



Housing Policy  
Department of Planning, Housing and Infrastructure  
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BB3 (CPE)

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To whom it may concern,

**RE: EIE – Creation of Low & Mid-rise Housing - Submission**

I refer to the Department of Planning, Housing and Infrastructure's (DPHI) recent exhibition of an Explanation of Intended Effect (EIE) to create more low and mid-rise housing, with a request for comments by 23 February 2024.

It is understood that this EIE is being progressed concurrently with the DPHI's Transit Oriented Development (TOD) Program, which seeks to deliver similar outcomes, albeit on a much more limited and focused application at 39 identified locations. Please note that North Sydney Council (Council) will be making representations separately in response to that concurrent proposal.

Council considered the implications of the EIE at its meeting of 12 February 2024, where it resolved to make a submission outlining its concerns. A copy of the Council report and its resolution can be found at:

<https://www.northsydney.nsw.gov.au/council-meetings/247/12-02-2024-council-meeting>

Council acknowledges and understands the need to provide additional housing opportunities to address the housing targets under the National Housing Accord. Council has been actively seeking to increase its housing supply through the implementation of its endorsed Local Strategic Planning Statement and Local Housing Strategy.

Whilst the Proposal's intent to increase residential densities around rail-based stations and town centres aligns with best planning practice, Council strongly objects to the narrow, blunt and generic blanket approach proposed. Increasing housing density needs to be undertaken with regard to a proper place-based planning approach to ensure that all opportunities, constraints and relevant impacts are considered, including the views of affected communities, to ensure we are delivering great and liveable places. Councils are best placed to undertake this planning and implementation as they are well aware of the issues affecting their local areas.

If the Proposal is implemented as exhibited, it is likely to result in the creation of a large number of unintended consequences and could effectively take years or decades to resolve in a responsibly appropriate way.

## 1. Place-based Planning

Planning for growth is predicated on the principle of place-based planning. Such an approach has been regularised from the Commonwealth Government level and downwards since at least 2012.

A place-based approach is about understanding the issues, interconnections and relationships in a place and coordinating action and investment to improve the quality of life for that community and guide any growth and change. In particular, it:

- is tailored in design or delivery, or both, and targeted to the specific circumstances of a place to respond to complex and multi-faceted issues that are unable to be resolved through universal (i.e. untailored) policy approaches;
- engages the community as active participants in policy development and service delivery;
- is outcomes focussed and provides considerable flexibility on how outcomes will be achieved; and
- includes these important components:
  - understanding of place,
  - partnering with the community,
  - all levels of government collaboratively working together,
  - empowering people on the ground, and
  - making change stick.

The Proposal appears to have only dealt with the first part of the third criteria above (is outcome focussed) and ignores all the other criteria. Failing to adequately consider the other criteria will result in places that are sub-par and not particularly nice to live in. This is due to the Proposal ignoring that each situation will be different as the targeted localities may be affected by one or more other constraints. Consideration needs to be given to the full gambit of capacity issues to ensure that we create great and liveable places.

A place-based approach is also embedded in the Environmental Planning and Assessment Act, 1979 (EP&A Act). This is evidenced through its objectives at section 1.3, which state (with emphasis):

- (a) *to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- (b) *to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) *to promote the orderly and economic use and development of land,*
- (d) *to promote the delivery and maintenance of affordable housing,*
- (e) *to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) *to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) *to promote good design and amenity of the built environment,*
- (h) *to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- (i) *to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (j) *to provide increased opportunity for community participation in environmental planning and assessment.*

In addition, Division 3.1 to the EP&A Act sets out the need for and requirements for undertaking strategic planning and how any statutory environmental planning instruments are to relate to those strategic planning outcomes. Of particular note, is the requirement to prepare Regional Plans and District Plans by the State Government and Local Strategic Planning Statements (LSPS) by local councils. Each of these strategic planning documents are then required to inform the preparation of environmental planning instruments to deliver the identified outcomes.

New Regional and District Plans were due to be released in mid 2023 outlining how much housing councils were expected to deliver to meet future housing demands. However, their release has been delayed, with the EIE stating that these new plans are to be published later in 2024. Had these plans been released last year as anticipated, this would have provided councils the impetus to update their LSPSs and Local Housing Strategies (LHSs) and given them the opportunity to commence the appropriate work to demonstrate how this housing could be delivered. In addition, these documents would have outlined the extent of potential additional local and district infrastructure to be delivered and where there may be infrastructure gaps.

Council requests the urgent release of these Regional and District Plans incorporating the relevant housing targets such that councils can start the appropriate planning processes to determine the best location for increased density based upon location and provision of appropriate infrastructure to support the increase population.

The Proposal effectively seeks to impose a solution without fully understanding the problem. This approach is likely to result in significant implications and will result in the need to find more solutions to fix an ill-advised approach.

Furthermore, the Proposal has the ability undermine years worth of strategic planning work undertaken by councils and the State Government in conjunction with community engagement in order to deliver great and liveable places. On this basis alone, the entire proposal is strongly objected to. To ensure a proper place-based approach is undertaken, it is recommended that the proposal within the EIE to increase housing density in proximity to Station and Town Centre Precincts be deferred and addressed in conjunction with the updating of councils' LSPSs and LHSs.

