



23 February 2024
The Department of Planning Housing and Infrastructure

Online: <https://www.planning.nsw.gov.au/policy-and-legislation/housing/diverse-and-well-located-homes#have-your-say>

Re: Submission regarding the Explanation of Intended Effect: Changes to create low- and mid-rise housing

Thank you for the opportunity to provide a submission regarding the Explanation of Intended Effect: Changes to create low- and mid-rise housing and related housing policy reforms.

The Southern Sydney Regional Organisation of Councils Inc (SSROC) is an association of twelve local councils in the area south of Sydney Harbour, covering central, inner west, eastern and southern Sydney. SSROC acknowledges the traditional custodians of the land on which we work and live, the peoples of the Darug, Dharawal and Eora Nations.

SSROC provides a forum for the exchange of ideas between our member councils, and an interface between governments, other councils and key bodies on issues of common interest. Together, our member councils cover a population of about 1.8 million, one third of the population of Sydney, including Australia's most densely populated suburbs. SSROC seeks to advocate for the needs of our member councils and bring a regional perspective to the issues raised.

1 Understanding

The NSW Government has released the Explanation of Intended Effect for the proposed changes (EIE). The EIE was on public exhibition from 15 December 2023 to 23 February 2024. The stated aim of the plan in summary is to promote an infill development strategy to facilitate low and mid-rise housing near established town centres, and areas close to good public transport.

Key Planning reforms

The NSW Government proposes to implement changes to the permissibility and controls for low- and mid-rise housing across the State, with an emphasis on development throughout the Six Cities Region.

- “low-rise housing” means multi dwelling housing of 1-2 storeys, including terraces, town houses and manor houses, and dual occupancies
- “mid-rise housing” as residential flat buildings and shop top housing of 3-6 storeys

The Six Cities Region includes:

- Lower Hunter and Greater Newcastle City
- Central Coast City
- Illawarra-Shoalhaven City
- Western Parkland City
- Central River City
- Eastern Harbour City

Some of the proposed changes will only apply to areas within a “station and town centre precinct” (Precinct), which is an area within the Six Cities Region *and* within 800 metres walking distances from:

- a heavy rail, metro or light rail station, or
- land zoned E2 Commercial Centre or SP5 Metropolitan Centre, or
- land zones E1 Local Centre or MU1 Mixed Use, but only if that zone contains a wide range of frequently needed goods and services (i.e., supermarkets, shops and restaurants).

What will change

The proposed planning reforms will primarily involve amendments to:

- local environmental plans (‘LEPs’), particularly to those applying across the Six Cities Region, and
- the Apartment Design Guide (‘ADG’), which was formerly applied by the now repealed *State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development* (‘SEPP 65’).

The amendments include changes to permissibility for specific types of development, the introduction of various “non-refusal standards”, and changes to the specific controls in the ADG.

If proposed development complies with a “non-refusal standard”, the consent authority cannot refuse the development on that ground. Moreover, a clause 4.6 written request for variation need not be prepared for non-compliance with a principal development standard in an LEP where compliance with the non-refusal standard is achieved.

Changes for low-rise housing

Dual occupancies

The NSW Government proposes to make development for the purposes of a “dual occupancy” permissible on all land in R2 low density residential zones across the State.

This includes attached dual occupancies (two dwellings on the same lot that are attached to each other) or detached dual occupancies (two dwellings on the same lot that are not attached, but does not include a secondary dwelling).

The proposed non-refusal standards for dual occupancies include:

- maximum building height: 9.5 metres
- maximum floor space ratio: 0.65:1
- minimum site area: 450m²
- minimum lot width: 12 metres
- minimum car parking spaces: 1 per dwelling

Multi dwelling housing

The NSW Government proposes to make development for the purposes of “multi dwelling housing” permissible on land in R2 low density residential zones within a Precinct. Multi dwelling housing includes development comprising three or more dwellings on a single lot of land, with ground level access to each dwelling. This includes terraces and manor houses.

The proposed non-refusal standards for multi dwelling housing include:

- multi dwelling housing (terraces):
 - maximum building height: 9.5 metres
 - maximum floor space ratio: 0.7:1
 - minimum site area: 500m²
 - minimum lot width: 18 metres
 - minimum car parking spaces: 0.5 per dwelling
- multi dwelling housing:
 - maximum building height: 9.5 metres
 - maximum floor space ratio: 0.7:1
 - minimum site area: 600m²
 - minimum lot width: 12 metres
 - minimum car parking spaces: 1 per dwelling
- manor houses:
 - maximum building height: 9.5 metres
 - maximum floor space ratio: 0.8:1
 - minimum site area: 500m²
 - minimum lot width: 12 metres
 - minimum car parking spaces: 1 per dwelling

Changes for mid-rise housing

The proposed changes for mid-rise housing relate specifically to development for the purposes of “residential flat buildings” and “shop-top housing”. Residential flat buildings are more commonly known as apartment buildings, and shop top housing is development wherein one or more dwellings are located above a ground floor commercial premises or health services facility.

For development in the inner 400 metres of a Precinct (i.e., within 400 metres walking distance), the proposed non-refusal standards for mid-rise housing include:

- maximum building height: 21 metres
- maximum floor space ratio: 3:1

For development in the outer 400 metres of a Precinct (i.e., between 400 and 800 metres walking distance), the proposed non-refusal standards for mid-rise housing include:

- maximum building height: 16 metres
- maximum floor space ratio: 2:1

The changes to the ADG will also apply to development for mid-rise housing, and include changes to building separations, setbacks, vehicular access, visual privacy, communal open space, landscaping and car parking.

Implementation

At the conclusion of the exhibition period of the Explanation of Intended Effect on 23 February 2024, the NSW Government will consider the submissions it receives before finalising the proposed planning reforms. At this stage, it is expected that the planning reforms will take effect in 2024. The NSW Government will introduce a state environmental planning policy to enact the changes. At the same time, it will encourage councils to include these types of dwellings to their planning rules. SSROC understands that if a council's planning rules match or go further than the state policy, the new Government policy will not apply.

The Transport Orient Development Program

The Department is also progressing a Transport Oriented Development (TOD) program, which will fast-track rezoning in 8 key precincts, and introduce new planning settings in 31 other identified station precincts across the Six Cities, including new permissibility settings, built form controls, social and affordable housing provisions and heritage arrangements.

The TOD program, like the Low to Mid Rise Housing changes, will override council's local planning controls to increase housing supply.

The TOD Program has two stages, the first stage will see eight "accelerated precincts" rezoned by the NSW Government over a 1200 metre radius to increase housing supply. Within 400 metres of each of these stations, the following can be built:

- On land in R2, R3 and R4 residential zones: apartments up to 21m high at a floor space ratio of 3:1.
- On land in the B1 and B2 business zones: apartments with shops on the ground floor up to 21m high and at a floor space ratio of 3:1.

The proposed low- and mid-rise reforms will work in tandem with the TOD program to achieve good urban form through appropriate density transition around centres. The reforms proposed under the TOD program are similar but generally more permissive than the low- and mid-rise reforms, and in overlap areas will therefore prevail over the low and mid-rise controls.

2 Introduction

SSROC welcomes the opportunity to provide a submission to the Department of Planning, Housing and Infrastructure's (DPHI) EIE: Changes to create low-and mid-rise housing. SSROC also seeks to use this opportunity to provide comment and make recommendations on the overlapping and additional housing reforms of the proposed TOD SEPP and the Affordable Housing Bonus Scheme that came into effect on 14 December 2023.

SSROC supports the National Housing Accord and the NSW Government's efforts to address the housing challenge and the commitments in the Accord. SSROC supports the principle of well-located density. It also notes that the housing affordability problem is one of the main drivers for change.

This EIE comes in response to the National Housing Accord target of 314,000 - 377,000 well-located new homes in NSW by 2029. Its stated aim is to contribute to the target by encouraging

more low- (1-2 storeys) and mid-rise (3-6 storeys) housing options of that are in the right places and designed well.

It is important to recognise that the housing crisis is both an availability and an affordability crisis. More than 33% of renter households are in housing stress (paying over 30% of monthly income on housing costs): 35.3% of Sydney renter households experience rental stress¹.

