

9 August 2024

Mr Andre Szczepanski
Director Assessment and Systems Policy
Department of Planning, Housing and Infrastructure
Locked Bag 5022
Parramatta NSW 2124

Dear Mr Szczepanski

Re: Response to the EIE: Proposed pathway changes to support Transport Oriented Development

Urban Taskforce welcomes the commitment of the NSW Government to increase housing supply and feels that the TOD program, both Tier 1 and Tier 2 TODs will be significant contributors to this goal.

However, members have advised that they are both concerned and disappointed in the proposed T1 TOD pathway changes detailed in the EIE documents but are keen to work DPHI to resolve these matters before any changes are finalised and implemented.

The concerns related to the proposed changes to the pathway, detailed in the TOD pathway EIE, are exacerbated by what members feel is the unambitious scope for additional housing supply contained in the relevant precinct EIEs (and associated documentation) will be detailed in our submission on the EIE documents.

In dealing with the EIE on the proposed planning pathway for T1 TODs, the first among many concerns is the proposal to include the very high affordable housing contributions provided in perpetuity, based on what appears largely unverified set of random assertions of feasibility. This alone significantly undermines the prospect of delivering housing supply in many of these well-located areas.

The percentage of yield to be dedicated for affordable housing in perpetuity is based on the total yield of the build (including the non-residential GFA).

Our members advise that the increases in yield proposed are, in many cases, not sufficient to keep pace with increases in the cost of construction, let alone afford the proposed new affordable housing tax which ranges from precinct to precinct (and in some cases, site to site) from 3% of total GFA to 15% of total GFA.

In areas like Macquarie Park, Crows Nest/St Leonards and Hornsby, there are a massive number of properties that have not been examined, either because they were outside the scope of work planned by DPHI, or for some, because they had

recently had SSD determinations on applications. No effort appears to have been made to understand if those sites could support further increases in height or density. This conservative approach is reflected through the entire suite of documents.

The government's announcement was for the precincts, bounded by a 1.2km radius of the transport node, to be rezoned.

Instead, what has been exhibited is little more than a "bring-forward" of existing rezoning work undertaken by DPIE or local Councils. Urban Taskforce has concerns that DPHI or Councils will now use the fact that this TOD rezoning work has been done to refuse to consider other proposals within the precinct. This outcome must be avoided.

The TOD planning pathway EIE is unclear on the relationship between existing LEP affordable housing provisions and this new proposed affordable housing tax. It is clear that any affordable housing bonus associated with the infill affordable housing section of the Housing SEPP are to be switched off, but not clear on whether the local LEP provisions are similarly switched off.

While there is urgency embedded in the proposed changes with fixed timeframes for the activation of DA consents, there is no similar provision proposed for the Government and its agencies. The flagging of changes to referral and concurrence provisions is welcome, but no details have been made available.

This is one of the most important areas for reform and the lack of detail on this reflects a concerning obsession from DPHI on regulating the private sector, rather than improving the performance of government.

To overcome Councils and others that may seek to frustrate the intentions of the government in delivering housing supply in well located areas serviced by transport infrastructure, the SEPP should include specific reference to the primacy of this objective.

More broadly, as noted above, Urban Taskforce welcomes the commitment of the NSW Government to increase housing supply through the TOD program. However, we seek clarity from government on the longer-term approach. We believe that there is scope for a sustainable long-term rolling program of many more TODs across the Metro, heavy rail and light rail networks, both existing and proposed.

A sustained program of identifying future TODs would support longer term investment programs by developers and would underpin a coordinated approach to ensuring adequate infrastructure capacity was in place to facilitate development feasibility and project delivery in a timely manner.

There are more than 300 stations on the rail network, and all to varying degrees, offer the opportunity for more housing in the medium to longer term.

Transparency about ongoing commitments to future TODs would assist in providing developer certainty and would enable sufficient time for well-considered planning frameworks to be put in place.

We urge Government to work with industry on creating a comprehensive and transparent program to ensure housing supply over the short and long term. This work could be integrated with the DPHI's renewed emphasis on the Urban Development Program.

Details of our comments on the TOD Planning Pathway EIE can be seen below along with associated recommendations.

