

Department of Planning, Housing and Infrastructure

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Pathway changes to support Transport Oriented Development

Explanation of Intended Effect

July 2024



Acknowledgement of Country

The Department of Planning, Housing and Infrastructure acknowledges that it stands on Aboriginal land. We acknowledge the Traditional Custodians of the land, and we show our respect for Elders past, present and emerging through thoughtful and collaborative approaches to our work, seeking to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally and economically.

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More information

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Abbreviations

Abbreviation	Description
DA	Development application
DPHI	Department of Planning, Housing and Infrastructure
EDC	Estimated Development Cost
EIE	Explanation of Intended Effect
Housing SEPP	<i>State Environmental Planning Policy (Housing) 2021</i>
LEP	Local Environmental Plan
Planning Systems SEPP	<i>State Environmental Planning Policy (Planning Systems) 2021</i>
SEPP	State Environmental Planning Policy
SSD	State significant development
TOD	Transport oriented development

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Executive summary

This document proposes a suite of changes designed to support the Transport Oriented Development (TOD) Program.

The proposed changes include introducing a temporary SSD pathway for residential development with a value of over \$60 million in the TOD Accelerated Precincts.

It is proposed that this pathway would be in place until November 2027, with consents granted under the TOD category to also be time-limited to encourage proponents to begin works within two years.

Several special provisions are also proposed to support the TOD rezoning process and streamline all residential development in the TOD Accelerated Precincts. These are:

- exemption from in-fill affordable housing provisions
- exemption from low-and mid-rise housing reforms
- exemptions from certain concurrence and referral requirements, and
- an alternative design excellence pathway.

The Department welcomes feedback on the proposed policy and will review the submissions made during the exhibition period.

1 Introduction

1.1 Purpose of this document

This document has been prepared for the purposes of section 3.30 of the *Environmental Planning and Assessment Act 1979* to provide an explanation of the intended effect (EIE) of the proposed amendments.

The mechanisms for implementing streamlined processes for development in the TOD Accelerated Precincts will be determined following exhibition and having regard to public feedback.

This document has been prepared for public exhibition purposes only.

1.2 The housing crisis

Housing is a key priority for the NSW Government. There is a shortage of diverse and affordable homes in well-located areas, close to where people live and work and close to transport and other amenities. In order to address the housing crisis, all levels of government committed to the National Housing Accord in October 2023. The Accord includes an aspirational target to build 1.2 million new well-located homes over 5 years from mid-2024. The NSW share of this shared ambition is a target of 377,000 new homes by mid-2029.

One million more residents are expected to call NSW home by 2034. Over the next 20 years, approximately 45,200 new homes need to be delivered each year to support NSW's projected population and the growth of prosperous and thriving communities. Without intervention, a safe, secure and affordable place to call home will be beyond the reach of future generations.

In response to the housing crisis, the NSW Government have implemented several new planning policies to increase approvals of well-located dwellings. These new policies include the TOD Program and the in-fill affordable housing SSD pathway which require greater direct involvement from the Department of Planning, Housing and Infrastructure (the Department) in the delivery of housing at both the strategic planning and development assessment stages.

The increased involvement of the Department in the assessment of residential SSD applications necessitates a review of the types of development entering the existing planning pathways to ensure that they are achieving their intended purposes.

1.3 The TOD Program

The TOD Program, announced in December 2023 as part of the broader NSW housing response, will deliver a large volume of new dwellings in areas that leverage existing transit infrastructure investment, reflecting the NSW Government's commitment to supporting growth around transport hubs. It identifies eight TOD Accelerated Precincts in high growth areas near transport hubs in Greater Sydney as State-led rezonings.

Land within 1,200 metres of 8 rail and metro stations will be rezoned by the NSW Government to allow for more new and affordable homes. The 8 accelerated precincts are:

- Bankstown
- Bays West
- Bella Vista
- Crows Nest
- Homebush
- Hornsby
- Kellyville; and
- Macquarie Park

1.4 State significant development – background

State-level assessment of major projects has been a part of the planning system for around 25 years. The current SSD pathway was introduced in 2011 and carried over key concepts and categories of development from earlier major projects pathways, with various additions and refinements being made to categories over time.

Development is generally classified as State significant development based on the scale, nature, location and strategic importance of the development to the state, including:

- large-scale and complex proposals, with potential to cause significant impacts (e.g. mining, energy, hazardous waste facilities, contaminated land remediation, major industrial complexes).
 - major employment-generating industrial development (e.g. intensive livestock operations, primary resources and industrial processing, port facilities).
 - high-value social infrastructure and strategically important urban development (e.g. health facilities, educational establishments, correctional centres, Homes NSW's development, build-to-rent housing, seniors housing, Western Sydney Aerotropolis).
-

- development at sites of key importance (e.g. Sydney Harbour foreshore sites, Moore Park, Royal Randwick Racecourse, Western Parklands, Penrith Lakes, railway station precincts).

1.5 Concurrence and referrals - background

A concurrence is a provision that refers a DA to authorities (generally State agencies) for review and formal agreement before it can be determined. Concurrence requirements are typically identified in environmental planning instruments, but also exist in some Acts, such as the *Biodiversity Conservation Act 2016*.

A referral is a provision that refers certain DAs to a relevant authority for consultation purposes to obtain advice. For example, under section 2.122 of the *State Environmental Planning Policy (Transport and Infrastructure) 2021* (Transport and Infrastructure SEPP) councils must consult with Transport for NSW before determining development proposals for traffic-generating development on certain land¹.