Our market driven economy will be the key to helping solve the availability problem through the for-profit housing industry. Added housing supply should help to stabilise prices in the price bands where the rental and ownership housing markets function. However, where the market does not and cannot operate below certain price thresholds, other government interventions are also needed to subsidise the price difference between the market and an affordable rent. This will typically involve deep ongoing subsidies for social housing tenants and shallower state subsidies raised from one-off measures like value capture and paid as developer contributions for affordable rental housing supply. Increasingly affordable housing is seen as a critical means of keeping global cities productive by retaining their essential workers nearby to their jobs.

Through the National Housing Accord, the NSW Government has committed to:

- Delivering 3,100 affordable housing homes with in-kind or financial contributions
- Improving financing for affordable and social housing projects
- Identifying immediate opportunities to free up well-located government-owned land for affordable housing projects
- Working with local government on planning and land-use reforms that will make housing supply more responsive over time
- Improving access to affordable and social housing.

This is an important small start to a very large and growing problem of housing affordability. The opportunity to create a new era of affordable rental housing supply at scale that will remain affordable over time now presents itself. The NSW Productivity Commissioner in *What we gain by building more homes in the right places* has recognised that "If we don't act, we could become a city with no grandchildren."

This submission argues among other things, that a coherent signature affordable housing policy linked to value capture is within the Government's grasp with its wide scale planning reforms to residential planning controls. The Committee for Sydney in its recent report has highlighted new research in its report *Chronically Unaffordable Housing*² that 'housing unaffordability is a threat to the future potential of Sydney and what we're experiencing isn't just a short-term housing crisis, it's now chronic and it's costing Sydney's talent, innovation and productivity more than \$10bn per year'.

Previously delays in introducing Affordable Housing Contribution Schemes in NSW have had a huge opportunity cost. This can be measured in terms of diminished access for essential and key workers who are forced to live outside the communities that rely on their services. It can also be measured in hundreds of millions of dollars that would have resulted in new affordable housing rental supply in perpetuity.

¹ <https://sydney.org.au/policy-library/chronically-unaffordable-housing/>

² <https://sydney.org.au/policy-library/chronically-unaffordable-housing/>



Genuine inclusive renewal that attends to the needs of lower income renters that shapes the infill growth should be an important measure of the successful implementation of the National Housing Accord.

While SSROC welcomes the directions to increase supply of well-located housing across the Six Cities, for our growing population and economy, a number of problems arise for our member councils from the way the reforms are being implemented.

Good master planning is key to creating valued places

Many of our councils have serious concerns that the suite of reforms, including the Low- and Mid-Rise Housing (L&MRH), apply a blunt one size fits all approach to planning controls. They potentially step away from more productive and attractive urban strategies shaped by master planning. Good master planning prioritises and balances important elements that make places distinctive, liveable and more productive while generating the basis for population and housing growth. Many of our councils are concerned that the combined impact of the reforms could easily destroy much of what communities find valuable. It will be largely blind to curating the public domain, not facilitate optimal land use and nor will it adapt well to diverse distinctive neighbourhood characters. Enabling and supporting good master planning is the key to doing density well. It allows the best possible outcomes to occur while accommodating the diverse growth infill contexts.

Notably the Government's approach to the TOD accelerated precincts recognises this planning approach's ability to add value and fully embraces master planning as the only way to proceed for these 8 accelerated precincts. With the idea of extending this preference in mind, SSROC considers that many of councils' objections could then be effectively mitigated.

The announced accelerated precincts have already entrenched this good practice approach: Master planning, transparent evidence-based decision-making, financial commitments to enhance the local infrastructure to match growth and a genuine partnership with local councils building on existing local strategic plans.

SSROC welcomes the Premier's reported commitment to outcomes over the way the Planning reforms are achieved.

"If we can come to an accommodation with mayors, the local councillors in Sydney, where we can get the number of houses that we need in the timeframe that is required, we will leave it up to them how they design their cities," Premier Minns said³.

This avenue will critically help diverse communities to embrace the reform directions and for the planning system to maintain its social license.

The EIE Factsheet for Low and Mid Rise Housing highlights that, "the NSW Government will introduce a state environmental planning policy enacting the changes. At the same time, it will encourage councils to add these types of dwellings to their own planning rules. If a council's planning rules match or go further than the state policy, then the new government policy will not apply"⁴.

³ Sydney Morning Herald, Michael Koziol and Anthony Segart, 17 February 2024, *Housing fight Minns didn't want to have*, page 7 <https://www.smh.com.au/national/nsw/minns-says-a-fight-with-councils-is-the-last-thing-we-want-but-he-has-one-over-housing-20240213-p5f4o4.html>

⁴ <https://www.planning.nsw.gov.au/sites/default/files/2023-11/diverse-and-well-located-housing-reforms-factsheet.pdf>

To quickly progress this highly preferable approach by councils and to help fulfil the commitments in the National Housing Accord of working with local governments to deliver planning and land use reforms, five sequential steps need to be provided:

1. Set the LGA housing targets within the context of the revised Six City Plans
2. Set out the endorsed pathway for councils to opt out of the one size fits all planning measures by demonstrating open and transparent compliance
3. Delay the commencement of the suite of SEPP changes for those councils that commit to their new targets and a Master planning pathway for its centres and stations to enable the master planning and LEP planning proposals to be made. The period should be at least as long as the timeframe announced for the Accelerated Precincts.
4. DPHI commit to providing council master plans an accelerated approval pathway.
5. Rezoning to be timed to coincide with new affordable housing contributions schemes being introduced to ensure urban growth and renewal is inclusive of lower income renters and key workers.

Our recommendation about master planning also sits comfortably with two other key recommendations that help solve two pressing issues that cannot be ignored, outlined below.

Sequencing growth and infrastructure

The NSW reforms create new capacity for housing growth 'everywhere all at once'. Based on individual council assessments the total zoned capacity appears to be far in excess of the stretch housing targets of the National Housing Accord.

State and council strategic planning needs to have a steady focus on sequencing planned growth and the public and private investment in infrastructure. A scatter-gun approach driven by developer profitability of individual site assessments mitigates the orderly use of scarce planning resources and make the most of constrained infrastructure budgets for essential services such as school expansions. The shared responsibility for infrastructure provision requires close coordination of both state and local effort to avoid waste and meet pressing priority needs.

Much state infrastructure expenditure is project, not system focused. Places and their communities can become collateral damage like Rozelle from WestConnex as a negative consequence of de-emphasising place-based planning over that of the project.

Comprehensive strategic planning can make the best possible trade-offs between competing needs for neighbourhoods and communities. Our system has split land zoning and transport between state and local government and given major tax levers to the Commonwealth; development is supposed to occur without the necessary fair access and landscape support. Master planning is an opportunity to affect some meaningful integration.

The State's oversight of councils' master planning processes can provide and help regulate the steady pipeline of new well-located housing, where existing and new infrastructure can more closely match the growing demands being placed upon it.

Coordinating the effective up-zoning with the introduction of local affordable housing contribution schemes

While the NSW reforms will create new capacity for housing growth 'everywhere all at once'. Beneficially this should over time help to address the serious housing availability problem. However, it will not coordinate infrastructure provision, like affordable housing.

On its own, it will not adequately address the chronic housing affordability problem. Homelessness is rising in many parts of SSROC⁵. In the short and medium term, it is likely to make many lower income renters' situations much worse, as swathes of lower height and lower cost flats and older homes are demolished for taller, and also higher cost, apartments. In a relatively short time, the more affordable private rental housing will be rapidly and continuously lost and replaced right across the Six Cities. There is likely to be a gap of three or so years when rental housing supply for renters goes backwards as the existing older housing stock disappears through the renewal process. Many lower income renters will literally have nowhere to go.

The introduction of affordable housing needs to occur as master plans for growth precincts are approved and adopted, and or, the Housing SEPP applies if the council does not gain an exemption to opt out. This will help to respond to this top community priority - the affordability driver for the reform package and key parts of the National Housing Accord.

3 Issues and Recommendations

3.1 System Focussed Recommendations

This section makes recommendations related to the planning system and the suite of NSW housing reforms collectively.

Local Government is not the impediment to more housing supply

Many of our councils would like to better understand the nexus between the current pipeline of approvals, existing development capacity in the planning system and the predicted shortfalls in meeting NSW National Housing Accord commitments. Clearly this is a key driver for the proposed planning reforms.

Council do not build houses but rather create development capacity through the planning controls for housing growth. What is of key interest to councils is how supply capacity is calculated by DPHI and turned into housing supply forecasts.