Affordable Housing

When considering affordable housing contributions from the development of housing, context is critical.

Aside from the widely recognised increases in construction costs, ASIC data reveals that the property development and construction sector is massively over-represented (almost one in three of all liquidations) in their listings of insolvencies and companies placed into administration.

The idea of developers rolling in rivers of gold is simply a myth, and the development of policies like the provision of up to 15% of GFA to affordable housing in-perpetuity can only be considered if this myth is ignored.

Many developers are currently being forced to diminish their anticipated margins (those used in feasibility analyses to justify bank loans) to keep their builders afloat, for fear that once skilled builders are lost to the industry or the State of NSW, they will not come back.

The increases in height and density associated with a range of new planning policies (Low and Medium Density Housing Reforms; Tier 1 and Tier 2 TOD reforms; Affordable Housing height and density bonus provisions in the Housing SEPP) were seen as a way of restoring profits to the sector and thus flow on to banks releasing capital for construction activity.

One of the biggest constraints on housing feasibility has been the application of new affordable housing taxes in precincts where the government has proposed uplift (increased height or density).

This "quid-pro-quo" proposition worked in the case of the infill Affordable Housing bonus provisions of the Housing SEPP which were added to the Housing SEPP. In that case, applicants could apply for an additional 20-30% in additional height and FSR, provided 10-15% of the total yield was made available to a registered Community Housing Provider (CHP) to manage the property for 15 years in return for the payment of a fee.

The rent collected by the CHP (at a discount to market rent in accord with the details contained in the Housing SEPP) is paid to the developer. Then, all going well,

the developer has a choice after 15 years to sell the property, or to continue to rent the property.

The capital gain over those 15 years assists the developer to pay for the discount from the market rent during that 15-year period.

For projects with a value of over \$75 million, a new State Significant Development assessment approval pathway was established.

While to date there have only been 6 applications lodged through this pathway, and 5 of those have been opposed by Councils (Councils oppose affordable housing which does not bode well), it is understood that there are more in the pipeline showing at least some degree of efficacy in terms of a contribution to housing supply generally, and affordable housing in particular.

Affordable Housing “In Perpetuity”

The EIE on the proposed planning pathway for Tier 1 Transport Oriented Development precincts takes a very different approach to that described above, and this makes all the difference to the feasibility of development and the prospects for the success of the policy when it comes to housing supply.

The wording on “affordable housing in-perpetuity” contained in the EIE is vague.

Does the developer collect the cashflow in the form of the discounted rent, or does the CHP? Does the developer continue to hold title on the completed housing stock, or is title passed to the CHP?

In the current wording of the EIE, it appears to state that the mandated percentage of new housing stock be handed over to a registered CHP for affordable housing in perpetuity, but the mechanisms for achieving this are very unclear. Any lack of clarity is seen by developers and financiers as akin to risk. Risk adds to financing costs (higher interest rates on borrowings) or causes delay.

In the case of the 8 Tier 1 TOD precincts (now 7 due to the amalgamation of Kellyville and Bella Vista into a single precinct) the affordable housing contributions (expressed as a percentage of gross GFA, including non-residential floor space) proposed, in perpetuity, are massive.

1. Kellyville & Bella Vista: 3% - 8%
2. Hornsby: 5% - 10%
3. Macquarie Park: 10% - 15%
4. Crows Nest: 10% - 15%
5. Homebush: 5% - 10%
6. Bankstown: 3% - 10%

The current EIE appears to apply the new affordable housing tax to **all properties in the relevant defined TOD precinct, whether or not they are beneficiaries of uplift.**

Urban Taskforce recommends that the affordable housing contribution be directly proportional to the uplift and be applied for 15 years, in the same way as the infill affordable housing provisions of the TOD SEPP apply. Having a single set of provisions on affordable housing makes for a simpler system to analyse, to administer and to deliver, thus reducing confusion, complexity, disputes and misinterpretation.

In dealing with the City of Sydney, which has always preferred affordable housing contributions in-perpetuity, even Clover Moore advises that 2.5% - 3% is the most you can expect on this basis.

