver equivalent or better tree canopy nearby. The committee therefore recommends that maintain its commitment to 40 per cent urban tree canopy cover across Greater Sydney by 2035, and release further guidance for local councils and industry on managing and minimising mature tree and canopy loss during development, including appropriate compensatory measures for replacement.

Recommendation 10

That the NSW Government:

- continue to maintain commitment to 40 per cent urban tree canopy cover across Greater Sydney by 2036
 - release further guidance for local councils and industry on managing and minimising mature tree and canopy loss during development, including appropriate compensatory measures for replacement.
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Appendix 1 Submissions

No.	Author
1	Ms Chery Kemp
2	Mrs Robyn Haynes
3	Name suppressed
4	Name suppressed
5	Rosanna Arciuli
6	Mr Yu Zhu
7	Mr Angus Vowell
8	Name suppressed
9	Mr Arthur Moreland
9a	Mr Arthur Moreland
10	Confidential
11	Name suppressed
12	Name suppressed
13	Name suppressed
14	Name suppressed
15	Name suppressed
16	Name suppressed
17	Name suppressed
18	Georges River Council
19	Woollahra Municipal Council
20	Northern Beaches Council
20a	Northern Beaches Council
21	Mr Stephen Palmer
22	Central Coast Council
23	Waverley Council
24	Croydon Action Group
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25	Dr Chris Sylvester
26	Mr John Bates
27	Confidential
28	Albury City Council

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30	Ms Angela Jacks
31	The Paddington Society
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33	Name suppressed
34	Name suppressed
35	Rachel Howland
36	Mr Chris Chacos
37	Professor Cathy Sherry
38	Mrs Michaela Murphy
39	Miss Cindy Timms
40	Mr Philip Crichton
41	Mr Alexander Edward Murphy
42	Name suppressed
43	Ms Lee Crichton
44	David Kitson
45	Name suppressed
46	Ms Linda Christian
47	Name suppressed
48	Name suppressed
49	Save Greater Sydney Coalition
49a	Save Greater Sydney Coalition
49b	Save Greater Sydney Coalition
50	City of Ryde Council
51	Shoalhaven City Council
52	Restore T2 Inner West Line (City to Liverpool via Regents Park) Community Action Group
53	Ku-ring-gai Historical Society
54	Cumberland City Council
55	Lake Macquarie City Council
56	Name suppressed
57	Name suppressed
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59	Housing Industry Association (HIA)
60	Housing Now! Alliance

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64	Name suppressed
65	Name suppressed
66	Anne Carroll
66a	Anne Carroll
67	Ms Ellen Mawson
68	Willoughby Environmental Protection Association, Inc (WEPA)
69	Ms Margo Cashman
70	Mr Angel Ioannou
71	Julia Sutherland
72	Building Beautifully
73	Eryldene Historic House and Garden
74	Confidential
75	Name suppressed
76	Confidential
77	Isaac Mann and David M. Levinson
78	Pittwater Community Alliance
79	Haberfield Association Inc
80	Brett Burton
81	Confidential
82	Newport Residents Association Inc
83	Mr Chris Bluett
84	Inner West Council
85	Hornsby Shire Council
86	Professor Ian Tyrrell
87	Name suppressed
88	Avalon Preservation Association
89	Mr Hugh Hodgkinson
90	Name suppressed
91	Save Marrickville Resident Group
92	Name suppressed
93	Mrs Margaret Kitson
94	Palm Beach and Whale Beach Association

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96	The Committee for Sydney
97	Ms Pat
98	Mr John Broadbent
99	Heritage Council of NSW
100	Save Our Valley Incorporated
101	Port Stephens Council
102	Connect Macquarie Park Innovation District
103	Ms Janine Kitson
104	Mosman Council
105	Name suppressed
106	Killara Lawn Tennis Club
107	Name suppressed
108	Name suppressed
109	Name suppressed
110	Action for Public Transport (NSW) Inc.
111	Name suppressed
112	Name suppressed
113	Name suppressed
114	Mr David Gray and Maureen Tankard
115	Name suppressed
116	Name suppressed
117	Name suppressed
118	Department of Planning, Housing and Infrastructure
119	Property Council of Australia
120	Ms Ursula Bonzol
121	Name suppressed
122	Dr Andrew Pik
123	Sydney YIMBY
124	Chatswood West Progress Association
125	Urban Taskforce Australia
126	David Reynolds
127	Peter Sutherland
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129	The Hills Shire Council

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131	Name suppressed
132	Sydney Water
133	Community Housing Industry Association NSW
134	Campbelltown City Council
135	Northern Sydney Regional Organisation of Councils (NSROC)
136	Sydenham to Bankstown Alliance (SBA)
137	Jane Grusovin
138	Rental Commissioner, NSW Fair Trading
139	Local Government NSW
140	Maria Bradley
141	The Centre for Independent Studies
142	Save Sydneys Koalas
143	A E Gipps
144	Better Planning Network Inc. (BPN)
145	STEP Inc
145a	STEP Inc
146	Willoughby City Council
147	Confidential
148	Southern Sydney Regional Organisation of Councils
149	Strathfield Council
150	Blue Mountains City Council
151	City of Sydney
152	Oatley Flora and Fauna Conservation Society Inc.
153	Confidential
154	Friends of Ku-ring-gai Environment Inc.
155	Name suppressed
156	Confidential
157	Penrith City Council
158	Planning Institute of Australia
159	Ku-ring-gai Council
160	Name suppressed
161	Name suppressed
162	Name suppressed
163	Name suppressed

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167	Ms Jacqui Pyke
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169	Name suppressed
170	Mr Nigel Porter-Dole
171	Mr Frank Windeyer
172	Name suppressed
173	Name suppressed
174	Mrs Tatiana Schild
175	Name suppressed
176	Name suppressed
177	Name suppressed
178	Mr David Knox
179	Name suppressed
180	Ann Newbrun
181	The Hon Neal Raymond Bignold.
182	Ms Elise Roffe
183	Name suppressed
184	Mr Stuart Rodger
185	Mr Kim Wagstaff
186	Confidential
187	Mr Andrew Smith
188	Name suppressed
189	Name suppressed
190	Mr Nicholas McArdle
191	Name suppressed
192	Mr Ric Otton
193	Blacktown City Council
194	Name suppressed
195	Name suppressed
196	The National Trust of Australia (NSW)
197	Residents Action Coalition

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200	Mr James Deli
201	Name suppressed
202	Name suppressed
203	Mrs Donna Palmer
204	Mrs Sheila O'Meara
205	Name suppressed
206	Ms Barbara Coorey
207	East Gordon Residents
208	Grattan Institute
209	Name suppressed
210	Name suppressed
211	Name suppressed
212	Confidential
213	Name suppressed
214	Confidential
215	Name suppressed
216	Confidential
217	Name suppressed
218	Name suppressed
219	Friends of Oatley
220	Name suppressed
221	Mrs Christine Wells
222	Mr Harrison Lo
223	Mr Stewart Fist
224	Naremburn Progress Association
225	Name suppressed
226	Name suppressed
227	Name suppressed
228	Name suppressed
229	Confidential
230	Bayside Council
231	Michael Carroll
232	Solar Citizens

Appendix 2 Witnesses at hearings

Date	Name	Position and Organisation
Monday, 20 May 2024 Macquarie Room Parliament House, Sydney	Ms Katie Stevenson	NSW Executive Director, Property Council of Australia
	Mr Tom Forrest	CEO, Urban Taskforce Australia
	Mr Justin Simon	Chair, Sydney YIMBY
	Mr Luke Turner	Executive Director, Policy and Advocacy, Western Sydney Leadership Dialogue
	Mr Eamon Waterford	CEO, Committee for Sydney
	Mr Jeremy Gill	Head of Policy, Committee for Sydney
	Mr Steven Head	General Manager, Hornsby Shire Council and Chair of Northern Sydney Regional Organisation of Councils
	Mr James Farrington	Director, Planning and Compliance, Hornsby Shire Council
	Mr Wayne Rylands	Chief Executive Officer, City of Ryde
	Mr Frank Howarth AM (<i>via videoconference</i>)	Chair, Heritage Council of NSW
	Mr David Burdon	Conservation Director, National Trust of Australia (NSW)
	Ms Jozefa Sobski AM	Vice President, Haberfield Association Inc.
	Mrs Kathy Cowley	President, Friends of Ku-ring- gai Environment Inc. (FOKE)
	Councillor Darcy Byrne	Mayor, Inner West Council
	Ms Simone Plummer	Director Planning, Inner West Council
Ms Clare Harley	Director, Planning and Environment, Strathfield Council	
Mr Dylan Porter	Manager, Planning and Place, Strathfield Council	
Mr David Reynolds	Committee member, Save Greater Sydney Coalition	

Date	Name	Position and Organisation
	Ms Merrill Witt	Committee member, Save Greater Sydney Coalition
	Ms Jeff Angel	Director, Total Environment Centre
	Ms Christiane Berlioz	Member, Leadership Group, Better Planning Network
	Mr Sam Ngai	Mayor, Ku-ring-gai Council
	Councillor Tanya Taylor	Mayor, Willoughby Council
	Mr Dyalan Govender	Acting Head of Planning, Willoughby City Council
Friday, 7 June 2024	Councillor Zoë Baker	Mayor, North Sydney Council
Jubilee Room	Mr Scott Duncan	Section Manager, Local Planning and Policy, Central Coast Council
Parliament House, Sydney	Mrs Sarah Hartley	Senior Strategic Planner, Local Planning and Policy, Central Coast Council
	Mr Michael Carnuccio	Manager, Policy, Community Housing Industry Association
	Mr John Brockhoff	RPIA (Fellow), National Policy Director, Planning Institute Australia
	Ms Sue Weatherley	MPIA (Fellow), NSW President, Planning Institute Australia
	Mr Sam Morton	General Manager, Government and Corporate Affairs, Business NSW
	Mr Mustafa Agha	Executive Manager, Policy, Business NSW
	Mr Brendan Coates	Economic Policy Program Director, Grattan Institute
	Dr Peter Tulip	Chief Economist, Centre for Independent Studies
Wednesday, 24 July 2024	Ms Kiersten Fishburn	Secretary, Department of Planning, Housing and Infrastructure
Macquarie Room	Ms Monica Gibson	Deputy Secretary, Planning, Land Use Strategy, Housing and Infrastructure, Department of Planning, Housing and Infrastructure
Parliament House, Sydney	Ms Hanna Shalbah	A/Executive Director, Governance and Insights, Planning, Land Use Strategy, Housing and Infrastructure, Department of Planning, Housing and Infrastructure
	Ms Anthea Sargeant	Executive Director, State Rezoning, Planning, Land Use Strategy,