Supply of actual houses on the ground, is determined by the market. Many more factors affect supply beyond council approval rates and the amount of zoned land. This is evidenced in there being more approvals than completions. Since 2016, the cumulative gap between approvals and completions in NSW is around 100,000 dwellings. This large buffer of approvals demonstrates that housing supply completions are not being hindered by lack of approvals or slow approvals.

The main drivers of the current decline are steep interest rate hikes and high construction costs caused by material and labour shortages. With apartment faults in the news, there is probably more consumer reluctance to buying off the plan.

Moreover, the housing market is a build-to-order market, not a build-to-stock product: developers do not build and stock housing waiting for demand to come along. Rather, they respond to current demand often with a lag in getting the housing to market.

⁵ <https://www.smh.com.au/national/nsw/wishing-homeless-will-go-away-won-t-solve-our-housing-crisis-20240213-p5f4ed.html>

Since the inception of the Greater Sydney Commission, SSROC councils have been undertaking strategic plan-led planning to accommodate future forecast housing and population growth in their LGAs.

Further evidence will help local councils to better understand the need for the broad scale up-zoning, and this specific measure's capacity to increase housing delivery and so help resolve the housing crisis. Such evidence should help allay community fears about the true drivers of the reforms.

1. The Department of Planning, Housing and Infrastructure publish the housing data on the current pipeline of approvals and the existing development capacity of zoned land to ascertain any immediate gaps in forecast housing supply, predicted timing and forecast shortfalls in meeting the NSW National Housing Accord commitments.

The importance of strategic plan-led planning

The NSW Government's pause in releasing the Draft Region and City Plans has delayed proper strategic planning for future housing. This strategic planning advice would have met the Housing Accord commitment to work with local government on housing supply including progressing rezonings. Instead the NSW Government has focussed on housing changes in the absence of updated strategic directions from Transport, Education and Health, Sydney Water, other government agencies and collaboration with councils.

This situation can easily be rectified with the release of the draft Six Cities Region and City Plans for consultation.

2. The NSW Government publicly release the draft Six Cities Region Plan along with supporting evidence and data to inform strategic planning that supports density done well outcomes.

Delays to housing targets are potentially affecting the delivery of new supply

The NSW Government was expected to release housing targets in mid 2023 as part of Draft Region and City Plans. These targets form the basis of State and local councils' future strategic planning to ensure there is sufficient land zoned available to meet housing needs.

In August 2023, the NSW Government, as part of the National Cabinet, agreed to a National Planning Reform Blueprint with planning, zoning, land release and other measures to improve housing supply and affordability, including 'updating state, regional and local strategic plans to reflect housing supply targets'⁶.

The delayed release of the Local Government Area housing capacity targets is slowing, not accelerating, the planning pipeline and with it the delivery of new housing supply. Many master plans were prepared and ready to be approved by council, were awaiting approval by DPHI or are now about to be superseded in critical areas by the announced housing reforms.

In the absence of clear housing targets many SSROC councils are not able to readily advance current place-based master planning and LEP updates. Public consultations have been put on hold, knowing that much of this detailed strategic work and potential trade-offs that would be

⁶ Meeting of National Cabinet – Working together to deliver better outcomes, Media release, Wednesday 16 August 2023, <https://www.pm.gov.au/media/meeting-national-cabinet-working-together-deliver-better-housing-outcomes>

discussed could be superseded and scarce council resources wasted due to the likely widespread scale of the new reforms. The planning task for each council will depend on the size of the eventual targets being imposed by the NSW Government and their implications for jobs, community infrastructure and transport. All the time realising, that following the consultations around the EIE planning controls, some of the proposed controls could potentially change in response to stakeholder feedback.

For many councils, the planning and governance focus has shifted to understanding the proposed reforms and their interaction with current settings and implications for urban form.

On 17 February 2024, the Saturday Sydney Morning Herald advised the community and councils that 'by 1 July the Government will furnish each council with a new set of targets stipulating how many dwellings they are expected to deliver, and over what time frame.' SSROC councils would value being advised of the draft targets in advance of their publication.

Early release of the LGA targets will end the current uncertainty and help councils to reactivate detailed master planning and so accelerate new housing delivery. It will importantly assist NSW to achieve its commitments under the National Housing Accord.

3. NSW Government publicly release Local Government Area housing capacity targets to enable councils and communities understand the scale and impacts of the place-based housing challenge and enable councils to undertake local strategic planning to meet the Housing Accord targets collectively.

What amount of new supply will the L&MR housing reforms produce?

The intended scale in terms of dwelling count and cumulative impact of the L&MR housing reforms appears to be extremely large and published figures a gross underestimation. It is expected that the growth and densification impacts will eventually be extremely large and extensive, profoundly affecting all LGAs in the Six Cities.

The proposed changes are wide ranging and pervasive affecting all 297 stations plus other centres. Reports and advice from DPHI suggest that changes will result in 112,000 additional dwellings over 5 years.

Here comparison with the TOD program of 31 stations forecast dwelling count with a minimum 31 centres is illuminating. The TOD reforms are estimated to produce 138,000 dwellings over 15 years. Table 1 below highlights these questions.

Table 1

Planning control settings: Infill	Type of planning control	Dwelling numbers in Six Cities over 15 years
TOD Accelerated Precincts 8	Place based master planning	Create capacity for up to 47,800 new homes
31 TOD Stations and hubs	TOD SEPP	138,000 ⁷ new homes

⁷ <https://www.planning.nsw.gov.au/policy-and-legislation/housing/transport-oriented-development-program/transport-oriented-development-sepp#:~:text=From%20April%202024%2C%20a%20new,walking%20distance%20of%20public%20transport>

Planning control settings: Infill	Type of planning control	Dwelling numbers in Six Cities over 15 years
266 Stations and transport hubs (excluding local centres)	Medium and Low Rise SEPP	112,000 ^{8,9} new homes over 5 years, an extrapolation makes this 560,000 over 15 years. If new homes were produced at similar rate to TODs, given the very similar planning controls but also 800m radius not 400m for the TOD, the yield would be 1,184,130 new homes
Total		745,800 1,369,930

- There are 8.6 times the number of LMR centres¹⁰ than the nominated TODs (266 compared to 31).
- Each LMR centre is 4 times the area of the TOD centres due the different radius applying. It is acknowledged here that much of this additional area in the outer band is at a significantly lower density than the TODs.
- LMR controls will also apply to the 31 TODs in the 400-800m radius zone.

It is important that communities are well informed about the cumulative impacts of the reforms on them and their neighbourhood fabric. The predicted growth will also shape and impact councils' ability and capacity to deliver the new housing targets and provide necessary infrastructure. Provision of the detailed modelling will enable councils and communities to better understand the predicted drivers for growth in their LGA.

4. The Department of Planning, Housing and Infrastructure publicly release the detailed modelling behind the forecast dwelling numbers to be produced by the L&MR housing reforms, as analysis of the current public estimates of dwelling forecasts indicate a potential serious undercount of likely new housing supply undermining the EIE's veracity to accurately highlight the cumulative impacts of the reforms on communities and the urban fabric.

⁸ Sydney Morning Herald Alexandra Smith 28 November 2023, Minns to Lift council bans on terraces, townhouses and low rise apartments

⁹ The reforms create capacity for industry to deliver up to an estimated 112,000 new homes across the Greater Sydney region, Hunter, Central Coast and Illawarra-Shoalhaven. This represents 30 per cent of the number of homes NSW needs to meet under its Housing Accord target of 377,000 new homes by 2029.

<https://www.planning.nsw.gov.au/news/new-planning-rules-fast-track-low-and-mid-rise-housing#:~:text=The%20reforms%20create%20capacity%20for,377%2C000%20new%20homes%20by%202029.>

¹⁰ Centres that are not nominated as TODs.

The Department of Planning, Housing and Infrastructure needs to urgently release the formal drafting of SEPP for public consultation to enable councils to ensure that the instrument is implementable, minimises the risks of appeals and the housing targets are realistic.

Hopefully this enable updated infrastructure plans to be prepared ahead of the SEPP commencement.

It will be important for the SEPP to stipulate those areas excluded from the SEPP, including existing high-density areas, where planning is complete (like Waterloo) or well advanced and delivers the same or more height or density than the proposal.

5. Urgently release the formal drafting of SEPP for public consultation to enable councils to ensure that the instrument is implementable, minimises the risks of appeals and the housing targets are realistic.