Consistent with this, if affordable housing is to be provided in perpetuity, it should be by way of a transfer of title to a CHP and be capped at 3%.

Any uplift in zoning must be seen as a contribution to feasible housing supply in the context of the housing supply and affordability crisis.

While, (as noted above) the EIE is highly ambiguous, the contributions proposed are "in perpetuity" which range from 3% to 15% will make all the rest of taxes applied by the State Government look relatively insignificant. This is a "hand the keys over" tax. It means that the value of the contribution must be measured against the sale price, not the construction value (as is the case for infrastructure contributions).

Case study 1

New Affordable Housing tax will increase the cost of a typical 2-bedroom apartment by over \$200K

*The value of a 15% affordable housing contribution (in perpetuity) on a residential apartment building containing 100 apartments, based on a modestly appointed 2-bedroom apartment (80-85 sqm) in a nominated Tier 1 TOD precinct locations, is circa \$1.2 million **before** this new tax is applied. That represents a new tax of **15 x \$1.2 million = \$18 million.***

That assumes that there is demand for a development of a 2 bedroom apartment at that price. In many of these precincts, that is not affordable, therefore the development is not feasible, even before the new Affordable Housing tax is applied. In other locations, the cost of land and levies will make the same price needed for a feasible development such higher than this.

Nonetheless, this hypothetical case would see 15 apartments (15% of the 100 apartments built) dedicated to a CHP in-perpetuity for the purpose of providing affordable housing supply.

This is assuming a conservative (low) construction cost and a modest land price.

*If the total yield **before** the new tax was going to generate 100 x \$1.2 million = \$120 million.*

The loss of \$18 million in gross revenue must be recouped from the other 85 market sales.

This is a massive imposition of the feasibility of any project, with or without any bonus in yield.

That pushes the price of apartments that will be sold to the market up from \$1.2 million to \$1.411 million. An increase in the cost of new homes of \$211,000.

A \$211,000 new tax on housing, just because of this affordable housing in-perpetuity provision.

The assumptions underpinning case study 1, above, are conservative in terms of its pricing of construction. The above assumes a construction cost of \$675,000, a land price of \$225,000 per apartment, local Infrastructure contributions of 3% or \$20,250, interest on pre-construction costs of \$60,000, holding costs, the price of an SSD application and associated consultants' reports of \$60,000 per apartment and a Housing and Productivity Contribution (tax) of \$10,000.

Total cost of delivering a standard 2-bedroom apartment is circa \$1,050,000. A bank would not lend any proponent finance unless the proposed sale price is \$1.2 million per 2 bedroom apartment.

The 'in-perpetuity' affordable housing provisions proposed will not provide affordable housing. In fact, Urban Taskforce fears that in many locations, they will block the private sector from providing any housing, resulting in upward pressure on prices coming as a result of supply failure.

Further, there is a lack of clarity as to how the proposed affordable housing contributions relate to existing affordable housing provisions within Council LEPs. Do they override the local provisions, or are they in addition to the local provisions?

The EIE is not clear on how the SEPP changes will relate to Section 7.32 of the EP&A Act 1979. It is important that this is clear, and it is also important that there be only one set of affordable housing provisions applying.

Non-Residential Minimums

DPHI commissioned Atlas Economics to undertake an Economic Impact Assessment for the proposed rezoning at Crows Nest. This Report states that the feasibility of providing additional commercial floor space is reducing.

"Overall, there is a significant amount of vacant floorspace across Crows Nest/St Leonards, in the order of 95,000 sqm."

Atlas Economics, p15, Crows Nest State-led Rezoning – Economic Impact Assessment, July 2024

This is partly due to the post COVID reduction in office accommodation demand; partly due to the strong growth in commercial floor space (arguably a flood) in precincts like Parramatta, St Leonards and North Sydney, rendering requirements for non-residential floor space and zoned commercial areas in the Macquarie Park and Crows Nest TOD precincts redundant and counterproductive.

Non-residential minimums create market inefficiencies that drive upward pressure on the price of housing. When market dynamics aren't responded to in the production of residential and non-residential stock, there will be a deficit in demand for one. The lack of sales or rental yield of one side (in this case non-residential floor space) will need to be made up through higher prices from the sales of the stock on the other side (residential).