Date	Name	Position and Organisation
		Housing and Infrastructure, Department of Planning, Housing and Infrastructure
	Ms Leanne Boyle	Chief Property & Place Officer, Sydney Metro
	Mr Simon Hunter	Chief Transport Planner, Transport for NSW
	Mr Matt McKibbin	Executive Director Planning for Places, Transport for NSW
	Ms Kate Miles	Head of System Planning and Land Acquisition, Sydney Water
	Ms Lisa Harrington	A/Deputy Secretary School Infrastructure NSW, NSW Department of Education
	Mr Ben Pechey	Executive Manager Strategic Planning and Urban Design, City of Sydney
	Mr Peter John Cantrill	Program Manager, Urban Design, City of Sydney
	Mr Todd Carney	Mayor of Penrith
	Ms Kylie Powell	Director, City Futures, Penrith City Council
	Cr Darriea Turley AM <i>(via videoconference)</i>	President, Local Government NSW
	Mr David Reynolds <i>(via videoconference)</i>	Chief Executive, Local Government NSW
	Dr Philip Oldfield	Head of School of the Built Environment and Professor of Architecture, UNSW Sydney
	Dr Nicole Cook <i>(via videoconference)</i>	Senior Lecturer, Geography and Sustainability, University of Wollongong
	Dr Shanaka Herath	Senior Lecturer, Urban Economics Course, Director Planning, UTS
	Dr Sophie-May Kerr	Research Associate, City Futures Research Centre, UNSW Sydney
	Professor Peter Phibbs	Emeritus Professor, Henry Halloran Research Trust, University of Sydney
	Professor Cathy Sherry	Professor, Macquarie Law School and Executive Member, Smart Green Cities
	Professor Bill Randolph	Professor of Planning, UNSW Sydney

Date	Name	Position and Organisation
	Professor Hazel Easthope	Professor of Urban Studies, City Futures Research Centre, UNSW Sydney
	Professor Catriona McKenzie	Representative, Croydon Action Group
	Ms Máire Sheehan	Member of Residents Action Coalition
	Dr Kelsie Dadd	Spokesperson, Save Marrickville Residents Group
	Mrs Diana Pryde	President, Chatswood West Progress Association (CWWPA)
	Mr John Moratelli	President, Willoughby Environment Protection Association (WEPA)
	Ms Jan Primrose	Representative, STEP Inc.

Appendix 3 Minutes

Minutes no. 14

Friday 23 February 2024

Portfolio Committee No. 7 – Planning and Environment

Room 1254, Parliament House, Sydney, 1.01 pm

1. Members present

Ms Higginson, *Chair*

Mr Buttigieg

Mr Farlow

Ms Munro

Mr Primrose (via videoconference)

2. Previous minutes

Resolved, on the motion of Mr Farlow: That draft minutes no. 13 be confirmed.

3. Correspondence

The committee noted the following items of correspondence:

Received

- 19 February 2024 – Letter from Mr Farlow, Ms Munro and Mr Ruddick requesting a meeting of Portfolio Committee No. 7 – Planning and Environment to consider a proposed self-reference into the development of the Transport Oriented Development Program.

4. Consideration of terms of reference

Chair tabled a letter proposing the following self-reference:

1. That Portfolio Committee No. 7 – Planning and Environment inquire into and report on the development of the Transport Oriented Development Program (TOD), and in particular:
 - (s) 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:
 - (iv) the eight TOD accelerated precincts
 - (v) the 31 TOD precincts where the TOD State Environmental Planning Policy (SEPP) applies
 - (vi) any of the 305 Sydney Trains, Sydney Metro and Intercity stations within the Six Cities Region which were considered as part of any of the TOD locations.
 - (t) the probity measures put in place by the Government, the Premier's Department, The Cabinet Office and the Department
 - (u) the development of the TOD policy approach by the Government
 - (v) consultations undertaken with councils, joint regional organisations and communities during the preparation of the TOD SEPP
 - (w) ongoing opportunities for review and input by councils, joint regional organisations and communities in relation to the TOD SEPP
 - (x) information control protocols relating to the TOD policy
 - (y) property disclosure requirements and management
 - (z) the release of information prior to the official publication of the TOD policy
 - (aa) the heritage concerns with the TOD including but not limited to the concerns of the Heritage Council
 - (bb) the enabling infrastructure capacity for every station selected or considered as part of the TOD program
 - (cc) the impact on localised environment and amenity values caused by the TOD program

- (dd) the existing or potential measures and programs analysed, considered or implemented by all NSW Government agencies to support additional housing density
 - (ee) 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
 - (ff) any other related matters.
2. That the committee report by 27 September 2024.

Mr Buttigieg moved: That:

- the following words be inserted in terms of reference (e) after 'organisations and communities': ', including consultations with key workers and young people needing affordable housing' before 'in relation to the TOD SEPP'
- the following words be inserted in terms of reference (l) after 'housing density': 'including the housing series reports published by the NSW Productivity Commissioner'
- the following additional terms of reference be included after (l):
 - (m) the 10 measures outlined in the National Cabinet's National Planning Reform Blueprint
 - (n) the development of TOD planning policies in other Australian state and territory and international jurisdictions;
 - (o) the capability of Greater Sydney to provide for increased residential dwelling where the existing capacity has been diminished due to the effects of climate change.

Ms Munro moved: That the motion of Mr Buttigieg be amended by:

- inserting 'renters,' before 'key workers' in terms of reference (e)
 - inserting the following additional terms of reference after (n): 'the impacts of the proposed Diverse and Well-Located Homes process and program'
- Amendment of Ms Munro put and passed.

Original question of Mr Buttigieg put and passed.

Resolved, on the motion of Ms Munro: That the committee adopt the terms of reference (as amended).

5. Conduct of the inquiry into the development of the Transport Oriented Development Program

The committee considered the following:

5.1 Closing date for submissions

Resolved, on the motion of Mr Farlow: That the closing date for submissions be Thursday 28 March 2024.

5.2 Stakeholder list

Resolved, on the motion of Mr Farlow: That:

- the secretariat circulate to members the Chair's proposed list of stakeholders to be invited to make a submission
- members have two days from when the Chair's proposed list is circulated to make amendments or nominate additional stakeholders
- the committee agree to the stakeholder list by email, unless a meeting of the committee is required to resolve any disagreement.

5.3 Hearing dates

Resolved, on the motion of Mr Farlow: That the committee hold two hearings in May/June/July 2024, the dates of which are to be determined by the Chair after consultation with members regarding their availability.

6. Adjournment

The meeting adjourned at 1.09 pm, until Tuesday 27 February 2024, 9.00 am, Macquarie Room, Parliament House (Budget Estimates hearing – Planning and Public Spaces).

Jessie Halligan
Committee Clerk

Minutes no. 24

Monday 20 May 2024

Portfolio Committee No. 7 – Planning and Environment

Macquarie Room, Parliament House, 9.00 am

1. Members present

Ms Higginson, *Chair*

Mr Ruddick, *Deputy Chair* (from 9.00 am until 1.02 pm, from 2.00 pm)

Mr Buttigieg (from 9.00 am until 1.04 pm, from 1.58 pm)

Mr D'Adam (from 9.00 am until 1.02 pm, from 1.48 pm until 2.11 pm, from 2.35 pm)

Mr Farlow

Ms Munro (from 9.07 am until 1.04 pm, from 1.48 pm until 3.21 pm)

Mr Primrose

2. Previous minutes

Resolved, on the motion of Mr Farlow: That draft minutes of meeting no. 14 be confirmed.

3. Correspondence

The committee noted the following items of correspondence:

Received

- 26 February 2024 – Email from Dr Meg Montgomery, Executive Director, Northern Sydney Regional Organisation of Councils, attaching a recent submission regarding the Explanation of Intended Effect: Changes to create low and mid-rise housing, for the committee's information for its inquiry into the development of the Transport Oriented Development Program (TOD inquiry)
- 15 March 2024 – Email from Mr Phillip Balding providing a submission to the TOD inquiry
- 18 March 2024 – Email from Ms Sarah Griffiths, Manager Planning and Development, Berrigan Shire Council declining to make a submission to the TOD inquiry
- 20 March 2024 – Email from Ms Brigid Dowsett providing a submission to the TOD inquiry
- 28 March 2024 – Email from Mr Lachlan Warner, providing a submission to the TOD inquiry
- 20 April 2024 – Email from Mr Paul Taylor concerning affordable housing and the Transport Oriented Development Program
- 29 April 2024 – Email from Mr Roydon Ng, Restore Inner West Line & Save T3 Bankstown Line, regarding the capacity for housing growth and trains in the future for the west of Bankstown as these topics relate to the TOD inquiry
- 30 April 2024 – Email from an individual, concerning the Transport Oriented Development Program
- 1 May 2024 – Email from Ms Patience Wang concerning the Transport Oriented Development Program
- 6 May 2024 – Email from Ms Elenie Farrier concerning the effect of the Transport Oriented Development Program in Killara
- 9 May 2024 – Email from Ms Monica Cologna, Director, Environment and Planning, City of Canada Bay, declining invitation for City of Canada Bay to give evidence at the 20 May 2024 hearing for the TOD inquiry
- 9 May 2024 – Email from Ms Jessie Wiseman, Strategic Planning Coordinator, The Hills Shire Council, declining invitation for The Hills Shire Council to give evidence at the 20 May 2024 hearing for the TOD inquiry
- 9 May 2024 – Email from Mr David Borger, Executive Director, Business Western Sydney, declining invitation for Housing Now! to give evidence at the 20 May 2024 hearing for the TOD inquiry owing to attendance at a funeral

- 10 May 2024 – Email from Mr Joseph Hill, Executive Manager, Strategic and Place Planning, Northern Beaches Council, declining invitation for Northern Beaches Council to give evidence at the 20 May 2024 hearing for the TOD inquiry
- 10 May 2024 – Email from Mr Neal McCarry, Service Unit Manager, Strategic Planning, North Sydney Council, requesting that Mayor Zoë Baker be invited to give evidence at a hearing for the TOD inquiry
- 10 May 2024 – Email from Ms Helen Sloan, CEO, South Sydney Regional Organisation of Councils (SSROC), declining invitation for SSROC to give evidence at the 20 May 2024 hearing for the TOD inquiry
- 10 May 2024 – Email from Ms Jemima Accadia, Executive Support and Engagement Officer, Housing Industry Association, declining invitation for Housing Industry Association to give evidence at the 20 May 2024 hearing for the TOD inquiry
- 10 May 2024 – Email from Mr Craige Wyse, Team Leader Urban Planning, Ku-ring-gai Council, declining invitation for Ku-ring-gai Council to give evidence at the 20 May 2024 hearing for the TOD inquiry
- 13 May 2024 – Email from Mr Ryan Cole, Director City Strategy, Burwood Council, declining invitation for Burwood Council to give evidence at the 20 May 2024 hearing for the TOD inquiry
- 13 May 2024 – Email from Ms Jane Partridge, Strategy Manager, Planning, Local Government NSW (LGNSW), declining invitation for LGNSW to give evidence at the 20 May 2024 hearing for the TOD inquiry owing to attendance at a funeral and expressing interest in appearing on another date
- 14 May 2024 – Emails from Mr Gavin Melvin, Urban Development Institute of Australia, declining invitation for Urban Development Institute of Australia to give evidence at the 20 May 2024 hearing for the TOD inquiry as Mr Melvin is the only suitable witness and he will be out of Sydney and unavailable
- 16 May 2024 – Email from Mr Craige Wyse, Team Leader Urban Planning, Ku-ring-gai Council, retracting his email of 10 May 2024 declining the invitation for Ku-ring-gai Council to give evidence at the 20 May 2024 hearing for the TOD inquiry, and advising that Mr Sam Ngai, Mayor, would like to appear
- 19 May 2024 – Email from Mr David Reynolds, Committee member, Save Greater Sydney Coalition, requesting that Ms Merrill Witt appear to give evidence for the Save Greater Sydney Coalition in place of Mr Trevor Sinclair at the 20 May 2024 hearing for the TOD inquiry.