The EIE proposal relies on councils' current contribution frameworks in response to the growth anticipated by these reforms. Updating local contribution plans will become more challenging as a result of the proposed changes. Forecasting growth and development are critical to the process of preparing local infrastructure contribution plans, as these forecasts inform decisions around infrastructure need.

The lack of clarity in the EIE makes it difficult to predict when and where growth will occur. If contribution plans are not underpinned by sound growth forecasts, then there is a significant risk that growth will not be supported by the timely provision of local infrastructure.

The cost of providing infrastructure in infill areas (around stations) is often encumbered by complex site circumstances. Traffic management and night works, remediation works, demolition and utility relocation can seriously impact the cost of works in infill areas.

The EIE states that councils will collect more contributions revenue as more dwellings are built. For many councils, this new policy will exacerbate an existing local infrastructure gap. The EIE fails to acknowledge that council with infill areas with Section 7.11 contribution plans continue to be restricted to collecting a maximum contribution of \$20,000 per dwelling (unless they have an IPART reviewed plan and are subject to the Government's restrictive Essential Works List). The \$20,000 cap on contributions has not been indexed since its introduction in 2012, despite the costs of infrastructure rising steeply.

Permissibility and non-refusal standards (which increase land values) must not be implemented until local infrastructure plans are updated and in place.

6. The Department of Planning, Housing and Infrastructure provide an appropriate amount of time for councils to prepare (and update) local infrastructure plans to help deliver the new housing supply targets.

The EIE proposes non-refusal standards for housing that will override local planning controls for height and FSR. However, it is unclear on the relationship with other local planning controls, such as environmental considerations.

A strong evidence base and justification is required when councils amend development standards in a local environmental plan. Councils are required to complete urban design studies, flood studies, concurrence with airports and aviation authorities, contamination studies, amenity and local character impact assessments, infrastructure studies and concurrence with State infrastructure agencies such as Sydney Water, Ausgrid, and Transport for NSW to provide confidence that development under the proposed standards are achievable.

The non-refusal standards in this EIE are not accompanied by the evidence and justification normally required. This will introduce major uncertainty for landowners, developers, the community and consent authorities. The non-refusal standards have not been tested for site suitability in the same way development standards during the planning process. This opens up developers to significant risks if issues around infrastructure provision, contamination, flooding, compliance with requirements around height of buildings below flight paths has not been tested before. Shifting the assessment of these impacts to the development stage, where it would be addressed on a case-by-case basis, will result in inconsistent outcomes, cumulative impacts and more complex and delayed assessments with appeals and counter appeals that are costly and time consuming. This may delay other housing projects that are ready for application and assessment. It runs counter to the Housing Accord's aim to make the planning system more responsive to demand over time.

7. The Department of Planning, Housing and Infrastructure more adequately recognise the impact of natural hazards such as flooding, bushfires, rising sea levels and urban heat on new housing supply in affected areas and adjust the SEPP controls accordingly.

To help councils to prepare master plans, the NSW Government prepare and release City infrastructure plans to ensure coordination with local council infrastructure plans. To support deliver well founded master plans the State Government should establish a renewal agency that can drive catalytic development on government lands, facilitate lot amalgamations and large scale development in growth areas where required.

8. The NSW Government release the draft Infrastructure Plans for the Six Cities including details of how this infrastructure will be funded.

“Despite support for increased housing supply citywide, local opposition can often impede or delay rezoning or development.” The NSW Productivity Commissioner noted in his recent report¹¹ *What we gain by building more homes in the right places*. He went on to argue that effective community consultation needs to be broader and more balanced. “Having an evidence-based discussion on impacts on the existing community, and how they should be weighed against the benefits, is also important. This can help clarify and resolve genuine community concerns, and also ‘weed out’ less genuine objections.¹²” Such consultations should recognise the interests of all demographics, including future residents.

In keeping with the spirit of the National Housing Accord, the Department of Planning, Housing and Infrastructure in collaboration with local councils undertake genuine, extensive and diverse engagement on the reform plans to maximise reach, coverage, awareness and engagement from the community. This reach should aim to include hard to reach and multi-cultural communities on the potential benefits and costs of the reforms.

Councils would then seek to inform well-founded master plans from this engagement process. To follow through on the commitment in the National Housing Accord of working with local governments to deliver planning and land use reforms, the Department of Planning, Housing and Infrastructure quickly progress a well-founded master planning program led by local councils to support, accelerate and add value to the reforms.

¹¹ NSW Productivity Commission, *What we gain by building more homes in the right places*, February 2024.

¹² NSW Productivity Commission, *What we gain by building more homes in the right places*, February 2024, page 36 <https://www.productivity.nsw.gov.au/sites/default/files/2024-02/What-we-gain-by-building-more-homes-in-the-right-places.pdf>

9. The NSW Government follow through on its obligations to work with local councils to implement the National Housing Accord in NSW. This would include the Department of Planning, Housing and Infrastructure:
- working with councils to hold place-based consultations around the reforms' implications for local neighbourhoods and communities.
 - providing the support and resources to councils who are already master planning with a clear vision and growth program that delivers on the LGA targets to continue with place-based planning that can deliver more liveable places within a set period of time.
 - accelerating the implementation of well-founded master plans that have already engaged with the community through an accelerated gateway and planning proposal process.

The EIE Factsheet for L&MR Housing highlights that, “the NSW Government will introduce a state environmental planning policy enacting the changes. At the same time, it will encourage councils to add these types of dwellings to their own planning rules. If a council’s planning rules match or go further than the state policy, then the new government policy will not apply”¹³. Accordingly, SSROC welcomes the Premier’s reported commitment to outcomes over the way the Planning reforms are achieved.

“If we can come to an accommodation with mayors, the local councillors in Sydney, where we can get the number of houses that we need in the timeframe that is required, we will leave it up to them how they design their cities,” Premier Minns said¹⁴.

For councils to quickly determine and progress their preferred approach, the Department will need to provide councils with their LGA housing targets to help benchmark the Government’s expectations for new housing supply capacity to transparently demonstrate compliance. Councils will also need details of the endorsed pathway and timeframes for them to consider opting out of the SEPP planning measures.

Poor urban outcomes and confusion for developers and communities are likely to arise from an initial period of the SEPP controls applying followed by somewhat different controls under the master plan. Important features of local character and heritage values could be lost permanently as a legacy of the SEPP controls applying for a relatively short period. Early advice from the Department will be critical for local councils considering the opt out provision.

10. The Department of Planning, Housing and Infrastructure articulate and adopt a formal pathway for local councils to be able to opt out of the Housing and TOD SEPP provisions by councils adopting inclusive renewal masterplans for growth centres that fulfill and satisfy the LGA housing targets.

Practical Steps to Fast Track Implementation

There is an urgent need to accelerate the delivery of development applications on upzoned land in response to the housing crisis that facilitates the supply of diverse market and affordable housing. The National Housing Accord set a five-year time frame for achievement. Precious time is being wasted.

¹³ <https://www.planning.nsw.gov.au/sites/default/files/2023-11/diverse-and-well-located-housing-reforms-fact-sheet.pdf>

¹⁴ Sydney Morning Herald, Michael Koziol and Anthony Segart, 17 February 2024, *Housing fight Minns didn't want to have*, page 7 <https://www.smh.com.au/national/nsw/minns-says-a-fight-with-councils-is-the-last-thing-we-want-but-he-has-one-over-housing-20240213-p5f4o4.html>

Many current measures have to date simply by-passed local councils. For example, the lack of new housing targets and regional and city plans have dramatically slowed the pipeline of delivery. Maintaining social license will also be necessary for the effective delivery of housing at record rates. Imposed solutions will likely lead to community division, opposition, disputations and delays to the approval processes. These will all add to costs and the cost of new housing supply. Poorly resolved housing solutions will need to go back to the drawing board.

Poorly designed development applications that do not satisfy other standards or provisions apart from meeting the non-refusal standards will lead to court appeals and delays as the proposed controls provide no guidance on resolving the tension between the mid rise non-refusal standards and other controls that require consideration.

Many of our councils have extensive experience with planning and approving successfully mid-rise and taller housing and their interrelationship with neighbouring buildings. For example, the City of Sydney has more than 1,500 buildings of six storeys and above, many more than any other area in Australia.