So why have the non-residential minimum requirements been maintained? Worse, why has the commercial floor space obligation been reduced on the Metro site (owned by the Government) but not every other site in the precinct?

The selection of sites for additional yield appears to have excluded all sites that have been recently rezoned, despite the fact that these rezonings have resulted in little if any actual development in these areas.

Other sites, well within the 1.2km radius for the State-led rezoning work, have not been looked at – this is particularly the case in St Leonards.

The strategic planning team that has undertaken this work appears to have adopted a highly conservative approach.

One of the reasons that the Macquarie Park precinct has not been developed is the unrealistic emphasis on commercial (non-residential) zoning, in an area where there is no demand for this land use type along with an existing flood in supply.

The private sector spends considerable resources on market analysis to understand what the demand for residential and non-residential will be in the future. They then design the building in accord with the relevant controls to ensure they meet the market and can produce a feasible development on the relevant site.

The Affordable Housing Contribution percentages is proposed to be applied to the whole of the building (the gross GFA), including non-residential components. This further reduces the residential yield for development proponents and stops credit issuance at the feasibility stage.

There are already empty commercial buildings in Macquarie Park, Crows Nest and St Leonards so any obligation to provide additional commercial floor space reduces the feasibility of development. This is noted in the Atlas Report referred to above.

The fact that this commercial floor space is also taxed in the form of an affordable housing contribution is outrageous and is strongly opposed.

A more fitting approach would be to require the activation of street frontages. This would keep urban streetscape vibrant and allow the market to respond to what is needed.

Urban Taskforce recommends that any affordable housing levy should be based only on the residential component of a building development.

Affordable Housing should be Height and GFA exempt

To provide a genuine stimulus for the delivery of affordable housing, it should be excluded from the GFA and height calculations for the building.

This is a simple planning change which would genuinely benefit the feasibility of including affordable housing in proposed developments.

Affordable Housing Contributions Recommendations

- 1: The TOD pathway changes should remove the 'in-perpetuity' clauses from the affordable housing provisions completely. The 15-year period provisions that apply to the infill Affordable Housing provisions of the Housing SEPP should be used as the basis for Tier 1 TOD accelerated precincts.**
- 2: Any affordable housing levy to be applied must be proportional to the increase in actual increase in residential yield on any site, so any range for contributions must start at 0% and go up to no more than 15% for 15 years where there has been substantial uplift in height and permissible GFA/FSR.**
- 3: If contributions are made through an Affordable Housing Scheme, and are in-perpetuity, those contributions should be capped at 3%.**
- 4: Calculations should not be based on the gross yield of a building development which contains prescribed non-residential minimum floor space controls. Affordable Housing contributions should be based on the uplift in residential GFA.**
- 5: The relationship between any affordable housing provision under this policy with any existing LEP affordable housing provision must be made clear. The new policy, once implemented, must replace any existing LEP affordable housing provision.**
- 6: To promote feasible affordable housing supply in TOD precincts, the TOD pathway policy should make any Affordable Housing Height and GFA exempt.**
- 7: The TOD Pathway changes should be adjusted to align with commercial feasibility studies. These studies should test the viability of proposed land-uses and prescriptive ratios for non-residential land uses. Active street frontages should be applied through ground floor and podium commercial zoning only. Other floors should be mixed use to allow for maximum flexibility.**

The Primacy of Housing Supply should be written into the SEPP

The EIE's proposed policy is unambitious in its scope for reform.

With other states forging innovative plans and policies to generate improved efficiency, stimulate the private sector and drive housing supply, the crisis we face in NSW requires a bolder approach to reform than that proposed in this TOD pathway EIE.

Case Study 2

Queensland SDAs

Queensland has areas designated "State Development Areas".

Once designated a State Development Area, the need for reanalysis through the DA assessment process is removed. This, along with the involvement of the Co-ordinator General, results in a significantly improved assessment and approval performance. If the project has met a set of standard rules – you get an approval.

This culture is one that can be usefully adopted in driving reform through the T1 Accelerated Precinct planning reforms.