Resolved, on the motion of Mr Primrose: That the committee keep the author's name confidential as per the request of the author in the correspondence from an individual, dated 30 April 2024 regarding the Transport Oriented Development Program.

4. Inquiry into the development of the Transport Oriented Development Program

4.1 Public submissions

The committee noted the following submissions were published by the committee clerk under the authorisation of the resolution appointing the committee: submission nos. 1, 2, 5-7, 9, 9a, 18-20a, 21-24, 24a, 25, 26, 28-31, 35-41, 43, 44, 46, 49, 49a, 50-55, 58-62, 66, 66a, 67-73, 77-80, 82-86, 88, 89, 91, 93, 94, 96, 98-104, 106, 110, 114, 118-120, 122-128, 132-146, 148-152, 157-159, 165, 167, 168, 170, 171, 174, 178, 180, 181, 182, 184, 185, 187, 190, 192, 193, 196, 197, 198, 200, 203, 206, 208, 219, 221, 222 and 224.

4.2 Partially confidential submissions

Resolved, on the motion of Mr D'Adam:

- That the committee keep the following information confidential, as per the request of the author: names in submission nos. 3, 4, 8, 11-17, 32-34, 42, 45, 47, 48, 56, 57, 63-65, 75, 87, 90, 92, 95, 105, 107, 108, 109, 111-113, 115-117, 121, 160-164, 166, 169, 172, 173, 175-177, 179, 183, 188, 189, 191, 194, 195, 199, 201, 202, 205, 209, 210, 211, 213, 215, 218, 220, 226, 227 and 228.
- That the committee keep the following information confidential, as per the request of the author: the surname in submission no. 97.

Resolved, on the motion of Mr Farlow: That the committee authorise the publication of submission nos. 129, 130, 131, 154, 155, 204, 207, 217, 223 and 225 with the exception of identifying and/or sensitive information and potential adverse mention which is to remain confidential, as per the recommendation of the secretariat.

4.3 Confidential submissions

Resolved, on the motion of Mr Primrose: That the committee keep submission nos. 10, 27, 74, 76 81, 147, 153, 156, 186, 212, 214, 216 and 229 confidential, as per the request of the author.

4.4 Attachments to submissions

Resolved, on the motion of Mr D'Adam: That the committee authorise the publication of attachments to submission nos. 148, 149, 150, 151, 157 and 159.

Resolved, on the motion of Mr Farlow: That the committee authorise the publication of attachments 1 and 3 to submission 129 with the exception of identifying and/or sensitive information which is to remain confidential, as per the request of the author.

4.5 Pro forma submissions

Resolved, on the motion of Mr D'Adam: That the committee publish one copy of each *pro forma* submission on the inquiry webpage, noting the number of copies that have been received.

4.6 Sequence of questions

Resolved, on the motion of Mr Buttigieg: That the allocation of questions to be asked at the hearing be left in the hands of the Chair.

4.7 Witnesses

Resolved, on the motion of Mr Farlow: That the secretariat approach Mr Steven Head, General Manager, Hornsby Shire Council and Chair of Northern Sydney Regional Organisation of Councils (NSROC) and give him the option of appearing at the hearing at:

- 11.30 am on behalf of Hornsby Shire Council *and* NSROC or
- 11.30am on behalf of Hornsby Shire Council and at 3.30 pm on behalf of NSROC (alongside Ku-ring-gai Council and Willoughby City Council)

so that appearing in the 4.15 pm timeslot for NSROC becomes unnecessary.

4.8 Draft hearing schedules – Friday 7 June 2024 and Wednesday 24 July 2024

The committee considered draft hearing schedules circulated in the meeting papers.

The committee agreed to the draft hearing schedule circulated in the meeting papers for 7 June 2024.

The committee deferred its consideration of the draft hearing schedule for 24 July 2024.

4.9 Public hearing

Witnesses, the public and the media were admitted at 9.21 am.

The Chair made an opening statement regarding the proceedings and other matters.

The following witnesses were sworn and examined:

- Ms Katie Stevenson, NSW Executive Director, Property Council of Australia
- Mr Tom Forrest, CEO, Urban Taskforce Australia.

Ms Stevenson tendered the following document:

- Savills, 'Release the pressure: alleviating taxes and charges to build new homes', 10 May 2024.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr Justin Simon, Chair, Sydney YIMBY
- Mr Luke Turner, Executive Director, Policy and Advocacy, Western Sydney Leadership Dialogue

- Mr Eamon Waterford, CEO, Committee for Sydney
- Mr Jeremy Gill, Head of Policy, Committee for Sydney.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr Steven Head, General Manager Hornsby Shire Council and Chair of Northern Sydney Regional Organisation of Councils
- Mr James Farrington, Director, Planning and Compliance, Hornsby Shire Council
- Mr Wayne Rylands, Chief Executive Officer, City of Ryde.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr Frank Howarth AM (via videoconference), Chair, Heritage Council of NSW
- Mr David Burdon, Conservation Director, National Trust of Australia (NSW)
- Ms Jozefa Sobski AM, Vice President, Haberfield Association Inc.
- Mrs Kathy Cowley, President, Friends of Ku-ring-gai Environment Inc. (FOKE).

Mrs Cowley tendered two maps of the Ku-ring-gai local area.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Councillor Darcy Byrne, Mayor, Inner West Council
- Ms Simone Plummer, Director Planning, Inner West Council
- Ms Clare Harley, Director, Planning and Environment, Strathfield Council
- Mr Dylan Porter, Manager, Planning and Place, Strathfield Council.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr David Reynolds, Committee member, Save Greater Sydney Coalition
- Ms Merrill Witt, Committee member, Save Greater Sydney Coalition
- Mr Jeff Angel, Director, Total Environment Centre
- Ms Christiane Berlioz, Member, Leadership Group, Better Planning Network.

Mr Reynolds tendered the following:

- Document entitled 'Canterbury Town Plan promoted this'.
- The McKell Institute and Property Council of Australia, 'NSW Housing Summit Outcomes Report, Outcomes from the Property Council of Australia and The McKell Institute NSW Housing Summit', September 2023.
- Master Builders Australia, 'The Cost of Letting Productivity Slip', 2024.
- Sarah Hunter, Assistant Governor (Economic), Reserve Bank of Australia, 'Housing Market Cycles and Fundamentals' (speech at REIA Centennial Congress, Hobart, 16 May 2024).
- Robert Harley, 'Housing Construction is collapsing around Australia. Here's why', *Financial Review*, 1 May 2024.
- Michael Pascoe, 'The housing crisis won't be solved like this', *The Saturday Paper*, 18-24 May 2024.
- Document entitled 'Summary of Save Greater Sydney Coalition Submission'.
- Document entitled 'Save Greater Sydney Coalition Rally transcript 12th March 2024'.

- Document entitled 'Speaker – Key callouts Save Greater Sydney Coalition Rally 12th March 2024'.
- Correspondence from Mr Matthew Stewart, Chief Executive Officer, Canterbury Bankstown Council from Ms Monica Gibson, Acting Deputy Secretary, Planning, Land Use and Housing, Department of Planning, Housing and Infrastructure, 2 February 2024, regarding Bankstown City Centre Planning Proposal (Part A) PP-2022-1153.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr Sam Ngai, Mayor, Ku-ring-gai Council
- Councillor Tanya Taylor, Mayor, Willoughby Council
- Mr Dyalan Govender, Acting Head of Planning, Willoughby City Council.

The evidence concluded and the witnesses withdrew.

The public hearing concluded at 4.15 pm.

4.10 Tendered documents

Resolved, on the motion of Mr Buttigieg: That the committee accept and publish:

- Savills, 'Release the pressure: Alleviating taxes and charges to build new homes', 10 May 2024, tendered by Ms Katie Stevenson
- Two maps of the Ku-ring-gai local area tendered by Mrs Kathy Cowley
- The following documents tendered by Mr David Reynolds:
 - Document entitled 'Canterbury Town Plan promoted this'.
 - The McKell Institute and Property Council of Australia, 'NSW Housing Summit Outcomes Report, Outcomes from the Property Council of Australia and The McKell Institute NSW Housing Summit', September 2023.
 - Master Builders Australia, 'The Cost of Letting Productivity Slip', 2024.
 - Sarah Hunter, Assistant Governor (Economic), Reserve Bank of Australia, 'Housing Market Cycles and Fundamentals' (speech at REIA Centennial Congress, Hobart, 16 May 2024).
 - Robert Harley, 'Housing Construction is collapsing around Australia. Here's why', *Financial Review*, 1 May 2024.
 - Michael Pascoe, 'The housing crisis won't be solved like this', *The Saturday Paper*, 18-24 May 2024.
 - Document entitled 'Summary of Save Greater Sydney Coalition Submission'.
 - Document entitled 'Save Greater Sydney Coalition Rally transcript 12th March 2024'.
 - Document entitled 'Speaker – Key callouts Save Greater Sydney Coalition Rally 12th March 2024'.
 - Correspondence from Mr Matthew Stewart, Chief Executive Officer, Canterbury Bankstown Council from Ms Monica Gibson, Acting Deputy Secretary, Planning, Land Use and Housing, Department of Planning, Housing and Infrastructure, 2 February 2024, regarding Bankstown City Centre Planning Proposal (Part A) PP-2022-1153.

4.11 Clarification of evidence

The committee considered the following correspondence:

- 20 May 2024 – Email from Mr Tom Forrest, CEO, Urban Taskforce Australia, seeking to correct evidence given at the committee's TOD hearing on 20 May 2024.

Resolved, on the motion of Mr Farlow: That the evidence of Mr Tom Forrest, CEO, Urban Taskforce Australia, given at the committee's TOD hearing on 20 May 2024, be corrected as per his email request of 20 May 2024 by inserting an explanatory footnote into the transcript of evidence.

4.12 Draft hearing schedule – Wednesday 24 July 2024

The committee re-considered the draft hearing schedule for Wednesday 24 July 2024 circulated in the meeting papers.

The committee deferred consideration of the draft hearing schedule until its pre-hearing deliberative meeting on 7 June 2024.

4.13 Opening statements

The committee noted that opening statements at hearings for the TOD inquiry should last no more than three minutes to allow enough time for Members' questions to be answered.