A new collaboration strategy between State and Local Government representatives is proposed to help minimise counter-productive outcomes and delays. This should include:

- Open information, dialogue and evidence about the challenges (housing targets) and place based and political constraints
- Collaboration with and between councils, planning and state delivery agencies (e.g., Health, Education, Transport)
- Constructive discussions around sequencing State and local infrastructure delivery and prioritisation of infrastructure expenditure
- Resolving contentious planning issues
- Assurance of due diligence and long-term planning, if State Government decisions are made quickly.
- Maximising the use of scarce public resources, reducing duplication, the promotion of endorsed master planning pathways for local councils
- Engagement with councils around using the Design Pattern Book of Housing Design to maintain and enhance local character
- Embedding public consultation at critical inflection points prior to when major changes are proposed.

11. The NSW Government establish a collaborative State and Local Government taskforce to accelerate the delivery of additional housing capacity to the market.

12. The Department of Planning, Housing and Infrastructure delay the implementation of the Transit Oriented Development SEPP and the Low and Mid Rise Housing SEPP until the following are enabled:

- the draft City Plans have been released,
- local councils have completed/updated strategic planning (masterplans for these station hubs) or been granted an exclusion,
- local infrastructure plans are updated and in place,
- local affordable housing contribution schemes are in place, and
- the NSW Government releases its Heritage Strategy.

13. The Department of Planning, Housing and Infrastructure assure communities that renewal will be inclusive by insisting all masterplans and new SEPP controls include ambitious mandatory affordable housing contribution schemes. Where there is an increase in the

development capacity of land under the Low and Mid Rise reforms an affordable housing contribution requirement (for in perpetuity affordable housing) must be applied.

Establishing Affordable Housing Contribution Schemes

A Metropolis of Three Cities established an affordable rental housing target that 5-10 per cent of new residential floor space should be provided as affordable rental housing. In the Six Cities Region Discussion Paper, the NSW Government committed to working with local councils, state and federal agencies and industry to improve delivery of affordable housing, including new financing mechanisms, with a “10 per cent affordable housing target for new rezonings where there will be a housing uplift.”

Other NSW Government reforms to increase housing supply, including the proposed Transport Oriented Development SEPP, act to ensure that an affordable housing contribution requirement will be applied where the development capacity of land has been increased. While the contribution requirement, particularly for the 31 stations part of the SEPP, is of insufficient size (2%) to meet the significant demand for affordable housing, nonetheless, this is a critical inclusion of these policies.

This EIE, however, while creating new development capacity, has made no inclusion of affordable housing requirements. This is a critical oversight of the proposed changes and fails to meet the NSW Government’s commitment to ensure a proportion of new floor space is affordable housing – and not at the election of the developer.

The EIE, in bypassing the rezoning phase and increasing development capacity on land, technically removes opportunities by local government to negotiate long term affordable housing outcomes.

The EIE notes that “the Department will work with Councils to introduce affordable housing contribution schemes (inclusionary zoning) on more land across the Six Cities where there has been sufficient value uplift. Further consultation about this is expected in 2024.”

The long history of council endeavours to introduce AHCS is that this timing will be too late. The land has appreciated following the change in controls regardless of whether this is technically a rezoning. Once the capacity of the land has changed prices rise and schemes become unviable or minimal.

As housing affordability is one of the top priorities for the National Housing Accord, this work must be given priority in the establishment of the new planning controls. This is completely consistent with the new NSW State Environmental Planning Policy (SEPP) introducing housing reforms to make it faster and easier to build more affordable housing. The NSW Housing and Homelessness Minister Rose Jackson recently stated the Government would not shy away from the tough decisions needed to address housing affordability. “We know that the housing crisis is real and we don’t want any part of the housing market to be unexamined - everything is under the microscope”, she said.¹⁵

To be fair to developers buying development sites and landholders, affordable housing contribution provisions need to be in place at the time of rezoning. Achieving this is completely in the NSW Government’s control to deliver as has occurred with the TOD Program.

¹⁵ ABC News, Jessica Kid, Posted 15 February 2024, *NSW Government floats new tax on holiday homes, short term rentals to address the housing crisis.*



As noted, this submission recommends a positive wholistic and comprehensive approach to affordable housing contributions as the hallmark of these housing growth reforms.

The NSW Government is introducing a mandatory comprehensive affordable housing contribution scheme applying to the entire TOD program with affordable housing to be provided in perpetuity.

A lack of contributions in the hundreds of centres not included in TOD Program will drive speculation towards these parts of the housing market, lose affordable housing opportunities, accelerate the displacement lower-income rental communities around the other 266 station locations, all potentially less planned and rendered less capable of affordable housing provision in the future.

Table 2 below seeks to illustrate these impacts for new affordable housing supply.

Table 2

Planning control locations	Type of planning control	Dwelling numbers in Six Cities over 15 years	Affordable housing numbers over 15 years
TOD Accelerated Precincts 8	Place based master planning	Create capacity for up to 47,800 new homes	Including up to 7,170 new affordable homes (at 15% rate)
31 TOD Stations and hubs	SEPP	138,000 ¹⁶ new homes	2,760 (at 2% rate)
266 Stations and transport hubs (excluding local centres)	Medium and Low Rise SEPP	112,000 ^{17, 18} new homes over 5 years, a straight line extrapolation makes this 560,000 over 15 years. <i>If new homes were produced at similar rate to TODs, given the very similar planning controls but also 800m radius not 400m for the TOD, the yield would be 1,184,130 new homes</i>	11,200 (hypothecated at a rate of 2% rate as per the TOD) <i>If new homes were produced at the same rate as the TODs, 23,680 new AH homes would be delivered</i>
Total		745,800 1,369,930	21,130 33,610

14. The Department of Planning, Housing and Infrastructure move to adopt a more ambitious and comprehensive mandatory affordable housing contribution schema for private land as described. The developer funded schema should be consistent, proportionate, fair and transparent reflecting the regional unmet housing need, opportunity and capacity of up zoning of land to support affordable housing contribution schemes across the suite of new housing planning controls and Council complying master planning arrangements. The proposed schema that includes L&MRH reform areas (see Table 3) below be adopted as a priority.

The higher contribution levels reflect the 10% affordable housing target for new rezonings where there has been uplift made in the Six Cities Discussion paper. The schema could sit comfortably alongside the Government's commitment to 30% social and affordable housing provision in perpetuity on surplus NSW Government land.

¹⁶ <https://www.planning.nsw.gov.au/policy-and-legislation/housing/transport-oriented-development-program/transport-oriented-development-sepp#:~:text=From%20April%202024%2C%20a%20new,walking%20distance%20of%20public%20transport>

¹⁷ Sydney Morning Herald Alexandra Smith 28 November 2023, Minns to Lift council bans on terraces, townhouses and low rise apartments

¹⁸ The reforms create capacity for industry to deliver up to an estimated 112,000 new homes across the Greater Sydney region, Hunter, Central Coast and Illawarra-Shoalhaven. This represents 30 per cent of the number of homes NSW needs to meet under its Housing Accord target of 377,000 new homes by 2029. <https://www.planning.nsw.gov.au/news/new-planning-rules-fast-track-low-and-mid-rise-housing#:~:text=The%20reforms%20create%20capacity%20for,377%2C000%20new%20homes%20by%202029>.

Table 3

Planning control settings	Recommended AH Contribution rate (or financial contribution in lieu)	Increased capacity (FSR and height)	Draft control proposals	Notes
TOD Accelerated Precincts within 1200m of transport hub	15% in perpetuity	FSR tbd with councils (Over 21m - 6 storeys)	15% in perpetuity	Proposed provisions to include 50% as social housing and 50% as AH
TOD stations and centres within 400m (including R2 zones)	10% in perpetuity This would increase from an initial 5% contribution by 1% per annum for 5 years	FSR 3:1 Non-refusal standard Max building height 21m (taken from Mid and Low rise EIE)	2% in perpetuity	Advertising a draft 2% rate in the EIE creates some market price expectations. The escalating contribution rate will provide an incentive to developers to progress housing developments rather than land banking
TOD centres between 400m and 800m Not specified in the TOD program	5% in perpetuity	FSR 2:1 from Low to Mid Rise Housing to apply	Undefined	5% is considered the minimum contribution for significant uplift
Mid-Rise Housing EIE within 400m of centre (except R2 zones)	10% in perpetuity This would increase from an initial contribution 5% by 1% per annum for 5 years	FSR 3:1 To allow 4-6 storeys Max building height 21m	Undefined - future consultation ¹⁹	
Apartments between 400m and 800m (except R2 zones)	5% in perpetuity	FSR 2:1 Max building height 16m	Undefined	