The TOD Planning Pathway must include a clear signal to local governments, consent authorities, Courts, communities and development proponents, that housing needs happen and faster than ever before.

The NSW Government should include an explicit provision in the changes to the SEPP to give primacy of the need to supply housing.

Such an explicit statement would result in the Courts immediately considering this against all other planning controls. This is particularly important when dealing with non-statutory planning controls like the DCP/ADG controls.

An example of this approach being used was in the case of the 'State Environment Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007', known as the 'Mining SEPP', where clause 12AA states the requirement for the significance of the resource (and the economic benefits of developing the resource) to be the 'primary consideration' in the development approval process.

The Government should therefore be embedding this urgency into policy reform through this process. This change would deliver both an imperative for decision makers and have a direct impact on increasing housing supply outcomes.

Primacy of housing supply must be written into the SEPP - Recommendation

8: that 'primacy for the need for housing supply' should be explicitly included in the SEPP changes associated with the TOD pathway reform.

The Use-it or lose-it timeframe provisions are too short

Property developers have been subjected to a heavy emphasis on "use it or lose it" when it comes to SSSDA approvals in T1 TOD precincts in the EIE documents. But the balance is wrong. The same imperative for urgency must apply to all aspects of the assessment and approval process. At present, this reciprocal obligation on government and its agencies is missing from the EIE documents.

For example, the SSSDA T1 TOD Precinct Planning Pathway is only open until 2027.

Page 5 from the EIE states: “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”.

The proposed time limits are not practical and not realistic.

The November 2027 date is too soon. If the intent is to encourage more housing to address the housing crisis, then they need to ensure the TOD changes are in place for longer. The Assessment authority and Government Agencies need to ensure that the SSDAs are being assessed and determined rapidly – referrals are delivered promptly and there needs to be a fixed time frame for Determination.

The life of a DA should be maintained at 5 years for substantial commencement as per industry norm. There are many external factors that are outside a Developer's control that may prevent Developers from commencing works promptly (eg. higher interest rates/finance costs, higher construction costs, financing approvals). Two years is not a practical timeframe for resolving all these matters and could result in considerably fewer applications being lodged (given the substantial cost of the preparation of a SSD application).

The property development community will typically aim to commence works as early as possible to minimise Holding Costs, so if developers or builders could commence works within 2 years, they would. However, there are many external parameters that affect the ability to commence works. Importantly, this includes having finance in place; the financier's conditions precedent are satisfied, sufficient presales are in place, and there is the availability of builders.

The Use-it or lose-it timeframe provisions are too short - Recommendation

9: The five years for the activation of a DA should be maintained. To cut this period short will increase risk for development and reduce application numbers.

Negative Uplift contrary to Ministerial Directions

When a new Affordable Housing Tax is levied upon a site, there will need to be sufficient increases in permissible yield to ensure feasibility of development. If not, this is an effective down-zoning and thus inconsistent with the Local Planning Direction 6.1 Residential Zones.

Direction 6.1 (2)(b) states:

*A planning proposal must, in relation to land to which this direction applies: **not** contain provisions which will reduce the permissible residential density of land.*

Establishing a provision in a SEPP which applies a new contribution scheme without increasing the yield of the site, sufficient to feasibly develop that site, is arguably contrary to this Ministerial Direction.

Negative Uplift contrary to Ministerial Directions - Recommendation

10: No changes should result in the downzoning of any land.

Build-to-Rent Housing

Under the proposed precinct changes, the portion of permissible residential development that must be BTR is, in many cases, too high. This is exacerbated by further requirements for minimum non-residential floor space.

Urban Taskforce supports a market-based approach with greater flexibility in zoning.

This enables a fast response to changes in market demand. The absence of this flexibility has resulted in a dismally slow response to the post-COVID environment, and this is a factor which should be considered in this round of policy change.

Although the recent changes allowing BTR development in commercially zoned areas are supported, the extensive planning by DPHI staff results in significant delays for minimal housing yield. Combined with the new Affordable Housing contributions tax, rising construction costs, the Housing and Productivity Contributions tax, and cumulative local infrastructure costs from Sections 7.11 and 7.12, these pathway changes are unlikely to achieve their intended goals.

