



Penrith City Council Submission – Proposed Transport Oriented Development (TOD) SEPP

February 2024

Thank you for the opportunity to review and provide comments on the NSW Government's proposed Transport Oriented Development (TOD) Program and related planning controls.

Council is keen to partner with the NSW Government to ensure a significant pipeline of housing which responds to local needs and conditions and contributes to the Housing Accord targets. Council's own policies support increased density in close proximity to high amenity areas with good access to public transport and the intent of the proposed reforms to boost housing supply, diversity and affordability is recognised. However, a more nuanced, place-based approach founded in evidence and linked to infrastructure delivery is the preferred methodology to implement such reforms.

This submission outlines potential issues related to the applicability and implications of the proposed TOD SEPP for the St Marys Town Centre. This submission includes:

1. An outline of Council's established strategic planning pathway for St Marys Town Centre
2. Discussion around key issues relating to implementation of the proposed TOD SEPP in St Marys
3. Our ask of Government in relation to the TOD SEPP.

We would be happy to discuss these comments with you in further detail as required.

1. Council's strategic planning pathway for St Marys

In 2021, Council commenced St Marys 2041 – a proactive strategic planning response to position St Marys as a strategic centre in Western Sydney, leveraging opportunities created by the Western Sydney International Airport and its direct link to St Marys via a station on the Sydney Metro – Western Sydney Airport line.

St Marys Town Centre Structure Plan was endorsed by Council in November 2022. Council's Structure Plan was developed through extensive community consultation

and has established an ongoing Collaboration Group including several state agencies that continue to provide input to the Master Plan.

The Structure Plan proposes a vision for the future development of the town centre and puts in place a framework to guide growth in a way that capitalises on and matches the quality of the transformational infrastructure being delivered.

Significantly, the Structure Plan describes how the Town Centre is forecast to grow by 11,000 – 12,500 people between 2021 and 2041, requiring an additional 4,800 – 5,400 dwellings. It also responds to the projected need to provide between 2,100 – 5,600 more jobs in the Town Centre by 2041 to continue to support St Marys strong local economic base across different sectors.

Now underway, Stage 2 of St Marys 2041 builds on the Structure Plan vision to provide a comprehensive and coherent urban design framework (Master Plan). The Master Plan will ensure that St Marys Town Centre becomes a vibrant, welcoming, sustainable and authentic strategic centre that realises its potential as a thriving destination in the Western Parkland City. This stage will be followed by a Planning Implementation Plan including amendments to planning controls and preparation of a new contributions plan.

The Draft Master Plan is on track for public exhibition later this year with corresponding amendments to planning controls to follow.

2. Comments in relation to the proposed TOD SEPP in St Marys

- **The TOD SEPP is pre-emptive of Council's Master Plan for the St Marys Town Centre**

Council is committed to densification around the St Marys station precinct, as demonstrated in the St Marys Town Centre Structure Plan and Penrith Local Housing Strategy. Both the Structure Plan and Local Housing Strategy are grounded in the principles of placemaking for transport-oriented centres and therefore well aligned with the Government's policy.

Following endorsement of the Structure Plan, Council is now well progressed in its work towards the St Marys Town Centre Master Plan. The Master Plan presents an opportunity to deliver the Government's TOD objectives for increased dwelling capacity, through a more refined distribution of density across the Town Centre to achieve place-appropriate outcomes.

The Master Plan is equally focused on providing a balance of jobs, amenity and infrastructure for the community.

Council's Structure Plan was developed through extensive community consultation and has established an ongoing Collaboration Group including several state agencies that continues to provide input to the Master Plan.

- **The TOD SEPP is silent on the need to provide jobs to support growth**

A central pillar of Council's strategic framework is providing jobs closer to home. Penrith is one of Greater Sydney's fastest growing local government areas, but growth in the number of local jobs has not kept pace with population growth. The Penrith Employment Lands Strategy (ELS) was endorsed by Council in 2021 and aims to ensure that Penrith has a sufficient supply of land in suitable locations to enable local businesses to thrive and attract new investment that will generate a greater number and diversity of jobs for our growing population. Penrith will need to provide even more jobs to fully realise its potential as a Local Government Area serving a regional function and to achieve a vision of a thriving, innovative 30-minute city.

There is an immutable tie between providing homes and Council's commitment to provide jobs and services for our growing community. A key objective of Council's Local Housing Strategy is to focus new housing in transit-oriented neighbourhoods within walkable catchments of existing and planned rail stations in order to maximise access to jobs and services. We want to ensure that as much as possible, housing and jobs are inextricably linked in our strategic planning.