***Recommendation:***

- a) That the EIE not be progressed with.***
- b) That the Regional and District Plans be released as a matter of urgency such that councils can commence the appropriate planning processes to determine the best location for increased density based upon location and provision of appropriate infrastructure to support the increase population.***

**2. Community Views**

Council held a community information session on 14 February 2024, which sought to inform the local community about the intent and potential impacts arising from the implementation of the Proposal. A total of 250 community members attended the event.

A recording of the meeting was made a copy of which may be accessed at:

<https://www.youtube.com/watch?v=jViz8WMOSWw>

A summary of the community's key concerns and questions are outlined as follows:

- **Open Space**
  - Will open space provision be increased to serve the proposed increased population?
  - Will open spaces be rezoned for increased housing?
- **Walking Catchments**
  - Clarification is required with regard to how the "catchments" are measured. Is it walking or as the crow flies?
  - How will residents find out if they are located within one of the catchments? (i.e. will it be mapped or do they have to figure it out themselves).
  - Will residents affected by the implementation of the EIE be directly advised of which walking catchments they are located within?
  - Will catchments apply to just sites that meet the numerical distances or will it apply all properties within a street which is wholly or partly within numerical distance?
  - Is there any justification for using a 1200m catchment to TOD Program sites, given the EIE Proposal only relates to 400m and 800m?
- **Heritage and Conservation**
  - How will existing heritage items and conservation areas be protected?
- **Relationship to the TOD Program**
  - What controls will apply, when a site is affected by both identified TOD Program and the EIE proposal?
  - Will the TOD Program be implemented at the same time as the EIE proposal?
  - Will the TOD Program affect what has already been rezoned under the St Leonards Crows Nest 2036 Plan?
  - Will the TOD Program implement a consistent FSR and Height within 1200m of identified stations?
- **Affordable housing**
  - Confusion as to what affordable housing means?
  - Does the proposal actually assist with creating more affordable housing?
  - Will there be any specific provisions for key worker housing and/or social housing?
- **Density / Built Form**
  - High density can be achieved in 3 story buildings, why do we need 6 storeys?
  - What design testing has been done to justify the draft planning controls?
  - Will existing low rise apartment blocks with height restrictions be rezoned to be able to be high rise, regardless of current zoning?
  - What is the minimum lot size for mid rise housing (i.e. residential flat buildings) permitted by the EIE?
  - Will there be proposed building separation controls for both low and mid-rise housing developments?
  - North Sydney currently contains many 4/5-storey residential flat buildings, many most within 400-800m of rail-based stations. Is it likely that, these proposals will be expanded to accommodate buildings of up to 16/20-storeys or greater?
- **Duplication of development bonuses**
  - Questioned if the affordable housing bonuses under the Housing SEPP can be applied in addition to the proposed increased in development potential under the EIE.

- **Infrastructure Capacity**
  - Is there any justification to support the proposed increase in density with regard to essential services, health, medical, emergency services, schools, open space, transport?
  - What community benefits will be provided as a result of increased density?
- **Zoning**
  - Why is the R2 Low Density Residential zone not being rezoned to R3 Medium Density Residential to permit low-rise housing?
  - Why is the R3 Medium Density Residential zone not being rezoned to R4 High Density Residential to permit mid-rise housing?
  - How does the proposal affect development within the R4 High Density Residential zone?
- **Traffic and Transportation**
  - Why was the Northern Beaches Tunnel cancelled in response to population growth and is it being reconsidered?
  - Is the proposal supported by traffic studies, incorporating impacts from the increased population density and operation of the new Western Harbour Tunnel traffic?
- **Character**
  - Should not be permitted to increase densities in localities with an established low density character.
- **Approvals**
  - Will Councils still be able to request modifications to or refuse development applications?
  - Will Council have any input where applications are determined at the Regional or State level?
- **Commercial Areas**
  - What's the expected impact on local shops, cafes and restaurants?
- **Manor houses**
  - What is a manor house?
- **Other solutions**
  - Can consideration be given to looking at reducing excessive immigration levels?
- **Implementation**
  - What timeframe are these changes likely to be implemented?

The majority of these concerns were also identified in the report considered by Council on 12 February 2024 and detailed in this submission.

### **3. Progression of Proposal**

Despite Council's strong opposition to progression of the Proposal as exhibited, should the DPHI be of a mind to continue its progress, there are a number of other issues which require further clarification, review, removal or amendment to ensure that the delivery of any additional dwellings minimises their impact on existing communities, local heritage and the environment. These issues are discussed in the following subsections.

#### **3.1. Establishment of Station and Town Centre Precincts**

Whilst the general intent of increasing residential densities in and adjacent to rail-based stations or suitably sized town centres is supported, the method to establish the appropriate catchments is questioned.

### **3.1.1. Rail-based Station Precincts**

This approach is generally supported. However, it can only be supported where there is sufficient frequency in services. There is little point in increasing densities in localities where the station is serviced by an hourly or half hourly weekday service.