Combined, these imposts will severely reduce the uptake of development opportunities unless meaningful contribution relief is provided or more heights and densities are allowed.

The EIE does not assist with student housing or BTR near Universities. With a considerable factor in shortages in housing supply being the re-population of our universities with fee paying overseas students, this surely must be considered, if not in this policy, then separately.

BTR Housing and Commercial Zoning - Recommendation

11: Implementing a market-based approach with greater zoning flexibility, making developments more feasible in all TOD locations.

12: Include provisions in the TOD Program to support student housing near universities.

Conflicting planning controls contradict intent of TOD precinct planning policy

The intention of the new TOD pathway to allow greater housing yield around T1 TODs are effectively undermined by many contradictory planning regulations and local development controls. The benefit of an SSD assessment is that local DCP controls are switched off and the assessment is a broad merit-based assessment.

Even when maximum heights and FSR's are aligned, the local controls for setbacks and overshadowing, for solar access and separation of buildings often undermine the theoretical permissible density. If strictly applied, many sensible housing proposals can fall short.

Urban Taskforce does not advocate for the abolition or removal of these controls. What Urban Taskforce suggests is there must be flexibility to allow non-compliance to be measured against the need for affordable housing and housing supply more generally.

This is precisely the basis of merit-based assessments – a mechanism to balance competing imperatives through an SSD assessment pathway.

Conflicting planning controls contradict intent of TOD precinct planning policy - Recommendation

13: The TOD pathway should be explicit in providing for merit-based DCP/ADG non-compliance allowances that provide flexibility where imperatives run counter to the delivery of housing.

Referrals and Concurrences

The suggestion in the EIE that there is a need to reduce the large and wide volume of concurrences and referrals to state government agencies for DAs within T1 TOD precincts is very welcome.

There are two main factors when discussing referrals and concurrences from the perspective of least time and resource impact on housing delivery: how many are required and the speed of their return.

In the same vein that DPHI is now pushing for urgency when it comes to lodging applications and the commencement of construction, there needs to be a time limit on referrals that continue to be required. Furthermore, the SEPP should allow landowners and developers who are “ready to go” to progress through planning proposals phases without hold up.

The EIE on the pathway changes for TODs seeks to place an imperative of the NSW development community to progress with alacrity from DA approval to the start of construction then the delivery of completed housing stock. However, the EIE proposed no commensurate obligation on NSW Government agencies when it comes to referrals and concurrences.

While it is unlikely that TfNSW (the worst offender when it comes to timely provision of advice or any concern for the feasibility of housing development) will agree to most applications being deemed “low risk”, traffic and transport impacts should be assessed against a strict timeline with a presumption of concurrence should the time limits for response be passed.

As proposed, redundant and “low-risk” referrals and concurrences should be removed. It is also vital for the efficacy of this policy that any required referrals are stipulated upfront by DPHI (in the case of SSD applications) or Council staff.

Any referrals which are required must be backed up with a timeline that must be enforced with the presumption of concurrence. The planning system often ties itself in knots when, on the one hand, it develops a set of standard conditions of consent, but on the other hand, it invites agencies to give concurrence post-approval.

Any conditions applied by any third party must have a statutory timeframe for compliance (to stop that agency effectively frustrating housing supply in these designated T1 TOD precincts) and must be made with a view to prioritising housing supply and affordability.

The processes involved for the future of referrals and concurrences from State Government agencies should be trailed and regularly reviewed to ensure the correct specialists are consulted without burdensome irrelevant checks.

Referrals and Concurrences - Recommendation

14: Restrict referrals and concurrences to “high risk” areas only and make every effort to reduce the number and scope of these referrals.

15. Concurrences and referrals should be advised to the applicant up front, along with the scope of the referral. Once referred, the scope should not be changed (added to) by the authority.

16: Apply a strict timeframe with a default to concurrence if the timeframe for the referral is not met.

17: Establish a protocol for resolving matters of dispute over scope of consent conditions to involve senior representatives of DPHI, the Co-ordinator General for Infrastructure (Tom Gellibrand) and the relevant agency.