The introduction of the reforms, while not proposing to rezone employment land, do not enable Council to support jobs growth or carry out detailed planning to ensure that the land use planning framework around town centres is orientated towards providing jobs to support the growing population. As an example, Council may seek to introduce a mixed use zone with minimum commercial floor space requirements as a result of detailed planning analysis. Council has recently adopted an Economic Development Strategy and will continue to address this issue as a priority. If the reforms enable the rapid residential development of town centres, there is a risk that land that could have been used to create vibrant and activated town centres with a land use mix will be lost to dormitory residential suburbs focussed on commuters.

- **The TOD SEPP does not provide new development levers over and above what already exist in the MUI and R4 Zones in St Marys**

There is already zoned land in the St Marys Town Centre with development controls in place to provide up to 11,000 dwellings. Despite this available capacity, development has not been taken up by the market.

The TOD SEPP proposes development controls less or the same as what already exist in the MUI Mixed Use Zone and in the majority of the R4 High Density Zone in St Marys, hence its applicability is limited. Levers beyond height and FSR need to be considered to catalyse development.

Council's Master Plan will seek to incentivise development in appropriate locations, with the backing of place-specific technical studies that give a detailed understanding of the economic conditions that contribute to development feasibility. Council's evidence-based Master Plan and nuanced place-based planning controls may be the only way to trigger development outcomes.

- **The TOD SEPP enables densification without adequate infrastructure (roads, stormwater, amenities, and appropriate funding) to support the proposed densification**

The TOD SEPP is underscored by the assumption that the housing supply will be supported by existing infrastructure already embedded in the town centre.

Council's work on the Structure Plan and Master Plan has highlighted that existing stormwater and wastewater infrastructure does not have any capacity beyond existing zoned land. Significant intersection upgrades would also be required to manage the impacts of the scale of density enabled by the SEPP in the current R2 Zone to the west of the station (Historic Living Precinct). Furthermore, new and upgraded open space and social infrastructure would be required to meet the needs of the additional population, all at a cost.

Council does not currently have a suitable contributions framework in place to support growth in St Marys if the TOD SEPP is successful in generating development.

Council's work towards the Master Plan includes consideration of an Infrastructure Delivery Plan and Funding Strategy that describes the infrastructure requirements to support the planned growth and outlines approaches to funding and sequencing.

A contributions plan will be prepared as part of Council's planning package to implement the Master Plan.

- **Early intervention is needed to ensure a balance of jobs, amenity and infrastructure for the community**

A key place outcome of the Structure Plan is for St Marys to be a centre for employment growth, including commercial office spaces, professional, knowledge and innovation businesses, as well as tourism, entertainment and night time economy based businesses building upon its proximity to the Western Sydney International Airport and Aerotropolis.

There is a risk that the introduction of the TOD SEPP may promote only residential development, to the detriment of Council's objectives to create an economic hub at St Marys with supporting land uses such as hotels.

The Structure Plan identifies the need to provide up to 5,600 additional jobs in St Marys Town Centre by 2041, making the total job target up to 9,100. Intensification of commercial floor space in the MUI Zone will be key to achieving this.

The Master Plan process has highlighted the importance of retaining, promoting and increasing economic development in the Town Centre. The TOD SEPP as currently drafted has the potential to undermine this outcome and not provide the appropriate land use mix that is needed to support a vibrant centre.

The TOD SEPP should adopt a holistic 'centres approach' and direct Government focus towards Sydney Metro opportunity sites for housing and jobs to stimulate collaborative growth. This site currently occupied by Metro represents a significant opportunity to realise not only housing, but also create a focal point for the town centre, with local amenities, activation and through site links. The success of these initial projects could establish market confidence that incentivises other landowners to redevelop.

- **The proposed one-size fits all approach to Transport Oriented Development does not respond to the specific context of the St Marys Town Centre**

Within the 400m radius, the Historic Living Precinct (as described in the Structure Plan), is the only land where residential flat buildings are not currently permitted. This land is zoned R2 Low Density Residential and as indicated through the Structure Plan, has a strong association with the history of St Marys.

Council staff have considered the applicability of the proposed TOD SEPP controls in this Precinct. Our analysis shows the TOD SEPP controls cannot be achieved due to site constraints. The testing further confirms that medium-high density development is not appropriate for a range of reasons including fragmented land ownership, narrow street widths, shallow lot depths and the Sydney Metro tunnel alignment which prevents basement development. It has also flagged potential interface issues/implications beyond the 400m radius of SEPP influence (infrastructure, servicing, equity, amenity etc.).