5. Adjournment

The committee adjourned at 4.23 pm, until Thursday 30 May 2024 (North Coast site visits, inquiry into the planning system and the impacts of climate change on the environment and communities.)

Elsbeth Dyer

Committee Clerk

Minutes no. 27

Friday 7 June 2024

Portfolio Committee no. 7 – Planning and Environment

Jubilee Room, Parliament House, 9.01 am

1. Members present

Ms Higginson, *Chair*

Mr Ruddick, *Deputy Chair* (via videoconference)

Mr Buttigieg (via videoconference)

Mr Farlow

Ms Munro (from 9.20 am)

Mr Nanva (substituting for Mr D'Adam via videoconference)

Mr Primrose

2. Previous minutes

Resolved, on the motion of Mr Farlow: That the draft minutes of meeting no. 24 be confirmed.

3. Correspondence

The committee noted the following items of correspondence:

Received

- 24 May 2024 – Email from Mr Harrison Lo, to secretariat, expressing interest in appearing to give evidence at a hearing for the inquiry into the development of the Transport Oriented Development Program (TOD inquiry)
- 26 May 2024 – Email from Mr David Reynolds, Save Greater Sydney Coalition, seeking corrections to the transcript for the TOD inquiry hearing on 20 May 2024
- 28 May 2024 – Email from Ms Clover Moore AO, Lord Mayor of Sydney expressing interest in City of Sydney appearing at a hearing for the TOD inquiry and nominating key issues for the inquiry
- 28 May 2024 – Email from Ms Stephanie Lum, Acting Manager, Strategic Planning, Georges River Council declining invitation for Georges River Council to appear at TOD inquiry hearing 7 June 2024

- 29 May 2024 – Email from Ms Michelle Bisson, Executive Director, Planning and Environment, City of Newcastle, declining invitation for City of Newcastle to appear at TOD inquiry hearing 7 June 2024
- 29 May 2024 – Email from Mr Paul Mortimer, Save Marrickville Resident Group, advising that Save Marrickville Resident Group and the Resident Action Coalition would like to appear at a hearing for the TOD inquiry
- 30 May 2024 – Email from Mr Daniel Cavallo, Director Environment and Planning, Cumberland Council, declining invitation for Cumberland Council to appear at TOD inquiry hearing 7 June 2024.

Resolved, on the motion of Mr Farlow: That the committee authorise the publication of correspondence from Mr David Reynolds, Save Greater Sydney Coalition, seeking changes to the transcript for the TOD inquiry hearing on 20 May 2024, dated 26 May 2024.

4. Inquiry into the development of the Transport Oriented Development Program

4.1 Submissions

The committee noted the following submission was published by the committee clerk under the authorisation of the resolution appointing the committee: submission no. 49b.

4.2 Draft hearing schedule – Wednesday 24 July 2024

The committee considered a draft hearing schedule for Wednesday 24 July 2024 circulated in the meeting papers.

Resolved, on the motion of Mr Farlow: That the draft hearing schedule circulated in the meeting papers be agreed to, subject to the following amendments and inclusions:

- The three panels comprised of government agency witnesses appear at the end of the day, with the Department of Planning, Housing and Infrastructure to appear last.
- The NSW Department of Education be included as part of the panel comprised of government agency witnesses from Sydney Metro, Transport for NSW and Sydney Water.
- City of Sydney be included in the panel comprised of witnesses from Wollongong City Council and Penrith Council.

4.3 Sequence of questions

Resolved, on the motion of Mr Primrose: That the allocation of questions to be asked at the hearing be left in the hands of the Chair.

4.4 Public hearing

Witnesses, the public and the media were admitted at 9.15 am.

The Chair made an opening statement regarding the proceedings and other matters.

The following witnesses were sworn and examined:

- Councillor Zoë Baker, Mayor, North Sydney Council
- Mr Scott Duncan, Section Manager, Local Planning and Policy, Central Coast Council
- Mrs Sarah Hartley, Senior Strategic Planner, Local Planning and Policy, Central Coast Council.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr Michael Carnuccio, Manager, Policy, Community Housing Industry Association
- Mr John Brockhoff, RPIA (Fellow), National Policy Director, Planning Institute Australia
- Ms Sue Weatherley, MPIA (Fellow), NSW President, Planning Institute Australia.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr Sam Morton, General Manager, Government and Corporate Affairs, Business NSW
- Mr Mustafa Agha, Executive Manager, Policy, Business NSW

- Mr Brendan Coates, Economic Policy Program Director, Grattan Institute
- Dr Peter Tulip, Chief Economist, Centre for Independent Studies.

The evidence concluded and the witnesses withdrew.

The public hearing concluded at 11.51 am.

4.5 Correspondence to Dr Cameron Murray

Resolved, on the motion of Mr Farlow: That the Chair write to Dr Cameron Murray:

- providing a link to the transcript of evidence for the 7 June 2024 TOD inquiry hearing and
- drawing attention to matters raised by witnesses appearing on behalf of the Centre for Independent Studies, the Grattan Institute and Business NSW regarding upzoning and increased housing supply, particularly as they relate to the experience in Auckland and Lower Hutt New Zealand, and inviting a written response from Dr Murray, if he so wishes.

5. Adjournment

The committee adjourned at 11.54 am, until Monday 17 June 2024 (public hearing – inquiry into the planning system and the impacts of climate change on the environment and communities).

Elspeth Dyer

Committee Clerk

Minutes no. 31

Wednesday 24 July 2024

Portfolio Committee No. 7 – Planning and Environment

Macquarie room, Parliament, 8.50 am

1. Members present

Ms Higginson, *Chair*

Mr Ruddick, *Deputy Chair* (from 9.02 am until 3.17 pm)

Mr D'Adam (until 3.57 pm)

Mr Farlow

Ms Munro (from 9.05 am)

Mr Nanva (substituting for Mr Buttigieg) (via videoconference from 8.53 am until 9.28 am)

Mr Primrose

2. Previous minutes

Resolved, on the motion of Mr Farlow: That draft minutes no. 27 be confirmed.

3. Correspondence

The committee noted the following items of correspondence:

Received

- 30 May 2024 – Email from Ms Amy De Lore, Government Relations Lead, Lake Macquarie City Council, declining invitation for Lake Macquarie City Council to appear at 7 June 2024 hearing for the inquiry into the Transport Oriented Development Program (TOD inquiry)
- 4 June 2024 – Email from Ms Jennie Collins, Administration Officer – Development Administration and Advisory, Bayside Council, declining invitation for Bayside Council to appear at 7 June 2024 hearing for the TOD inquiry, and lodging a late submission to the inquiry
- 14 June 2024 – Email from Dr Charlie Gillon, Research Associate, UNSW City Futures Research Centre, declining invitation to appear at 24 July 2024 hearing for the TOD inquiry owing to annual leave
- 17 June 2024 – Letter from Dr Cameron K. Murray, regarding upzoning and housing supply in New Zealand

- 21 June 2024 – Email from Professor Hal Pawson, declining invitation to appear at 24 July 2024 hearing for the TOD inquiry
- 23 June 2024 – Email from Mr David Reynolds, Save Greater Sydney Coalition, attaching two documents responding to evidence given by Dr Peter Tulip at 7 June 2024 hearing for the TOD inquiry
- 24 June 2024 – Email from Mr Alex Engel-Mallon, Advocacy Director Climate Council, declining the invitation for Climate Council to appear at 24 July 2024 hearing for the TOD inquiry
- 24 June 2024 – Letter from Mrs Kathy Cowley, President, Friends of Ku-ring-gai Environment Inc, complaining about evidence regarding Friends of Ku-ring-gai Environment Inc given by Dr Peter Tulip at the 7 June 2024 hearing for the TOD inquiry
- 26 June 2024 – Email from Mr David Reynolds, Save Greater Sydney Coalition, attaching a document responding to evidence given by Mr Brendan Coates at 7 June 2024 hearing for the TOD inquiry
- 1 July 2024 – Email from Mr Nathan Alexander, Senior Manager, Media and Stakeholder Relations, Landcom, declining invitation for Landcom to appear at 24 July 2024 hearing for the TOD inquiry
- 1 July 2024 – Email from Grace Vegesana, Incoming National Director, Australian Youth Climate Coalition, declining invitation for Australian Youth Climate Coalition to appear at 24 July 2024 hearing for the TOD inquiry
- 1 July 2024 – Email from Mrs Susan Turner, regarding the Transport Oriented Development Program and Roseville
- 2 July 2024 – Email from Ms Linda Davis, Director Planning and Environment, Wollongong City Council declining invitation for Wollongong City Council to appear at 24 July 2024 hearing for the TOD inquiry
- 11 July 2024 – Email from Mr Roydon Ng complaining about the accuracy of the Sydney Water submission to the TOD inquiry regarding infrastructure capacity to support the TOD, and delays by Sydney Water in processing a GIPA application
- 21 July 2024 – Email from Mr Roydon Ng to committee, providing Homebush TOD precinct submission from Restore Inner West Line.
- 23 July 2024 – Email from Jan Primrose, STEP Inc, providing supplementary material to submission 145.

Sent:

- 14 June 2024 – Letter to Dr Cameron K. Murray providing a link to the uncorrected transcript of the 7 June 2024 hearing for the TOD inquiry and inviting his input regarding upzoning and housing supply with a particular focus on the experience in New Zealand.

Resolved, on the motion of Mr Farlow: That:

- the committee authorise the publication of correspondence from Mrs Kathy Cowley, President, Friends of Ku-ring-gai Environment Inc, complaining about evidence regarding Friends of Ku-ring-gai Environment Inc given by Dr Peter Tulip at the 7 June 2024 hearing for the TOD inquiry, dated 24 June 2024.
- the secretariat write to Mrs Cowley informing her that the committee has noted her concern, but cannot make a commitment about the content of the report, and has published the correspondence.

Resolved, on the motion of Mr Farlow: That the committee authorise:

- the publication of correspondence from Dr Cameron K. Murray, responding to the committee's request for his input regarding upzoning and housing supply in New Zealand, dated 17 June 2024
- the publication of correspondence from Mr David Reynolds, Save Greater Sydney Coalition, attaching two documents responding to evidence given by Dr Peter Tulip on 7 June 2024 hearing for the TOD inquiry, dated 23 June 2024
- the publication of correspondence from Mr David Reynolds, Save Greater Sydney Coalition, attaching a document responding to evidence given by Mr Brendan Coates on 7 June 2024 hearing for the TOD inquiry, dated 26 June 2024.

4. Inquiry into the development of the Transport Oriented Development Program

4.1 Public submissions

The committee noted that Submission no.s 230 and 231 were published by the committee clerk under the authorisation of the resolution appointing the committee.

Resolved, on the motion of Mr Primrose: That the committee authorise the publication of supplementary submission no. 145 and associated attachments.

4.2 Answers to question on notice and supplementary questions

The committee noted the following answers to questions on notice were published by the committee clerk under the authorisation of the resolution appointing the committee.