Streamlining Planning

While the recent focus on SSDA pathways, including that proposed through the T1 TOD assessment pathway, is welcome, Urban Taskforce members have noted the repeated problem of multiple pre-lodgement scoping meetings for SEARs with new additional conditions given at each meeting, reflecting a lack of clarity from DPHI staff.

Urban Taskforce is advised that with adequate forethought, many of the “additional requirements” brought up in the second or third meeting could easily have been given in the first meeting, or in fact not included at all.

It would be useful for DPHI to outline, up front, what studies and reports they **do not require** for each precinct. This could be caveated with notes of occasional requirement for those studies because of a site-specific need, however these site-

specific reports should also be demanded upfront - ie. DPHI will not require an explanation of X unless Y condition is present.

In London, the Government has applied a system of guaranteed planning turnaround (DA assessment and determination) of 12 weeks. This stands in stark contrast to the 36 weeks currently needed in Sydney after a SSDA is lodged. The Starmer Government has produced an entire Planning Policy Framework document which includes major change after only 4 weeks in power.

The NSW Government should take a leaf from the Victorian planning system and establish a "fast lane" for assessments and approvals. Such a fast lane should also be established in the NSW Land and Environment Court so matters that are disputed can be resolved quickly (with an applicable fee to cover the bring-forward costs to the Court should the applicant choose the fast-track path).

The notion of 'fast lane for approvals' is not new, nor complex. Capitalising on the urgency on developers has always existed, however in this time of housing crisis, the urgency should be reciprocated on the government's side. There is an opportunity to further streamline the housing pipeline through the reduction of duplicated approvals and State Significant Development Applications.

If a DA already has consent, but the site could support a significant uplift, any reports should be focussed on the marginal impact to reduce the cost of applications and improve assessment times. Members have expressed concern over the level of planning assessment experience and competence amongst the SSDA assessment team at DPHI. While it is understood that many of these staff are new to their roles, they have the eyes of the nation focussed upon this.

There is a need for additional resources to provide leadership, oversight, consistency and cultural change. Simply relying on the work done by predecessors, as appears to be the case with these accelerated TOD precincts, will not deliver the results that are hoped for in terms of housing supply.

Streamlining Planning - Recommendations

18: The establishment of an optional 'Fast track' lane in the Land and Environment Court to resolve disputes, for a bring-forward fee.

19: Consistent with the bold approach to housing supply taken in the UK, DPHI should strengthen the proposed TOD Pathway Changes, their intention and the primacy of housing supply.

20. DPHI should strengthen its senior level support for the SSD assessment team, particularly in the early pre-SEARs phase, but also through out the assessment of the application to drive a culture which supports housing supply.

21: The new TOD pathway amendments should include provision for Cabinet oversight to resolve disputes over referrals and concurrences from agencies.

Design Excellence Alternatives

There is some merit in the changes to the use of design competitions as proposed in the pathway changes to support TODs EIE, however, these changes should not be limited to a select group of architects.

In the view of Urban Taskforce, becoming a Registered Architect in NSW is a high enough bar to jump. The changes, as proposed, give unnecessary power and influence to a small number of AIA judges who are not part of the public service.

Being a Registered Architect with experience in the relevant building type should be qualification enough and it is unwarranted to leave it to a select number of architects.

Without an example framework for implementation, these Design Excellence Alternatives should be trialled in an area where it is required. There should be regular reviews for the program's functionality, productivity and efficiency.

No details have been provided on the criteria for assessment. No appeal mechanism has been established. This will place considerable focus, attention and pressure of the decision of the NSW Chief Government Architect.

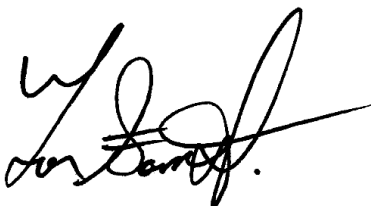
Design Excellence Alternatives - Recommendation

22: The TOD SEPP should be amended to allow Registered Architects with experience in the design of the relevant building type to be eligible for Design Excellence Alternative designation, and the Design Excellence Alternatives should be trialled before their broad implementation with regular reviews being planned and met.