The significant fragmentation of small existing lots (<400m²) makes this area difficult to consolidate for residential flat development, potentially leading to poor urban design outcomes or inflated land prices where the density cannot be realised. Concern is raised that if the TOD SEPP removes the permissibility of semi-detached and/or low-rise multi-dwelling housing alternatives, development in this precinct may stagnate over the short-medium term, if not longer, due to the complexity of achieving lot amalgamations for residential flat buildings, coordination/cost of infrastructure upgrades, and overall feasibility of higher density development.

Council is also concerned with the inability to 'wind back' the planning controls within the TOD SEPP once they are put in place may further limit the viability of land use outcomes by artificially raising expectations regarding development outcomes.

Urban design analysis and built form testing carried out by Council staff within the Historic Living Precinct indicates that semi-detached dwellings would be suitable, and potentially more feasible in the short-medium term. This is in keeping with the Structure Plan direction for this area.

3. Our ask of Government:

While Council acknowledges the TOD policy will come into place in April 2024, Council would appreciate the option to propose alternate planning arrangements to match or exceed the Government's dwelling targets for the St Marys station precinct, based on Council's extensive detailed planning work that is already substantially progressed.

Council is keen to partner with Government to continue to deliver housing that meets the needs of a growing population, however, we are of the view that a more nuanced, evidence and place based approach is required for Penrith.



Council is supportive of continuing to work with Government to review the Penrith strategic and statutory planning framework to further contribute to the Government housing targets.

We therefore ask:

- That Council's St Marys 2041 strategic planning pathway be recognised as the appropriate pathway to deliver the Government's TOD objectives, including additional dwelling capacity within 400m radius of the station.
- That St Marys be removed from the list of 31 'tier two' stations to which the SEPP will apply, pending Council's Town Centre Master Plan and implementation of a considered place-based response to the land use outcomes in this locality.
- That the application of the TOD SEPP not apply to the MUI Zone to ensure St Marys achieves a balance of jobs and housing in support of its role as a strategic centre in Western Sydney.
- That the Government facilitate early development of State Government owned sites in St Marys to stimulate redevelopment in the Town Centre.

Summary of Existing Penrith LEP vs Proposed TOD SEPP Controls for St Marys Town Centre

Existing controls (Penrith LEP 2010) vs Proposed controls (TOD SEPP)		MUI Zone Mixed Use	R4 Zone High Density Residential	R2 Zone Low Density Residential
Land use objectives	Existing (Structure Plan)	Commercial Core Precinct A key day-and-night commercial hub with a supporting mix of uses that improve economic diversity and contribute to the prosperity of the Town Centre. Residential uses permissible under the current LEP controls will be retained.	Ridge-top Living Precinct Medium to high density residential precinct that offers housing diversity, focusing on the provision of affordable and social housing close to facilities, jobs and amenity.	Historic Living Precinct A precinct with a strong association with the history of St Marys, preserving its fine grain subdivision pattern, street layout and central park (Jack Jewry Reserve), and offering opportunities for heritage interpretation.
	Proposed	The Transport Oriented Development (TOD) Program is part of the NSW Government's plan to create more well-located homes close to transport, jobs and services.		
Dwelling typology	Existing	High density (mixed use) RFBs permitted as a form of residential accommodation/shop-top housing	Medium-high density RFBs permitted	Low density RFBs not permitted
	Proposed	RFBs permitted in all residential zones within 400m of station Proposal is silent on MUI Zone		
HOB	Existing	Varying heights from 32m up to 61m	Varying heights from 12m up to 27m	8.5m
	Proposed	21m HOB for all land within 400m of station Council's existing controls would prevail for the MUI Zone Council's existing controls for the R4 zone would prevail where they exceed the SEPP proposal		
FSR	Existing	Varying FSRs from 3.5:1 up to 5.5:1	No FSR	No FSR
	Proposed	3:1 FSR for all Zones within 400m of station Council's existing controls would prevail for the MUI Zone Built form testing by Council Officers indicates that the SEPP control cannot be achieved in the R2 Zone (Historic Living Precinct) due to site constraints		
Lot size	Existing	Min. lot size 1200m ² Min. lot width 24m	Min. lot size 800m ² for RFBs Min. lot width 20m	Min lot sizes for dual occupancies >650m ² Min. lot width 15m
	Proposed	No min. lot size or lot width for all land within 400m of station		
Car Parking	Existing (Penrith DCP)	Min. parking rates – at least 1 per dwelling + visitor spaces	Min. parking rates – at least 1 per dwelling + visitor spaces	Min. parking rates – 2 per dwelling
	Proposed	Max. parking rates – potentially <1 per dwelling		