- Answer to question on notice from Committee for Sydney, received 31 May 2024.
- Answer to question on notice from Heritage Council of NSW, received 13 June 2024.
- Answer to question on notice and additional information from Ryde City Council, received 14 June 2024.
- Answers to questions on notice from Save Greater Sydney Coalition, received 16 June 2024.
- Answer to question on notice from National Trust of Australia (NSW), received 19 June 2024.
- Answers to questions on notice from Central Coast Council, received 20 June 2024.
- Answers to questions on notice from Hornsby Shire Council, received 20 June 2024.
- Answer to question on notice from Strathfield Council, received 21 June 2024.
- Answer to question on notice from Inner West Council, received 25 June 2024.
- Answer to question on notice from Northern Sydney Regional Organisation of Councils, received 25 June 2024.

Resolved, on the motion of Mr Primrose: That:

- the secretariat write to Ku-ring-gai Council advising that:
 - the committee has considered its request to keep part of its answers on notice/supplementary questions confidential received on 18 June 2024 based on its claim that the information is commercially sensitive
 - the committee resolved to publish the answers to questions on notice/supplementary questions in full
- the committee authorise the publication of the Ku-ring-gai Council answers to questions on notice/supplementary questions in full.

4.3 Extended reporting timeframe

Resolved, on the motion of Mr Primrose: That the reporting timeframe for this inquiry be extended:

- the report deliberative meeting be held on Tuesday 8 October 2024
- the report be tabled by Tuesday 15 October 2024.

4.4 Public hearing

Resolved, on the motion of Mr Primrose: That the allocation of questions to be asked at the hearing be left in the hands of the Chair.

Witnesses, the public and the media were admitted.

The Chair made an opening statement regarding the broadcasting of proceedings and other matters.

The following witnesses were sworn and examined:

- Ms Kiersten Fishburn, Secretary, Department of Planning, Housing and Infrastructure
- Ms Monica Gibson, Deputy Secretary, Planning, Land Use Strategy, Housing and Infrastructure, Department of Planning, Housing and Infrastructure
- Ms Hanna Shalbaf, A/Executive Director, Governance and Insights, Planning, Land Use Strategy, Housing and Infrastructure, Department of Planning, Housing and Infrastructure
- Ms Anthea Sargeant, Executive Director, State Rezoning, Planning, Land Use Strategy, Housing and Infrastructure, Department of Planning, Housing and Infrastructure.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Ms Leanne Boyle, Chief Property & Place Officer, Sydney Metro
- Mr Simon Hunter, Chief Transport Planner, Transport for NSW
- Mr Matt McKibbin, Executive Director Planning for Places, Transport for NSW
- Ms Kate Miles, Head of System Planning and Land Acquisition, Sydney Water
- Ms Lisa Harrington, A/Deputy Secretary School Infrastructure NSW, NSW Department of Education.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr Ben Pechey, Executive Manager Strategic Planning and Urban Design, City of Sydney
- Mr Peter John Cantrill, Program Manager, Urban Design, City of Sydney
- Mr Todd Carney, Mayor of Penrith
- Ms Kylie Powell, Director, City Futures, Penrith City Council

Mr Pechey tendered the following documents:

- Minute by the Lord Mayor, Housing Density in the City of Sydney, File No. SO51491
- World cities comparison: Population density and rail stations (1km grid).

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Cr Darriea Turley AM, President, Local Government NSW (via videoconference)
- Mr David Reynolds, Chief Executive, Local Government NSW (via videoconference).

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Dr Philip Oldfield, Head of School of the Built Environment and Professor of Architecture, UNSW Sydney
- Dr Nicole Cook, Senior Lecturer, Geography and Sustainability, University of Wollongong (via videoconference)
- Dr Shanaka Herath, Senior Lecturer, Urban Economics Course, Director Planning, UTS
- Dr Sophie-May Kerr Research Associate, City Futures Research Centre, UNSW Sydney.

Dr Herath tendered the following document:

- Journal article, Shanaka Herath and Ajith Shamila Jayasekare 'City proximity, travel modes and house prices: the three cities in Sydney' (2021) 36 *Journal of Housing and the Built Environment*, pp 407-431.

The evidence concluded and the witness withdrew.

The following witnesses were sworn and examined:

- Professor Peter Phibbs, Emeritus Professor, Henry Halloran Research Trust, University of Sydney
- Professor Cathy Sherry Professor, Macquarie Law School and Executive Member, Smart Green Cities
- Professor Bill Randolph, Professor of Planning, UNSW Sydney
- Professor Hazel Easthope, Professor of Urban Studies, City Futures Research Centre, UNSW Sydney.

The evidence concluded and the witness withdrew.

The following witnesses were sworn and examined:

- Professor Catriona, McKenzie Representative, Croydon Action Group
- Ms Máire Sheehan, Member of Residents Action Coalition
- Dr Kelsie Dadd, Save Marrickville Residents Group Spokesperson

- Mrs Diana Pryde, President, Chatswood West Progress Association (CWWPA)
- Mr John Moratelli President, Willoughby Environment Protection Association (WEPA)
- Ms Jan Primrose Representative, STEP Inc.

Mrs Pryde tendered the following documents:

- Native fauna of Swaines Creek catchment, Willoughby City Council, including two maps.
- An aerial photograph of 688-692 Pacific Highway.

The evidence concluded and the witness withdrew.

The public hearing concluded at 4.17 pm.

The public and the media withdrew.

4.5 Tendered documents

Resolved, on the motion of PP: That the committee accept and publish the following documents tendered during the public hearing:

- Document, Minute by the Lord Mayor, Housing Density in the City of Sydney, File No. SO5149, tendered by Mr Ben Pechey, Executive Manager Strategic Planning and Urban Design, City of Sydney
- Document, 'World cities comparison: Population density and rail stations (1km grid)', tendered by Mr Ben Pechey, Executive Manager Strategic Planning and Urban Design, City of Sydney
- Journal article, 'City proximity, travel modes and house prices: the three cities in Sydney' (2021), tendered by Dr Shanaka Herath, Senior Lecturer, Urban Economics Course, Director Planning, UTS
- Document, Native fauna of Swaines Creek catchment, Willoughby City Council, including two maps, tendered by Mrs Diana Pryde, President, Chatswood West Progress Association
- Aerial photograph of 688-692 Pacific Highway, tendered by Mrs Diana Pryde, President, Chatswood West Progress Association.

4.6 Further correspondence

The committee noted the following correspondence:

Received:

- 23 July 2024 - Letter from Mrs Kathy Cowley, President, Friends of Ku-ring-gai Environment Inc, to Chair, providing USB containing a Roseville SimTable Bushfire video.

Resolved on the motion of Mr Primrose: That the committee authorise the publication of correspondence from Mrs Kathy Cowley, President, Friends of Ku-ring-gai Environment Inc, to Chair, providing USB containing a Roseville SimTable Bushfire video, dated 23 June 2024.

5. Adjournment

The committee adjourned at 4.19 pm, *Sine die*.

Julianna Taahi
Committee Clerk

Minutes no. 38

Tuesday 8 October 2024

Portfolio Committee No. 7 – Planning and Environment

Room 1043, Parliament House, Sydney at 1.00 pm

1. Members present

Ms Higginson, *Chair*

Mr Ruddick, *Deputy Chair* (via videoconference)

Mr Barrett (substituting for Mr Farlow) (via videoconference)
 Mr Buttigieg
 Mr D'Adam (via videoconference)
 Ms Munro
 Mr Primrose (via videoconference)

2. Previous minutes

Resolved, on the motion of Mr Primrose: That draft minutes no. 31 be confirmed.

3. Correspondence

The committee noted the following items of correspondence:

Sent

- 25 July 2024 – Email from the secretariat to Ms Kathy Cowley, Friends of Ku-ring-gai Environment, advising that her correspondence regarding evidence by Dr Peter Tulip would be published on the committee's website
- 31 July 2024 – Email from the secretariat to Mr Sam Ngai, Mayor, Ku-ring-gai Council, advising of the committee's intention to publish the answer to a question on notice provided 18 June 2024 having considered a request for confidentiality.

4. Inquiry into the development of the Transport Oriented Development program

4.1 Submissions

The following submission was published by the committee clerk under the authorisation of the resolution appointing the committee: submission no. 232.

4.2 Answers to questions on notice and supplementary questions

The following answers to questions on notice and supplementary questions were published by the committee clerk under the authorisation of the resolution appointing the committee:

- Mrs Diana Pryde, received on 1 August 2024
- NSW Fair Trading, received on 9 August 2024
- Sydney Water, received on 13 August 2024
- Penrith City Council, received on 14 August 2024
- Dr Shanaka Herath, received on 17 August 2024
- NSW Department of Education, received on 19 August 2024
- Local Government NSW, received on 19 August 2024
- Transport for NSW, received on 19 August 2024
- Department of Planning, Housing and Infrastructure, received on 20 August 2024

Resolved, on the motion of Ms Munro: That the committee keep confidential the unpublished journal article submitted by Dr Shanaka Herath as part of an answer to a question on notice, at the author's request.

4.3 Consideration of Chair's draft report

The Chair submitted her draft report entitled *Development of the Transport Oriented Development Program*, which, having been previously circulated, was taken as being read.

Resolved, on the motion of Ms Munro: That the report be amended throughout by:

- a) omitting references to TOD 'Part 1' and inserting instead 'Tier 1'
- b) omitting 'Part 2' and inserting instead 'Tier 2'
- c) adding a sentence in Chapter 1 to explain this terminology.

Mr Buttigieg moved: That paragraph 1.41 be amended by inserting at the end: ', encouraging the Government to go further and higher with the TOD.'

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mr D'Adam, Ms Higginson, Mr Primrose, Mr Ruddick.

Noes: Mr Barrett, Ms Munro.

Question resolved in the affirmative.

Resolved, on the motion of Mr Buttigieg: That paragraph 1.55 be amended by omitting the word 'All' before 'land within 1,200 metres'.

Ms Munro moved: That the following new paragraph be inserted after paragraph 2.14:

'Local Councils also criticised the short time period between the announcement of the TOD program and the initial dates of introduction for the TOD SEPP. The program was announced on 7 December 2023, providing a truncated period for Council analysis of the program and adequate community consultation by Councils and Councillors due to the traditional Christmas/New Year holiday period.'

Mr Buttigieg moved that the motion of Ms Munro be amended by inserting after 'holiday period':

However, twelve of the thirteen councils which are part of the TOD Tier 2 program formed an agreement with the NSW Government on the implementation of the TOD program in their local areas. Notably, most councils who were invited to provide evidence to this inquiry declined to attend, as issues raised in their submissions had been resolved through the consultation undertaken by the Department.'

Ms Munro moved that the motion of Mr Buttigieg be amended by omitting the sentence beginning 'Notably, most councils...'

Amendment of Ms Munro to Mr Buttigieg's amendment put.

The committee divided.

Ayes: Mr Barrett, Ms Munro.

Noes: Mr Buttigieg, Mr D'Adam, Ms Higginson, Mr Primrose, Mr Ruddick.