¹⁹ The EIE notes that 'the Department will work with Councils to introduce affordable housing contribution schemes (inclusionary zoning) on more land across the Six Cities where there has been sufficient value uplift. Further consultation about this is expected in 2024.' Page 29

Planning control settings	Recommended AH Contribution rate (or financial contribution in lieu)	Increased capacity (FSR and height)	Draft control proposals	Notes
	Low-Rise Housing EIE Up to 2 story	Multi-dwelling houses (Terraces) FSR 0.7:1 BHt: 9.5m Multi dwelling houses (apartments) FSR 0.7:1 BHt: 9.5m Manor houses FSR 0.8:1 BHt: 9.5m	Undefined	Victoria has adopted a social housing levy. Pitched at 1.75 per cent of the value of new residential developments over three dwellings
Dual occupancies Permissible in all R2 zones	Nil	FSR 0.65:1 BHt: 9.5m	Nil	
Infill Affordable Housing Bonus²⁰ within 800m walking distance of a train, metro or light rail station or a wharf, or within 400m walking distance of a bus stop, if the service timetable meets certain timetable requirements	15% AH provided for 15 years New Provision: <i>Enable financial contributions to be made in lieu of AH units to satisfy requirements where the additional height offends good urban design principles</i>	Continues to apply to development under the Mid-rise and Low-rise housing as well as housing in the accelerated precincts	15% AH provided for 15 years	Financial contributions to apply where a building height need to transition to another height threshold or overshadowing or overlooking are determined to have high impact
Approved Council Master Planned Precincts that are approved opt out of the new SEPP provisions and controls would seek to follow the contribution rates applicable to the density uplift.				

²⁰ The reforms introduced a new bonus Floor Space Ratio (FSR) of up to 30 per cent and a height bonus of up to 30 per cent where a proposal includes a minimum of 15 per cent of the gross floor area (GFA) as affordable housing.

Council assistance with establishing affordable housing contribution schemes

New simplified processes are required to help local councils establish affordable housing contribution schemes for their LGAs. This will help to ensure key workers can live in the communities in which they have worked.

For the majority of local councils without Affordable Housing Contribution Schemes (AHCS), it is recommended that DPHI urgently provide councils with a model affordable housing contribution scheme and template for establishing compliant schemes around transport centres, so schemes commence with the new SEPPs.

For those councils with existing AHCS, DPHI provide model clauses to enable new precincts with contribution schemes applying to be quickly added so expanded schemes commence with the new Housing SEPPs.

15. The Department of Planning, Housing and Infrastructure urgently provide a model local affordable housing contribution scheme and template for councils establishing the schemes around transport centres, so schemes commence with the new SEPPs.

3.2 Detailed Recommendations about the LMRH planning controls

Density done well within urban infill areas translates to clusters of multi-unit dwellings located close to public transport. Mass transport like heavy rail, metro and light rail and rapid buses is an essential and non-negotiable element of providing households living in more dense housing options with good access to jobs, schools, shops and open space while enjoying lower levels of private car usage.

Density should be focussed close to transport stations and not centres that lack this access. Good transport connectivity and frequent service is essential. It must inform the LMRH planning controls. Consistent with this logic, places and neighborhoods currently without good transport connectivity and frequent service to amenities and jobs, that will have to rely mainly on cars, should be excluded from these controls that are predicated on a dynamic transport hub. It easily becomes an example of density done poorly.

If this situation changes through improved access and service, these places can be added as and when the public transport offering improves to meet this threshold requirement.

1. The Department of Planning, Housing and Infrastructure adopt a consistent definition of well-located homes for NSW planning instruments and reforms where good transport connectivity and service is essential to being well located.

Accordingly, the EIE definition around town centres is problematic. It should be more clearly defined.

The EIE extends the definition of well-located homes beyond those areas that are well served by public transport to include land around local centres. Development of the scale proposed must be supported by public transport, to avoid significant congestion and the associated costs to business and the NSW economy.

In many contexts areas zoned as local centres are small in scale with a discrete set of locally focussed services. They do not function as town centres and don't provide access to a large number of jobs, social infrastructure and other amenities. In many council areas mixed use zones are not concentrated zones to service residential areas. Instead, they are extensive areas that provide a mix of employment, services and housing.

Using a definition around the provision of certain types of services and business, and land uses which will change over time is highly problematic. There is no guarantee of long-term amenity. The granting of consent of specific uses may result in a new town centre being added overtime, with surrounding areas being subject to the new non-refusal standards, potentially completely unbeknown to local communities.

Many local centres do not meet the above definition (recommendation 3.1, 1) of good access to public transport and should be excluded, or subject to a review and the advice of council. Capturing a local centre away from a station with a full-line supermarket is also most likely also capturing a shoppers' car park. This is one occasion when 'one size definition does not fit' all situations.

Furthermore, it is considered inappropriate that centres away from railway stations are considered for the same density that railway centres are. Those centres served by access to other forms of public transport (rapid bus or light rail) should not have the same density. Arguably it is not necessary to include these centres in the EIE controls.

Reinforcing the role of transport in centres for growth has the combined effect of lowering the need for car usage by the vast majority of people, lowering the cost of living and increasing the viability of public transport.

Centres without rail stations have the opposite effect as they encourage car use, increasing congestion, raising the cost of living and put downward pressure of public transport revenue. The operate in opposition to centres at railway stations, serving to undermine the narrative of the EIE that the rail stations are well located places to live around.

The capacity of light rail, and rapid bus services is substantially less than heavy rail and metro and support a different urban form, with similar high densities but with smaller catchments.

2. The L&MR Housing reforms and the TOD SEPP better define well located Local Centres. The L&MR Housing reforms and the TOD SEPP only capture well located Local Centres with good access to mass public transport. Local centres and mixed use zones should not be used to generate additional density unless they are co-located with a transport station and supported by the local council.

The EIE consultation document clearly aims to provide a pathway to more mid-rise housing (3 to 6 storeys). This is now a community expectation is that mid-rise will now mean a mid-rise building envelope.

Many SSROC councils, however, have expectations that the proposal will result in some high-rise rather than mid-rise housing. Analysis from many councils' has identified the 3:1 FSR to be problematic. It is currently one of the non-refusal standards, along with a maximum building height of 21m.

To ensure the mid-rise scale results, it is proposed that the mid-rise scale (expressed as height in metres takes precedence over FSR. This can be achieved by removing FSR as a non-refusal standard.

The Apartment Design Guide notes that an FSR of 3:1 will generally produce a 9-12 storey building²¹.

Furthermore, the application of the Affordable Housing Bonus scheme²² in conjunction with the TOD controls, and or, the proposed Mid-rise controls can be expected to lead to a built form more akin to a High-rise outcome, whereby the additional floor space bonus of 30% will transform a 6-storey building into an 8-storey building in a precinct designed for mid-rise housing, as illustrated below.

²¹ <https://www.planning.nsw.gov.au/sites/default/files/2023-03/apartment-design-guide-part-2-developing-the-controls.pdf>

²² The Affordable Housing Bonus Scheme came into effect on 14 December 2023. A floor space ratio (FSR) bonus of 20–30% and a height bonus of 20–30% for projects that include at least 10-15% of gross floor area (GFA) as affordable housing. The height bonus only applies to residential flat building and shop-top housing. <https://www.planning.nsw.gov.au/news/new-reforms-to-create-more-affordable-housing>