Conclusion

Should any Committee member wish to discuss matters relating to this submission, please contact me on 0429 460 863 or via email.

Yours sincerely



Tom Forrest

Chief Executive Officer

Appendix A - Full list of Urban Taskforce Recommendations

Affordable Housing Contributions Recommendations

1: The TOD pathway changes should remove the 'in-perpetuity' clauses from the affordable housing provisions completely. The 15-year period provisions that apply to the infill Affordable Housing provisions of the Housing SEPP should be used as the basis for Tier 1 TOD accelerated precincts.

2: Any affordable housing levy to be applied must be proportional to the increase in actual increase in residential yield on any site, so any range for contributions must start at 0% and go up to no more than 15% for 15 years where there has been substantial uplift in height and permissible GFA/FSR.

3: If contributions are made through an Affordable Housing Scheme, and are in-perpetuity, those contributions should be capped at 3%.

4: Calculations should not be based on the gross yield of a building development which contains prescribed non-residential minimum floor space controls. Affordable Housing contributions should be based on the uplift in residential GFA.

5: The relationship between any affordable housing provision under this policy with any existing LEP affordable housing provision must be made clear. The new policy, once implemented, must replace any existing LEP affordable housing provision.

6: To promote feasible affordable housing supply in TOD precincts, the TOD pathway policy should make any Affordable Housing Height and GFA exempt.

7: The TOD Pathway changes should be adjusted to align with commercial feasibility studies. These studies should test the viability of proposed land-uses and prescriptive ratios for non-residential land uses. Active street frontages should be applied through ground floor and podium commercial zoning only. Other floors should be mixed use to allow for maximum flexibility.

Primacy of housing supply must be written into the SEPP - Recommendation

8: that 'primacy for the need for housing supply' should be explicitly included in the SEPP changes associated with the TOD pathway reform.

The Use-it or lose-it timeframe provisions are too short - Recommendation

9: The five years for the activation of a DA should be maintained. To cut this period short will increase risk for development and reduce application numbers.

Negative Uplift contrary to Ministerial Directions - Recommendation

10: No changes should result in the downzoning of any land.

BTR Housing and Commercial Zoning – Recommendation

11: Implementing a market-based approach with greater zoning flexibility, making developments more feasible in all TOD locations.

12: Include provisions in the TOD Program to support student housing near universities.

Conflicting planning controls contradict intent of TOD precinct planning policy - Recommendation

13: The TOD pathway should be explicit in providing for merit-based DCP/ADG non-compliance allowances that provide flexibility where imperatives run counter to the delivery of housing.

Referrals and Concurrences – Recommendation

14: Restrict referrals and concurrences to “high risk” areas only and make every effort to reduce the number and scope of these referrals.

15. Concurrences and referrals should be advised to the applicant up front, along with the scope of the referral. Once referred, the scope should not be changed (added to) by the authority.

16: Apply a strict timeframe with a default to concurrence if the timeframe for the referral is not met.

17: Establish a protocol for resolving matters of dispute over scope of consent conditions to involve senior representatives of DPHI, the Co-ordinator General for Infrastructure (Tom Gellibrand) and the relevant agency.

Streamlining Planning – Recommendations

18: The establishment of an optional ‘Fast track’ lane in the Land and Environment Court to resolve disputes, for a bring-forward fee.

19: Consistent with the bold approach to housing supply taken in the UK, DPHI should strengthen the proposed TOD Pathway Changes, their intention and the primacy of housing supply.

20. DPHI should strengthen its senior level support for the SSD assessment team, particularly in the early pre-SEARs phase, but also throughout the assessment of the application to drive a culture which supports housing supply.

21: The new TOD pathway amendments should include provision for Cabinet oversight to resolve disputes over referrals and concurrences from agencies.

Design Excellence Alternatives – Recommendation

22: The TOD SEPP should be amended to allow Registered Architects with experience in the design of the relevant building type to be eligible for Design Excellence Alternative designation, and the Design Excellence Alternatives should be trialled before their broad implementation with regular reviews being planned and met.