Question resolved in the negative.

Original amendment of Mr Buttigieg put.

The committee divided.

Ayes: Mr Buttigieg, Mr D'Adam, Ms Higginson, Mr Primrose, Mr Ruddick.

Noes: Mr Barrett, Ms Munro.

Question resolved in the affirmative.

Original question of Ms Munro, as amended, put.

The committee divided.

Ayes: Mr Buttigieg, Mr D'Adam, Ms Higginson, Mr Primrose, Mr Ruddick.

Noes: Mr Barrett, Ms Munro.

Question resolved in the affirmative.

Mr Buttigieg moved: That paragraph 2.15 be amended by omitting 'could be seen as' after 'The limited information provided to external stakeholders regarding site selection', and inserting instead 'is'.

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mr D'Adam, Ms Higginson, Mr Primrose, Mr Ruddick.

Noes: Mr Barrett, Ms Munro.

Question resolved in the affirmative.

Mr Buttigieg moved: That paragraph 2.36 be amended by inserting at the end:

‘Ms Turley also provided evidence indicating that the work that was done with councils was reflected in the way that the tone of conversations shifted to councils providing more sites’.

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mr D’Adam, Mr Primrose, Mr Ruddick.

Noes: Mr Barrett, Ms Higginson, Ms Munro.

Question resolved in the affirmative.

Mr Buttigieg moved: That paragraph 2.44 be amended by inserting at the end:

‘A demonstration of the consultation that did occur with councils through the refinement of the TOD policy is reflected in the number of councils that declined to attend the inquiry and the 12 councils that did form agreements on the policy with the government.’

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mr D’Adam, Mr Primrose, Mr Ruddick.

Noes: Mr Barrett, Ms Higginson, Ms Munro.

Question resolved in the affirmative.

Mr Buttigieg moved: That the chapter be amended by moving the paragraph 2.47, commencing ‘Local Government NSW told the committee that while the process had started abruptly’, to after 2.37.

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mr D’Adam, Mr Primrose, Mr Ruddick.

Noes: Mr Barrett, Ms Higginson, Ms Munro.

Question resolved in the affirmative.

Mr Buttigieg moved: That the following new paragraph be inserted after paragraph 2.59:

‘DPHI evidence demonstrates that the Government wants councils to do this work – the deferred commencement of some stations is to allow time for that to occur – and where councils do that work in other places, their local work will override the TOD SEPP.’

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mr D’Adam, Ms Higginson, Mr Primrose, Mr Ruddick.

Noes: Mr Barrett, Ms Munro.

Question resolved in the affirmative.

Resolved, on the motion of Mr Buttigieg: That paragraph 2.86 be amended by inserting at the end: ‘It was also reiterated that there is no change to the ADG or the application of the ADG in a council assessment in the TOD areas.’

Mr Buttigieg moved: that paragraph 2.89 be amended by omitting ‘minimal’ and inserting instead ‘expedited’ before ‘external consultation’.

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mr D’Adam, Ms Higginson, Mr Primrose, Mr Ruddick.

Noes: Mr Barrett, Ms Munro.

Question resolved in the affirmative.

Ms Munro moved: That recommendation 1 be amended by omitting ‘demonstrating’ and inserting instead ‘explaining’ before ‘the reasons for the TOD program reforms’.

Question put.

The committee divided.

Ayes: Mr Barrett, Ms Higginson, Ms Munro.

Noes: Mr Buttigieg, Mr D’Adam, Mr Primrose, Mr Ruddick.

Question resolved in the negative.

Mr Buttigieg moved: That recommendation 1 be omitted:

‘Recommendation 1

That the NSW Government publish information demonstrating the reasons for the TOD program reforms, the rationale for selection of selected TOD precincts, and what the reforms mean for affected communities.’

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mr D’Adam, Mr Primrose, Mr Ruddick.

Noes: Mr Barrett, Ms Higginson, Ms Munro.

Question resolved in the affirmative.

Resolved, on the motion of Ms Munro: That paragraph 2.93 be amended by omitting ‘some councils have been given more time to develop their own planning for the Tier 2 precincts’ after ‘In addition’ and inserting instead ‘some of the councils that requested more time to develop their own planning for the Tier 2 precincts were granted an extension’.

Mr Buttigieg moved: That recommendations 2 and 3 be omitted:

‘Recommendation 2

That the NSW Government develop improved consultation mechanisms to ensure genuine collaboration with local councils and other key stakeholders and build community understanding of housing reforms, including the TOD program

Recommendation 3

That the NSW Government work in collaboration with local governments affected by the TOD program to ensure that reforms promoting greater density are appropriately tailored for local contexts’

and the following new recommendation be inserted instead:

‘Recommendation x

That the NSW Government continue to work in collaboration with local councils and key stakeholders on building community understanding of housing reforms, including the TOD program.’

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mr D'Adam, Ms Higginson, Mr Primrose, Mr Ruddick.

Noes: Mr Barrett, Ms Munro.

Question resolved in the affirmative.

Resolved, on the motion of Mr Buttigieg: That recommendation 4 be amended by inserting 'continue to' before 'work with stakeholders'.

Mr Buttigieg moved: That recommendation 4 be amended by omitting 'with a view to reducing uncertainty and complexity in the planning framework without compromising the ability of councils to ensure the appropriateness, quality and liveability of new housing', and inserting instead ', and update the existing guidelines should there be any further uncertainty.'

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mr D'Adam, Mr Primrose, Mr Ruddick.

Noes: Mr Barrett, Ms Higginson, Ms Munro.

Question resolved in the affirmative.

Resolved, on the motion of Mr Buttigieg: That paragraph 3.3 be amended by inserting at the end: 'These numbers have since been updated, there should be over 60,000 homes in the accelerated precincts over 15 years, and 37 stations with capacity for over 170,000 homes over 15 years in the TOD SEPP.'

Mr Buttigieg moved: That paragraph 3.14 be amended by inserting at the end: 'The committee notes that the majority of these factors are outside of the remit of the planning system and are not something that the TOD program could address.'

Ms Munro moved: that the motion of Mr Buttigieg be amended by omitting 'the majority of' and inserting instead 'some of' before 'these factors'.

Question put.

The committee divided.

Ayes: Mr Barrett, Ms Higginson, Ms Munro.

Noes: Mr Buttigieg, Mr D'Adam, Mr Primrose, Mr Ruddick.

Question resolved in the negative.

Original question of Mr Buttigieg put.

The committee divided.

Ayes: Mr Buttigieg, Mr D'Adam, Mr Primrose, Mr Ruddick.

Noes: Mr Barrett, Ms Higginson, Ms Munro.

Question resolved in the affirmative.

Resolved, on the motion of Mr Buttigieg: That paragraph 3.21 be amended by inserting at the end: 'The report called for a dramatic scaling up of the TOD program and for all stations in Sydney to be treated as TODs'.

Resolved, on the motion of Mr Buttigieg: That paragraph 3.29 be amended by inserting at the end: 'The committee notes that the TOD SEPP does not apply to MU1 zones – this is something that was amended following consultation with councils.'

Mr Buttigieg moved: That the following new paragraphs be inserted after paragraph 3.77:

‘Several stakeholders provided feedback on the affordable housing requirement, that while it was a low initial percentage, it was a good starting place. The committee heard that as a relatively new mechanism for the market in New South Wales, a low starting point to be scaled up over time was a good course of action to allow the market time to adjust.

Mr Michael Carnuccio, CHIA, made clear that while CHPs would prefer other measures as outlined above in an ideal world, that the industry was very happy with this sign from the Government and would be happy to work with the measures put in place. Mr Carnuccio also commented on incorrect statements that the affordable housing requirement would result in less than one unit in a development, and noted that the requirement was set out as a measure for developments over a certain size to ensure that at least one whole unit was provided in a development. These sentiments were echoed by Mr Eamon Waterford, Committee for Sydney as well as other stakeholders.’

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mr D’Adam, Ms Higginson, Mr Primrose, Mr Ruddick.

Noes: Mr Barrett, Ms Munro.

Question resolved in the affirmative.

Ms Munro moved: That paragraph 3.103 be amended by inserting the following after ‘across the different parts of Sydney where it is to be rolled out’:

‘, particularly during the Housing Accord Period. We note whilst the overall target for NSW is 377,000 homes during the Housing Accord Period, the Government projects that 16,000 homes are anticipated to be delivered by June 2029 due to the TOD Program, requiring other measures to address the housing crisis in the short term’.

Mr Buttigieg moved: That the motion of Ms Munro be amended by:

- a) inserting ‘at least’ before ‘16,000 homes’
- b) inserting ‘Tier 2’ after ‘delivered by June 2029 due to the TOD’.
- c) omitting ‘requiring other measures to address the housing crisis in the short term’ and inserting instead ‘noting that this does not include new homes delivered under the TOD Tier 1 program or the Diverse and Well-located homes program.’

Amendment of Mr Buttigieg put and passed.

Original question of Ms Munro, as amended, put and passed.

Resolved, on the motion of Ms Munro: That paragraph 3.105 be amended by inserting ‘in particular the economic feasibility of building both new infill developments and new greenfield developments’ after ‘range of constraints impacting residential construction at present’.

Mr Buttigieg moved: That paragraph 3.105 be amended by inserting at the end ‘The committee acknowledges that a lot of the changes discussed in this section are out of the state government’s control, and require advocacy to the Commonwealth and private industry for solutions’.

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mr D’Adam Mr Primrose, Mr Ruddick.

Noes: Mr Barrett, Ms Higginson, Ms Munro.

Question resolved in the affirmative.

Mr Buttigieg moved: That Recommendation 7 be omitted:

‘Recommendation 7

That the NSW Government consider more equitable and transparent ways to share the value generated by upzoning land to support improved community infrastructure and affordable housing.'

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mr D'Adam, Mr Primrose, Mr Ruddick.

Noes: Mr Barrett, Ms Higginson, Ms Munro.

Question resolved in the affirmative.

Resolved, on the motion of Mr Buttigieg: That paragraph 3.107 be amended by inserting at the end: 'The Committee notes that the Department has already committed to publishing a schedule.'

Mr Buttigieg moved: That Recommendation 8 be omitted: That the NSW Government develop a framework for affordable housing under the TOD program.'

and the following new recommendation be inserted instead:

'That the NSW Government continue the work on a framework for affordable housing under the TOD program.'

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mr D'Adam, Ms Higginson, Mr Primrose, Mr Ruddick.

Noes: Mr Barrett, Ms Munro.

Question resolved in the affirmative.

Mr Buttigieg moved that paragraph 3.110 be amended by inserting at the end: 'The Committee notes that these issues are largely outside the state government's responsibility and the Department of Planning is not responsible for strata'.

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mr D'Adam, Mr Primrose, Mr Ruddick.

Noes: Mr Barrett, Ms Higginson, Ms Munro.

Question resolved in the affirmative.