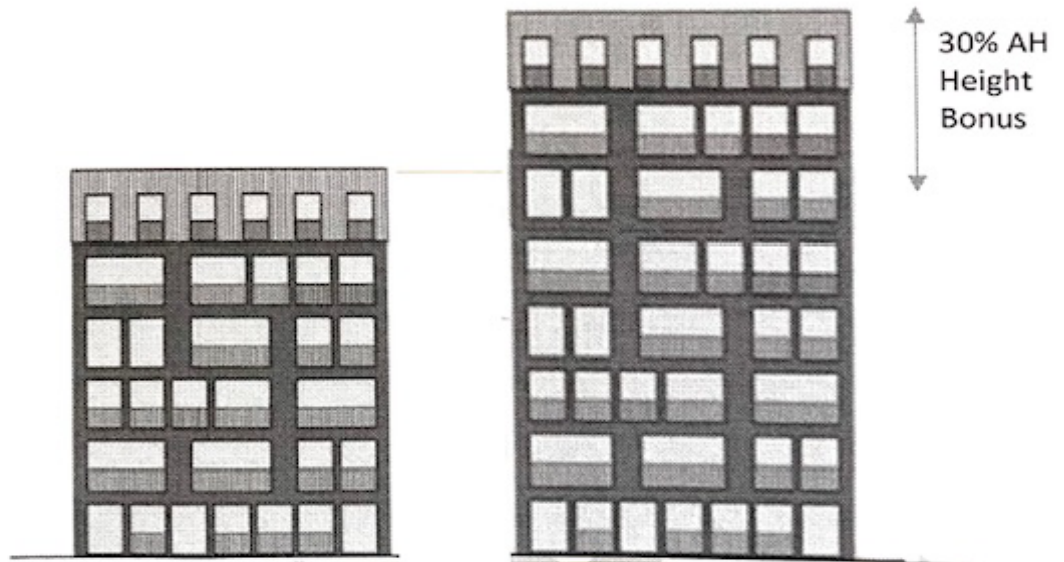


Figure 1: Depiction of built forms outcomes in EIE factoring AH bonuses

As part of a revised package of housing reforms, it is proposed that where the Affordable Housing Bonus is also applied within these mid-rise precincts, a new provision is made to convert the additional 15% affordable housing GFA component into an in-lieu developer financial contribution to affordable rental housing, to reduce the subject building height, and so help mitigate neighbourhood height impacts that would otherwise be out of character with the surrounding heights in the area.

This new provision would apply where councils operated affordable housing contribution schemes that receive in-lieu financial contributions.

3. Confirm the NSW Government intends to deliver Mid-rise housing rather than High-rise housing through the proposed SEPP by prioritising height limits over FSR controls, by:
 - removing FSR as a non-refusal standard.
 - making a new planning provision for when the Affordable Housing Bonus is applied in these mid-rise precincts. The provision would enable the conversion of the 15% affordable housing GFA component into an in-lieu developer financial contribution to affordable housing to reduce the building height, and so help mitigate neighbourhood height impacts.

Heritage issues

Many of our councils are concerned that Heritage Conservation Areas (HCAs) and Heritage items will be subject to the proposed non-refusal provisions. Heritage is a non-renewable resource that contribute to sense of place. They enrich local environments.

The EIE notes, “All other applicable planning controls in the Local Environmental Plans and Development Control Plans such as heritage and environmental considerations will continue to apply to the extent they are not inconsistent with these provisions.”

This is ambiguous and gives no certainty that heritage values will be protected.

Given the TOD SEPP proposes the same standards to be applied in the R1, R3, E1 and MU zones in the EIE, it is evident that the DPHI expects ‘significant change to occur in HCAs. Of

immediate concern is that the retention of dwellings within HCAs is inconsistent with the new standards and is therefore likely to lead to widespread demolition of heritage across SSROC and other parts of Greater Sydney.

Council testing of higher densities, and existing master plans shows that through proper master planning, blocks can achieve the same or more density with variations in height, whilst also being able to improve places by providing more open space, through site connections, protection of heritage, landscaping and improved street experience.

4. The Department of Planning, Housing and Infrastructure should remove Heritage Conservation Areas and Heritage items from the non-refusal standards. If this is not agreed, publish detailed guidance about how the potential conflict between council's heritage planning controls and the proposed transport oriented development and Low and Mid-rise housing controls should be resolved.

Developer be required to provide a *Housing Affordability Impact Statement* with their development application. New *Housing Affordability Impact Statements* would assess the potential loss of low-income accommodation, the displacement of existing residents who were private renters and the likely amount of new accommodation that would be affordable to rent within the new development, using a standard template provided by DPHI.

The preparation of *Housing Affordability Impact Statements* would help councillors, council planning staff, communities and developers all better understand the need for a developer affordable housing contribution to be made.

5. *Housing Affordability Impact Statements* be required of developers as part of their application under the provisions of the new SEPPs' housing provisions.

Removal of a requirement for basements to be designed to accommodate large vehicles including waste trucks where they can. Streets around mass transit stations are already under pressure from a variety of uses, including vehicular traffic, pedestrians, cyclists, tree plantings and greening, servicing, loading and resident and visitor car parking. The densification reforms all assume that most new residents will now walk to their mass public transport station from their well-located housing. The footpath journey will have a greater priority as most people's active transport corridor.

Effective waste management is essential for dense neighbourhoods to meet resident expectations for their streets and neighbourhoods to be safe, clean, and accessible - free from obstructions from excessive bins.

Many councils prefer to avoid bins from apartment blocks being placed at the street kerb. It is often unsightly, causes clutter, obstructs pedestrians and other users. Waste trucks stopping frequently on narrow streets causes traffic congestion.

Preference is often for waste to be managed in an off-street waste room for buildings under a certain size. When large developments generate so many bin movements is necessary for the truck to be able to enter the basement to service the bins.

It is essential that councils be able to manage waste in a way that is best for the neighbourhood and fits with the council's waste strategy.

Poorly integrated waste services for 4-8²³ storey apartments that are made to rely upon on street disposal can quickly make well designed apartments look unimpressive and untidy from the street view. Rows of waste collection bins outside each apartment will degrade the appearance of the public domain and dominate and block otherwise walkable streets. The cumulative result of this 'savings' measure is likely to be diminished property values for the new and existing apartments.

On the other hand, a master planned approach to land use can take into account local waste collection contractor needs, street configurations and widths, as well as reduced lot sizes to provide more effective controls that respond to the on-site and kerbside constraints and waste collection opportunities that are superior to revised standards to the Apartment Design Guide. Giving councils flexibility to respond to real world constraints will yield more liveable, attractive communities with greater amenity.

Failing the acceptance of recommendation 6, the Department will need to develop some alternative cost-effective options to waste collection in Mid Rise Housing developments that Councils can discuss with ratepayers and with NSW Treasury, to facilitate the design an adjustment grants program to local councils to renegotiate existing collection contracts with waste contractors. See *Appendix 1* for some further background.

6. The Department of Planning, Housing and Infrastructure not proceed with the proposed change to the Apartment Design Guide that states that "design of basement and ground floor for mid-rise housing is not required to accommodate large vehicles entering or turning around within the site" and hold consultations with local councils to find alternative solutions.

4 Summary of Recommendations:

1. The Department of Planning, Housing and Infrastructure publish the housing data on the current pipeline of approvals and existing development capacity to ascertain any immediate gaps in forecast housing supply, predicted timing and forecast shortfalls in meeting the NSW National Housing Accord commitments.
2. The NSW Government publicly release the draft Six Cities Region Plan along with supporting evidence and data to inform strategic planning that supports density done well outcomes.
3. NSW Government publicly release Local Government Area housing capacity targets to enable councils and communities understand the scale and impacts of the place-based housing challenge and enable councils to undertake local strategic planning to meet the Housing Accord targets collectively.
4. The Department of Planning, Housing and Infrastructure publicly release the detailed modelling behind the forecast dwelling numbers to be produced by the L&MR housing reforms, as analysis of the current public estimates of dwelling forecasts indicate a serious potential undercount of likely new housing supply undermining the EIE's veracity to accurately highlight the cumulative impacts of the reforms on communities and the urban fabric.

²³ Eight storeys in height due to the affordable housing bonus.

5. Urgently release the formal drafting of SEPP for public consultation to enable councils to ensure that the instrument is implementable, minimises the risks of appeals and the housing targets are realistic.
6. The Department of Planning, Housing and Infrastructure provide an appropriate amount of time for councils to prepare (and update) plans to deliver the new housing supply targets.
7. The Department of Planning, Housing and Infrastructure adequately recognise the impact of natural hazards such as flooding, bushfires, rising sea levels and urban heat on new housing supply in affected areas and adjust the SEPP controls accordingly.
8. The NSW Government release the draft Infrastructure Plans for the Six Cities including details of infrastructure funding plans.
9. The NSW Government follow through on its obligations to work with local councils to implement the National Housing Accord in NSW. This would include the Department of Planning, Housing and Infrastructure:
 - working with councils to hold place-based consultations around the reforms' implications for local neighbourhoods and communities.
 - providing the support and resources to councils who are already master planning with a clear vision and growth program that delivers on the LGA targets to continue with place-based planning that can deliver more liveable places within a set period of time.
 - accelerating the implementation of well-founded master plans that have already engaged with the community through an accelerated gateway and planning proposal process.
10. The Department of Planning, Housing and Infrastructure articulate and adopt a formal pathway for local councils to be able to opt out of the Housing and TOD SEPP provisions by councils adopting inclusive renewal master plans for stations/growth centres that fulfill and satisfy the LGA housing targets.
11. The NSW Government establish a collaborative state and Local Government taskforce to accelerate the delivery of additional housing capacity to the market.
12. The Department of Planning, Housing and Infrastructure delay the implementation of the Transit Oriented Development SEPP and the Low and Mid Rise Housing SEPP until the following are enabled:
 - the draft City Plans have been released
 - local councils have completed/updated strategic planning (masterplans for these station hubs) or been granted an exclusion
 - local infrastructure plans are updated and in place,
 - local affordable housing contribution schemes are in place, and
 - the NSW Government releases its Heritage Strategy.