Both concurrence and referral provisions typically regulate timeframes in which a concurrence and referral authority must respond; however, a determining authority will often provide authorities with extended timeframes to provide advice. In some cases, delayed concurrence and referrals could add up to an additional 55 days to DA assessment timeframes in the LGAs containing TOD Accelerated Precincts².

The Department has been leading an improvement program to ensure authorities deliver quality and timely concurrence and referrals. While improvements to the timeliness of concurrence and referrals have been made, the Department is looking to shift from a resource-support based approach to broader planning framework reforms to facilitate long term improvements and support the delivery of priority housing projects.

1.6 Focus and objectives of proposed changes

The focus of the proposed changes is to support the TOD program and streamline the delivery of dwellings in the TOD Accelerated Precincts.

The objectives of the changes proposed within this EIE are to:

- simplify planning controls within the TOD Accelerated Precincts

¹ The Department of Planning, Housing and Infrastructure's Development Referrals Guide, October 2023

² Based on NSW Planning Portal data for January to December, 2023

- encourage lodgement of applications for residential development in the TOD Accelerated Precincts
- streamline the development application process so that applicants can lodge development applications sooner and so that consent authorities can determine them rapidly
- ensure that developments within the TOD Accelerated Precincts achieve high-quality design outcomes.

2 Proposed changes

2.1 SSD category for TOD Accelerated Precincts

To support the TOD Program, it is proposed that a new temporary SSD category be established for residential development valued over \$60 million located within the eight designated TOD Accelerated Precincts. The pathway will remain in place until November 2027 to encourage lodgement of DAs within the five-year Housing Accord period.

The Bays Precinct, Bella Vista and Kellyville are identified SSD sites and have pre-existing SSD pathways for certain development. The \$60 million threshold for residential development is proposed to be implemented where not already captured by existing SSD thresholds that apply to these precincts.

Table 1 – Proposed new TOD SSD category

Sector	Proposed SSD category
Transport oriented development (TOD)	Residential development in TOD Accelerated Precincts above \$60 million (until November 2027)

2.2 Other changes to support TOD Accelerated Precincts

To support housing delivery and ensure development outcomes align with the strategic intent of the TOD Accelerated Precincts, it is proposed to establish exemptions from certain provisions within the eight TOD Accelerated Precincts.

Exemption from in-fill affordable housing provisions

The in-fill affordable housing bonus is a floor space ratio (FSR) bonus of 20-30 per cent and a height bonus of 20-30 per cent for projects that include at least 10-15 per cent of gross floor area (GFA) as affordable housing. The height bonus only applies to residential flat buildings and shop-top housing, and the FSR and height bonuses are proportional to the affordable housing component.

Given the TOD Accelerated Precincts are subject to a State-led rezoning and a separate SSD pathway is proposed, the eight TOD Accelerated Precincts are proposed to be exempted from the in-fill affordable housing bonuses under Chapter 2 of the Housing SEPP and the

associated SSD pathway under section 26A of the Planning Systems SEPP. This exemption is also proposed to apply to the Cherrybrook State-led rezoning precinct.

Exemption from low-and mid-rise housing reforms

The low-and mid-rise (LMR) housing reforms propose expanded permissibility of housing types and related planning controls in station and town centre precincts.

Further information on the LMR housing reforms can be found in the [explanation of intended effect](#) published by the Department in December 2023.

To ensure the most appropriate outcomes for the areas identified in both the application of the LMR housing reforms and the accelerated TOD rezonings, the interrelation between the two will be fully assessed. The intention is to reduce duplication and maximise housing potential for lots identified in both the TOD Accelerated Precincts and the low and mid-rise reforms, which may mean exempting some TOD Accelerated Precincts from the LMR housing reforms.

Exemptions from certain concurrence and referral requirements

It is proposed to exempt local and regionally significant development within the TOD Accelerated Precincts from concurrence and referral requirements that are not considered high-risk. This exemption is proposed to be established for a period of five years. High-risk concurrence and referrals will be retained to ensure safe and orderly development.

To determine which concurrence and referral provisions will be subject to the exemption, the Department is developing risk criteria, including the presence of potential hazards and the likelihood of significant adverse planning outcomes and will work with Government agencies to finalise this.

The Department wants to understand from stakeholders, councils, agencies and the development sector about what concurrence and referrals could be switched off through the development assessment process as they could be duplicative (examine the same matters at the rezoning stage as at the development assessment stage) or may not be relevant in these locations.

Alternative design excellence pathway

To ensure faster DA assessment timeframes are combined with high-quality design outcomes, a consistent approach to design quality will be set out across all TOD Accelerated Precincts.

Where an LEP requires a design competition that would apply within an accelerated TOD precinct, an alternative design excellence pathway will be introduced. This alternative pathway is being developed by the Government Architect NSW and will involve a design review process and a requirement regarding the selection of architects.

3 Next steps

Following the close of exhibition, the Department will review submissions and finalise the policy, including savings and transitional provisions. The Department is aiming to implement the changes by the end of 2024 in line with the rezonings of the TOD Accelerated Precincts.

4 How to get involved

The Department welcomes your feedback on the proposal outlined in this EIE. Your feedback will help us better understand the views of the community and assist us in finalising the proposed amendments outlined in this EIE. The final categories and standards may vary from those identified in this EIE in response to the feedback received and legal drafting.

Submissions can be made on the NSW Planning Portal.

All submissions will be made public in line with our objective to promote an open and transparent planning system. If you do not want your name published, please state this clearly at the top of your submission. The Department will publish all individual submissions and a summary report on all submissions after the exhibition period has ended. The Department may accept submissions from councils needing additional time to provide a considered submission. Any council seeking more time to provide a late submission should advise the Department before the end of the submission period.