Resolved, on the motion of Mr Buttigieg: That Recommendation 9 be omitted:

'That the NSW Government demonstrate leadership to address the broad range of issues contributing to the housing crisis, considering in particular:

- increasing investment in public housing
- increasing government involvement in delivery of different models of housing
- promoting design standards and building quality for apartments
- reforming the rental market to ensure renting is an affordable and secure option for long term renters
- reviewing the operation of strata title to minimise legal complexity and financial risk for apartment owners, and provide for possibility of future urban renewal.'

and the following new recommendation be inserted instead:

'That the NSW Government continue to take action to address the broad range of issues contributing to the housing crisis, noting in particular:

- continued investment in public housing
- continued involvement of Government in delivery of different housing typologies
- maintain design standards and building quality for apartments
- continue progressing legislation to reform the rental market and make renting fairer for all renters
- review the operation of strata title to minimise legal complexity and financial risk for apartment owners, and provide for possibility of future urban renewal'

Resolved, on the motion of Ms Munro:

- a) That the introductory paragraph to Chapter 4 be amended by inserting 'employment opportunities' after 'liveability, character'
- b) That paragraph 4.1 be amended by omitting 'and services' and inserting instead 'services and jobs' after 'stakeholders raised concerns about the planning for community infrastructure, amenity,'
- c) That paragraph 4.1 be amended by omitting 'and services' and inserting instead 'services and jobs' after 'included a lack of planning for community infrastructure, amenity'
- d) That the subheading before paragraph 4.3 be amended by omitting 'and services' and inserting instead 'services and employment'
- e) That paragraph 4.3 be amended by omitting 'and services' and inserting instead 'services and jobs' after 'planning for infrastructure, amenities'
- f) That paragraph 4.3 be amended by inserting 'and employment opportunities' after 'proper infrastructure planning'.
- g) That paragraph 4.18 be amended by omitting 'Finally,' before 'the committee heard concerns'
- h) That a new subheading be inserted 'Well located jobs' before paragraph 4.26.

Ms Munro moved: That the following new paragraphs be inserted after paragraph 4.25:

4.26 Several councils and stakeholders spoke about the need to ensure that residents had access to jobs located near to increased housing density, raising concerns that the Government's TOD plans to increase the supply of dwellings had overshadowed the necessity of planning with provision for employment opportunities alongside density which would reduce liveability and result in a secondary social problem, a job shortage in addition to the housing crisis.

4.27 Councillor Zoë Baker, Mayor, North Sydney Council expressed her disappointment about the lack of focus on creating job opportunities, stating, 'The TOD program is, unfortunately, totally silent on employment targets.' [FOOTNOTE: Evidence, Ms Baker, 7 June 2024, p 2]

4.28 Mr Wayne Rylands, Chief Executive Officer, City of Ryde, said, 'It is ensuring that we don't create two other crises when we are trying to resolve the housing crisis' (Transcript – 20 May 2024, p 26) and Mr Luke Turner, Executive Director, Policy and Advocacy, Western Sydney Leadership Dialogue explained, 'Where there's access to transport, you'll have a diversity of land uses in there, which has jobs go with that as well.' [FOOTNOTE: Evidence, Mr Rylands, 20 May 2024, p 20].

4.29 A number of councils expressed their concerns about lack of focus on job opportunities by noting that employment is a crucial aspect of an area's liveability, alongside other infrastructure and service provision. Mr Steven Head, General Manager, Hornsby Shire Council and Chair of NSROC (Northern Sydney Regional Organisation of Councils) included employment opportunities amongst the infrastructure and service delivery items he would like to collaborate with the Government on improving, listing 'transport services, essential services—including specifically ... waste—and employment opportunities, with adequate provision of supporting utility, transport, health, education, community and recreational infrastructure' [FOOTNOTE: Evidence, Mr Steven Head, 20 May 2024, p 25]. Ms Sue Weatherly, MPIA (Fellow), NSW President, Planning Institute Australia, noted 'Merely zoning land for higher density will not create successful TODs. It's also about place making, mixed use and being walkable, bike friendly and closely integrated with mass transit by clustering housing, jobs, services and amenities around public transport stations' [FOOTNOTE: Evidence, Ms Weatherly, 7 June 2024, p 11].

4.30 The erosion of employment lands in favour of residential zoning was raised by councils and stakeholders, particularly relating to the eastern economic corridor, suggesting that residential and employment growth must go hand-in-hand to maximise liveability and economic growth. Mr Head noted that NSROC has ‘concerns about erosion of employment lands and see that as critical. We often refer to ourselves as a sort of global arc of employment that stretches through the northern region of Sydney. [FOOTNOTE: Evidence, Mr Head, 20 May 2024, p 25]. Councillor Baker commented ‘the other concern that we have is, because there's no mention about employment targets, our precinct is part of that eastern economic corridor and you can't just do it in isolation—this big additional potential yield for housing—without understanding what that's going to mean and how we're going to be able to accommodate the job targets’ [FOOTNOTE: Evidence, Councillor Barker, 7 June 2024, p 9].

4.31 Mr Rylands further explained, ‘we are willing to work with government to provide a lot of that additional housing, but it can't be at the expense of employment. We can't be expecting everyone to be reverse squinters, as has previously been stated by Geoff Roberts, who was the previous chair of the Greater Cities Commission. What we need to ensure is that we retain jobs in the middle ring of Sydney, that we retain jobs in eastern Sydney, because otherwise everyone will be travelling out west to find a job.’ [FOOTNOTE: Evidence, Mr Rylands, 20 May 2024, p 26.] Mr Mustafa Agha, Executive Manager, Policy, Business NSW, stated that ‘Westmead, Liverpool and Macquarie Park are all great innovation districts that will thrive by having people living in that community as well so that they can then have what we call the interactions that then spark innovation. There is capacity for both.’ [FOOTNOTE: Evidence, Mr Agha, 7 June 2024, p 22]

4.32 There was a willingness expressed by Councils to work with the Government, particularly to enhance the success of the TOD program’s intentions. Mr Rylands said, ‘We believe that if government works properly with us, we can provide tens of thousands of houses, but we can also provide tens of thousands of jobs.’ He further stated that:

‘we are willing to work with government to provide a lot of that additional housing, but it can't be at the expense of employment. We can't be expecting everyone to be reverse squinters, as has previously been stated by Geoff Roberts, who was the previous chair of the Greater Cities Commission. What we need to ensure is that we retain jobs in the middle ring of Sydney, that we retain jobs in eastern Sydney, because otherwise everyone will be travelling out west to find a job.’ [FOOTNOTE: Evidence, Mr Rylands, 20 May 2024, p 26.]

4.33 The City of Ryde’s *Striking the Right Balance* report suggests that its plan would ‘likely deliver space for 41,069 new jobs alongside the Ryde LGA’s existing 91,764 jobs’, and deliver more housing with an Innovation SEPP and local planning decisions than the Government’s TOD proposal. [FOOTNOTE: Submission 50, City of Ryde, p 23]

4.34 The committee heard evidence that the TOD rezoning proposal in Macquarie Park was putting at risk unique employment lands within the Macquarie Park Innovation District area, which ‘is the second largest commercial district in NSW and, prior to the Rezoning Proposal, was on track to become the fourth largest commercial district Australia-wide by 2030. It has been the core of Sydney’s 'Eastern Economic Corridor'.’ [FOOTNOTE: Submission 50, City of Ryde, p 29]

4.35 Mr Rylands said that the Council’s *Striking the Right Balance* approach ‘is trying to ensure that we retain the employment that is within the Macquarie Park Innovation District, that we treat it as an innovation district, and that we provide the right sort of planning for it to continue to be Australia's premier innovation district. It's not a CBD and was never meant to be.’ [FOOTNOTE: Evidence, Mr Rylands, 20 May 2024, p 26.]

Mr Buttigieg moved: That the motion of Mr Munro be amended by omitting the following paragraphs:

- a) paragraph beginning: '**4.32** There was a willingness expressed by Councils...'

b) paragraph beginning '4.33 The City of Ryde's *Striking the Right Balance* report...'

The committee divided.

Ayes: Mr Buttigieg, Mr D'Adam, Mr Primrose, Mr Ruddick.

Noes: Mr Barrett, Ms Higginson, Ms Munro.

Question resolved in the affirmative.

Original question of Ms Munro, as amended, put.

The committee divided.

Ayes: Mr Barrett, Ms Higginson, Ms Munro.

Noes: Mr Buttigieg, Mr D'Adam, Mr Primrose, Mr Ruddick.

Question resolved in the negative.

Resolved, on the motion of Ms Munro

- a) That paragraph 4.62 be amended by inserting 'and Public Spaces' after 'the Minister for Planning'
- b) That paragraph 4.100 be amended by inserting 'employment opportunities' after 'emphasised that current utilities, transport,'
- c) That paragraph 4.101 be amended by inserting 'including roads and public transport' after 'local transport utilities'
- d) That paragraph 4.101 be amended by inserting 'and emergency services' after 'schools and healthcare'
- e) That paragraph 4.101 be amended by inserting 'employment opportunities' after 'local transport, utilities'.

Resolved, on the motion of Mr Buttigieg: That paragraph 4.73 be amended by inserting at the end 'There was guidance published in May 2024 to this regard.'

Resolved, on the motion of Mr Buttigieg, That paragraph 4.102 be amended by inserting 'The Committee acknowledges that in places where Council came to agreement on TOD staging, Councils were given an opportunity to do master planning' after 'needs of local communities'

Ms Munro moved: That the following new paragraph be inserted after paragraph 4.105:

'The Committee acknowledges concerns raised by stakeholders about the lack of provision for employment lands and lack of clarity regarding job targets within the TOD precincts, particularly in the eastern economic corridor.'

Mr Buttigieg moved: That the motion of Ms Munro be amended by inserting at the end: 'The committee notes that the Explanation of Intended Effect documents for the TOD Accelerated Precincts do contain a number of jobs that will be created and/or retained in each of these precincts, totalling almost 100,000 jobs across these precincts.'

Amendment of Mr Buttigieg put and passed.

Original question of Ms Munro, as amended, put and passed.

Ms Munro moved: That the following new recommendation be inserted after paragraph 4.105:

'Recommendation x

That the NSW Government provide public clarity on jobs targets related to housing targets in TOD Tier 1 and Tier 2 precincts to ensure residents have access to well-located employment opportunities alongside dwelling density.'

Question put.

The committee divided.

Ayes: Mr Barrett, Ms Munro.

Noes: Mr Buttigieg, Mr D'Adam, Ms Higginson, Mr Primrose, Mr Ruddick.

Question resolved in the negative.

Ms Munro moved: That the following new recommendation be inserted after paragraph 4.105:

'Recommendation x

That the NSW Government considers the creation of an Innovation SEPP to protect the unique character of innovation districts as high value employment regions amongst the TOD Tier and Tier 2 rezoning process across NSW.'

Question put.

The committee divided.

Ayes: Mr Barrett, Ms Munro.

Noes: Mr Buttigieg, Mr D'Adam, Ms Higginson, Mr Primrose, Mr Ruddick.

Question resolved in the negative.