13. The Department of Planning, Housing and Infrastructure assure communities that renewal will be inclusive by insisting all masterplans and new SEPP controls include ambitious mandatory affordable housing contribution schemes. Where there is an increase in the development capacity of land under the Low and Mid Rise reforms an affordable housing contribution requirement (for in perpetuity affordable housing) must be applied.
14. The Department of Planning, Housing and Infrastructure move to adopt a more ambitious and comprehensive mandatory developer affordable housing contribution schema for private land as described. The schema should be consistent, proportionate, fair and transparent reflecting the regional unmet housing need, opportunity and capacity of up zoning of land to support affordable housing contribution schemes across the suite of new housing planning controls and council complying master planning arrangements.
15. The Department of Planning, Housing and Infrastructure urgently provide a model local affordable housing contribution scheme and template for councils establishing the schemes around transport stations/centres, so schemes commence with the new SEPPs.

Detailed Recommendations about the LMRH planning controls

1. The Department of Planning, Housing and Infrastructure adopt a consistent definition of well-located homes for NSW planning instruments and reforms where good transport connectivity and service is essential to being well located
2. The L&MR Housing reforms and the TOD SEPP better define well located Local Centres. The L&MR Housing reforms and the TOD SEPP only capture well located Local Centres with good access to mass public transport. Local centres and mixed use zones should not be used to generate additional density unless they are co-located with a transport station and supported by the local council.
3. Confirm the NSW Government intends to deliver Mid-rise housing rather than High-rise housing through the proposed SEPP by prioritising height limits over FSR controls, by:
 - Removing FSR as a non-refusal standard.
 - Make a new planning provision for when the Affordable Housing Bonus is applied in these mid-rise precincts. The provision would enable the conversion of the 15% affordable housing FSR component into an in-lieu developer financial contribution to affordable housing to reduce the building height, and so help mitigate neighbourhood height impacts.
4. The Department of Planning, Housing and Infrastructure should remove Heritage Conservation Areas and Heritage items from the non-refusal standards. If this is not agreed, publish detailed guidance about how the potential conflict between council's heritage planning controls and the proposed transport oriented development and Low and Mid-rise Housing controls should be resolved.
5. Housing Affordability Impact Statements be required of developers as part of their application under the provisions of the new SEPPs' housing provisions.
6. The Department of Planning, Housing and Infrastructure not proceed with the proposed change to the Apartment Design Guide that states that "design of basement and ground floor for mid-rise housing is not required to accommodate large vehicles entering or turning around within the site" and hold consultations with local councils to find alternative solutions.

5 Conclusion

Thank you for the opportunity to provide a submission regarding the Explanation of Intended Effect: Changes to create low- and mid-rise housing and related housing policy reforms.

SSROC member councils cover a large part of Greater Sydney and have a direct interest in supporting and advocating for well-located housing for existing and growing numbers of future residents. Our councils pride themselves on providing orderly, well considered place-based planning for their communities. This submission advocates for this to continue by stepping away from a one size fits all approach and promoting council led master planning to achieve expeditiously the NSW Government's goal of density done well.

In order to make this submission within the prescribed timeframe, it has not been possible for it to be reviewed by councils or to be endorsed by the SSROC. I will contact you further if any issues arise as it is reviewed. If you have any queries, please do not hesitate to contact me or Mark Nutting, SSROC Strategic Planning Manager on _____, or _____

Further detailed consultations around the suite of proposed housing reforms as they are refined will be essential. These should occur as soon as they are available for detailed consideration by councils and at the regional level, by their regional organisations like SSROC.

Yours faithfully

Helen Sloan
Chief Executive Officer
Southern Sydney Regional Organisation of Councils

Proposals for Mid-Rise Housing Impacting on Waste Collection

There is significant concern from councils about proposed changes detailed to mid-rise housing, most particularly in respect to how councils will be able to provide domestic waste services to residents.

Of most concern to councils is the proposed change to the Apartment Design Guide that states that “design of basement and ground floor for mid-rise housing is not required to accommodate large vehicles entering or turning around within the site”.

As the proposed changes are to be enacted within station and town centre precincts, it is exactly in these areas where the need for on-site collection of waste is required to maintain safety and amenity.

When coupled with proposed changes to:

- reduced on site car parking requirements
- reduced specifications on building setbacks, and
- removal of minimum lot sizes and width standards,

the provision of kerbside collection in such circumstances will be difficult in most cases, and impossible in others.

Moving waste collection from both bins (waste, recycling and organics) and bulky waste (mattresses, furniture, whitegoods and other large items) to the kerbside requires minimum street frontages to present the large number of bins and allocations of bulky waste from mid-rise housing complexes for collection. Bin collection also requires unimpeded access to the bins from the truck, key to which is preventing parked cars blocking access to the waste. The collective result of these proposed changes is large numbers of bins presented at the kerbside for collection, along with unrestrained bulky waste, in areas where parking is at a premium, and waste collection vehicles and staff are unable to safely collect the waste.

It is likely that these collective changes may result in a combination of:

- An increase in bin collection frequency resulting from the unavailability of kerbside space to present all bins. For example, a complex of 40 units would most commonly require 20 waste and 20 recycling bins for once weekly servicing, requiring over 40 metres of collection space (property width less any driveway access or collection impediments). Any reduction of bin allocation (likely) would increase collection frequency.
- Bins to be placed in front of parked cars to enable access for collection. The most common waste collection vehicle in NSW domestic waste services is a Heavy Rigid Vehicle with side arm collection, operated by the driver from inside the vehicle.
- Reduced traffic flow from stopping of waste collection vehicles in the road carriageway to enable the collection of waste at the kerbside. Given the large number of bins (and larger bulky waste allocations) for mid-rise apartment buildings than single unit dwellings, waste collection vehicles would be stopped for considerable time outside a property to collect the

designated waste stream. The cumulative effect of multiple mid-rise properties in a single street or vicinity of a station or town centre precinct, and multiple trucks for various waste streams (waste, recycling, organics, bulky waste, bulky recoverables) would severely impact traffic flow. The alternate option to restrict parking outside such properties to enable safe pull over for vehicles is not allowed under current Transport for NSW train station precinct rules or many designated locations, nor acceptable to the community in light of increased demand for on road parking around any transport hub or town centre.

- Illegal traffic manoeuvring to collect waste becomes more likely. Poorly designed waste collection solutions can require the collection of waste to occur using illegal traffic maneuvers, such as stopping a waste collection truck in No Stopping Zones, or double parking waste collection vehicles in the middle of the traffic carriage way to operate the side loading of bins and/or loading waste into the rear of the vehicle. Waste collection vehicles are unable to stop on State and Regional Roads without a dedicated service lane constructed, with onsite collection being the solution to collection from state and regional roads.
- Reduced property and neighbourhood amenity. The regular placement of bins and bulky waste on kerbsides for collection from apartment delivers poor amenity outcomes, with complaints often received by councils about visual amenity, odour, litter and falling of bulky waste into parking or street areas. The placement of bulky waste outside apartments where there is no distinct 'ownership' of the waste (as opposed to single unit dwellings) has shown to increase illegal dumping both on existing waste piles and within the location vicinity. Amenity complaints increase when this waste collection and/or illegally dumped waste is outside shop top housing, especially when located outside cafes and on activated street frontages.
- Impacts on driver, resident and pedestrian safety. The kerbside collection of waste delivers poor safety outcomes. It is prohibited in most LGAs to collect waste at a time prior to commencement of peak travel and commuting times, resulting in daytime collection of waste when pedestrians are common. Road rage is a outcome of poorly designed waste management services, common towards waste collection drivers from other motorists impeded by the slow or restricted movement of traffic. Similarly, the placement of waste from multiple dwellings on the kerbside in built up areas can often result in road obstacles or obstructions.