Mr Buttigieg moved: That paragraph 4.106 be amended by inserting at the end 'The committee notes that any change to the code is a matter for the Commonwealth Government.'

The committee divided.

Ayes: Mr Buttigieg, Mr D'Adam, Mr Primrose, Mr Ruddick.

Noes: Mr Barrett, Ms Higginson, Ms Munro.

Question resolved in the affirmative.

Ms Munro moved: That the following new recommendation be inserted after recommendation 10:

'Recommendation x

That the NSW Government expeditiously release an Explanation of Intended Effect (EIE) for all 37 TOD SEPP precincts and any future precincts in Tier 2 of the TOD Program, in a similar manner and format to the EIE's released to date for six of the seven Tier 1 precincts.'

Question put.

The committee divided.

Ayes: Mr Barrett, Ms Higginson, Ms Munro.

Noes: Mr Buttigieg, Mr D'Adam, Mr Primrose, Mr Ruddick.

Question resolved in the negative.

Ms Munro moved: That the following new recommendation be inserted after recommendation 10:

'Recommendation x

That the NSW Government release the estimated number of dwellings to be created due to the TOD Tier 2 program by each TOD SEPP precinct during the Housing Accord Period until June 2029 to ensure Councils and communities understand the requirements for critical infrastructure upgrades in the short term.'

Question put.

The committee divided.

Ayes: Mr Barrett, Ms Higginson, Ms Munro.

Noes: Mr Buttigieg, Mr D'Adam, Mr Primrose, Mr Ruddick.

Question resolved in the negative.

Resolved, on the motion of Mr Buttigieg: That recommendation 10 be omitted:

'That the NSW Government reassess funding for the housing reforms, including the TOD program, to ensure that community infrastructure and amenity needs are delivered alongside housing and prior to occupation'

and the following new recommendation be inserted instead:

'That the NSW Government consider focusing infrastructure funding through the Urban Development Program to areas of growth, including TOD locations, to ensure that community infrastructure and amenity needs are delivered alongside housing.'

Mr Buttigieg moved: That recommendation 11 omitted:

'That the NSW Government ensure that housing reforms to promote density include robust design and building standards to ensure long term liveability of new developments.'

and inserting instead:

and the following new recommendation be inserted instead:

'That the NSW Government maintain the existing robust design and building standards throughout new housing reforms to ensure long term liveability of new developments'

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mr D'Adam, Ms Higginson, Mr Primrose, Mr Ruddick.

Noes: Mr Barrett, Ms Munro.

Question resolved in the affirmative.

Mr Buttigieg moved: That recommendation 12 be omitted:

'Recommendation 12

That the NSW Government ensure that the *National Construction Code* seven-start thermal ratings apply to all apartment buildings, including those up to five storeys, under the TOD program.'

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mr D'Adam, Mr Primrose, Mr Ruddick.

Noes: Mr Barrett, Ms Higginson, Ms Munro.

Question resolved in the affirmative.

Resolved, on the motion of Mr Buttigieg: That recommendation 13 be omitted:

'That the NSW Government consider implementing mandated targets in the TOD program for family friendly apartments.'

and the following new recommendation be inserted instead:

'That the NSW Government investigate measures to encourage the delivery of family-friendly apartments as part of its housing reforms.'

Mr Buttigieg moved: That recommendation 14 be omitted:

'That the NSW Government:

- Conduct and publicly release analysis of mature tree and canopy loss as part of the NSW Government's housing reforms

- Develop a strategy to avoid or minimise mature tree and canopy loss due to the housing reforms
 - Where loss of mature trees is unavoidable as the result of a development, require genuine compensatory measures to replace or increase tree canopy nearby'
- and the following new recommendation be inserted instead:

‘That the NSW Government:

- Continue to maintain commitment to 40 per cent urban tree canopy cover across Greater Sydney by 2036
- Release further guidance for local councils and industry on managing and minimising mature tree and canopy loss during development, including appropriate compensatory measures for replacement.’

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mr D’Adam, Mr Primrose, Mr Ruddick.

Noes: Mr Barrett, Ms Higginson, Ms Munro.

Question resolved in the affirmative.

Resolved, on the motion of Mr Primrose: That:

The draft report as amended be the report of the committee and that the committee present the report to the House;

The transcripts of evidence, tabled documents, submissions, correspondence, and answers to questions taken on notice and supplementary questions relating to the inquiry be tabled in the House with the report;

Upon tabling, all unpublished attachments to submissions be kept confidential by the committee;

Upon tabling, all unpublished transcripts of evidence, tabled documents, submissions, correspondence, and answers to questions taken on notice and supplementary questions related to the inquiry be published by the committee, except for those documents kept confidential by resolution of the committee;

The committee secretariat correct any typographical, grammatical and formatting errors prior to tabling;

The committee secretariat be authorised to update any committee comments where necessary to reflect changes to recommendations or new recommendations resolved by the committee;

Dissenting statements be provided to the secretariat within 24 hours after receipt of the draft minutes of the meeting;

The report be tabled in the House on 15 October 2024

The Chair to advise the secretariat and members if they intend to hold a press conference, and if so, the date and time.

5. Adjournment

The committee adjourned at 2.35 pm, *sine die*.

Peta Leemen and Sarah Newlands

Committee Clerk

Reconsideration of committee’s report

15 October 2024

On 15 October 2024, the committee agreed unanimously via email that under standing order 234(2) the committee's report adopted on 8 October 2024 be reconsidered, and the following paragraph after paragraph 3.77 be omitted:

'Mr Michael Carnuccio, CHIA, made clear that while CHPs would prefer other measures, as outlined above, in an ideal world, that the industry was very happy with this sign from the Government and would be happy to work with the measures put in place. Mr Carnuccio also commented on incorrect statements that the affordable housing requirement would result in less than one unit in a development, and noted that the requirement was set out as a measure for developments over a certain size to ensure that at least one whole unit was provided in a development. These sentiments were echoed by Mr Eamon Waterford, Committee for Sydney as well as other stakeholders.'

Appendix 4 Dissenting statements

The Hon Scott Farlow MLC and The Hon Jacqui Munro MLC, Liberal Party

During Portfolio Committee 7's consideration of the Transport Oriented Development Program, stakeholders raised a litany of concerns with the rollout, design and implementation of the program prompting serious concerns with the effectiveness of the program to deliver new housing supply.

A massive uplift in housing supply in NSW must be a top priority amid the economic and societal pressures of the housing crisis. The Liberal/National Coalition support measures, including increasing density along transport corridors to meet ambitious housing targets and such measures must be undertaken in consultation with local communities whilst ensuring the provision of appropriate infrastructure amenity.

The rushed implementation of the one-size-fits-all TOD SEPP provided no opportunity for community consultation, despite increased community participation being an object of the Act and no Explanation of Intended Effect (EIE) for any of the TOD SEPP sites, despite the provisions of section 3.30 of the Environmental Planning and Assessment Act.

This Government has been intent in telling local communities to “get out of the way” since day one and measures implemented with no community consultation, no notification or identification to impacted property owners and little infrastructure funding typifies this approach.

This inquiry canvassed concerns with the lack of consultation with councils and their communities before and after the program announcement, and the practical implementation of reforms with the development industry and other external stakeholders.

The evidence from most of the experts throughout this inquiry was that the TOD program, in its current form, was unlikely to achieve the housing supply uplift the Government has envisaged and in many cases may actually reduce the potential housing uplift. It is disappointing that strong recommendations to improve consultation mechanisms are not included in the final report, after being blocked by the Government.

The Government has put the cart before the horse with the introduction of the TOD SEPP. The Labor Government told councils this SEPP will be in place until councils have finalised strategic planning and rezoning. Generally, it should be the other way around.

The Coalition proposes a different approach – affording Councils the opportunity to formulate their own plans in consultation with their community to achieve meaningful increases in housing supply with a very strict timeframe and clear sanctions for non-participation. If Councils refuse to formulate plans for additional housing growth, then the implementation of State-led local planning controls is then appropriate – instead of at the beginning.

Many councils have implemented successful high-density precincts around transport hubs without the one-size-fits-all approach the TOD SEPP imposes within the Six Cities Region. The TOD SEPP does not recognise the success of many councils, but rather brings all down to the lowest common denominator.

Working with communities to identify suitable locations for extra housing through proper master planning processes to ensure access to transport, schools, hospitals and essential services must be a priority of Government. Policies must recognise that each community is different and has varying requirements to ensure a successful uplift in housing supply.

While areas included in the TOD SEPP are earmarked for more than 170,000 new homes, the Labor Government refuse to outline any additional funding to build and upgrade infrastructure and services needed to support an increased population.

TOD Accelerated Precincts have been allocated funding the equivalent of almost \$75 million per precinct which won't achieve the necessary infrastructure upgrades to support the sharp increases in planned capacity. The Government have provided no clarity as to how or when this funding will be allocated thereby leaving communities in the dark.

During hearings and in submissions, stakeholder groups and councils explained the importance of including employment opportunities amongst considerations about liveability, alongside service delivery and infrastructure investment. Well-located jobs were considered a necessary but absent component of planning for higher density in many TOD precincts. Improved planning consideration of employment opportunities would avoid creating a secondary problem – job shortages for incoming residents.

Witnesses noted that these concerns are exacerbated when the residential rezoning through the TOD precincts erodes employment lands, particularly across the eastern economic corridor and in innovation districts. The committee heard evidence the Macquarie Park Innovation District is at risk of losing employment, economic and residential growth opportunities because of the government's unwillingness to work with local stakeholders.

The Coalition believes this report should have gone much further in its recommendations, including the:

- publishing of the rationale for TOD precinct selection and resultant impact on affected communities;
- improvement of community consultation mechanisms aiming to promote authentic collaboration with councils, external stakeholders and impacted communities;
- development of EIE's for all TOD SEPP sites, including new dwellings estimates during the Housing Accord Period and through 2041;
- clarification to how the TOD SEPP will operate alongside existing planning controls amid stakeholder confusion;
- reassessment of infrastructure funding arrangements to ensure that vital supporting infrastructure is delivered before the occupation of new housing supply, especially in TOD SEPP precincts;
- acknowledging concerns about a lack of provision for employment lands and further clarification of jobs targets to ensure well-located employment opportunities alongside dwelling density;
- consideration of a new Innovation SEPP to protect high value employment regions during the rezoning process; and
- reform to the haphazard TOD affordable housing framework which was sharply criticised by stakeholders.

Unfortunately, the most pertinent recommendations proposed were either removed or heavily edited beyond recognition by the Government members on this committee. Numerous recommendations were proposed in good faith which would have assisted in clarifying stakeholder concerns and ultimately strengthened the program.

The Government should treat this inquiry and report as an opportunity to reassess the TOD Program and other housing reforms by meaningfully addressing the concerns of councils, stakeholders, industry, and the wider community. Coalition members are concerned that the Government is disinterested in entertaining scrutiny – when Government should be seeking consensus on the design of the TOD program to achieve the bipartisan goal of the successful and timely delivery of new housing supply.