### **3.1.2. Town Centre Precincts**

The Proposal seeks to establish Town Centre Precincts based on the application of employment zones. However, reliance on zoning alone is problematic, as a particular zone or the quantum of land sharing the same zoning in a location may not provide a sufficient level of activity that would promote a walkable precinct.

Despite all councils' LEPs being based on a Standard Instrument LEP, they all utilise the standardised zones differently. Differences arise in response to a council's addressing of localised issues in managing growth consistent with comprehensive strategic planning directions, which have been prepared with community buy-in.

Zones are predominantly used to assist in determining what uses should be permissible where and should not be used to automatically determine the status of a town centre. Whilst there maybe a general correlation between the use of the *E2 Commercial Centre* and *SP5 Metropolitan Centre* zones and higher order centres, it becomes significantly less so with the use of *E2 Local Centre* and *MU1 Mixed Use* zones and all centre types.

Reliance on zoning criteria alone is undermined where it would apply to an isolated site or a small number or group of sites. In these instances, it is unlikely that the isolated site/s would generate a sufficient level of activity that would promote walking as envisaged under the proposal. This is particularly a problem with regard to the use of the *E1 Local Centre* in the North Sydney LGA.

Further issues may arise where an employment zone is utilised in a "strip" fashion where it straddles a major road and extends over a significant length of that road (for example Pacific Highway and Military Road). Despite providing some employment activity, the zoning alone may not constitute a town centre in a traditional sense. There may also be instances where there maybe a high activity generator at one end of the employment zone and nothing at the other, over 1km away. In this instance, it would not be appropriate to increase density around that end of the employment strip where there is no substantive activity occurring, especially in a lower order town centre.

A more appropriate way to identify a Town Centre Precinct would be to give consideration to an identified centre hierarchy, such as that identified under the Regional and District Plans or a council's own centre hierarchy identified under its LSPS, which are more based on the levels of services and facilities delivered within those centres. Furthermore, town centres are typically comprised of a combination of zones and rarely rely on just a single zone. This approach is more appropriate and would require detailed site auditing, ground truthing and associated mapping to ensure that there was a sufficient level of clarity regarding its application.

The proposed use of the *E2 Commercial Centre* and *SP5 Metropolitan Centre* zones to establish a Town Centre Precinct may be appropriate given their general application within centre hierarchies (n.b. although the above isolation issues will continue to apply) as these zones typically contain a broad range of uses that provide for the daily needs of the surrounding community. However, further consideration is needed to determine what quantum of land is required for that zone to be used as there may be no significant activities occurring within these zoned lands to contribute to a high level of walking.

The proposed use of the *E1 Local Centre* and *MU1 Mixed Use* zones “but only if the zone contains a wide range of frequently needed goods and services such as full line supermarkets, shops and restaurants”, to establish a Town Centre Precinct is not supported as it is too ambiguous and open to interpretation.

Whilst supermarkets are generally easy to locate, determining which ones comprise a “full-line supermarket” is much more difficult, as they are not defined under the Proposal, nor any existing planning legislation or policy. Despite the absence of any formal definition, a full-line supermarket is generally considered to have a sales floor area exceeding 2,500sqm. If the Proposal is to proceed, a definition must be included to remove any ambiguity.

Even if a floorspace threshold is set for a “full-line supermarket”, there is no readily accessible register identifying all supermarkets and their floorspace dimensions. To establish such a register, would require a large amount of background research to be undertaken to determine which ones would qualify as a “full-line supermarket”. This demonstrates that a more holistic place-based approach to determine the extent of a Town Centre precinct is required.

Further, it is unclear as to what quantum of other “goods and services” may be required to meet the threshold for a Town Centre Precinct under the Proposal, requiring a merit assessment in each instance. To greatly improve clarity, the identification of Town Centre Precincts could also be based on meeting a minimum quantum of overall retail floorspace. However, not all councils, including North Sydney, have ready access to such information and therefore such an approach is not suitable and reinforces the need for a place-based approach.

Given the inconsistent approach to the use of employment zones, absence of appropriate thresholds to define a town centre and vagaries around the proposed application of the *E1 Local Centre* and *MU1 Mixed Use* zone, it is strongly recommended that the EIE’s application to Town Centre Precincts be deferred until all affected councils can be further involved in order to establish a more appropriate set of criteria and/or the mapping of the extent of appropriate town centres.

***Recommendation:***

- c) That the proposed application to Town Centre Precincts be deferred to enable detailed discussions with councils to establish appropriate criteria or mapping of centres.***
- d) That if the Proposal progresses with its application to Town Centre Precincts that:***
  - (i) It be excluded from applying to the E1 Local Centre and MU1 Mixed Use zones.***
  - (ii) A definition of “full-line supermarket” be incorporated, with an appropriate threshold stated.***
  - (iii) Consideration be given to establishing Town Centre Precincts based on a total quantum of retail floor space or a centre hierarchy established under a council’s LSPS or Regional or District Plan.***

### **3.1.3. Measuring Walking Catchments**

The determination of the extent of a walking catchment can sometimes be open to interpretation, depending upon how the catchment is measured. In addition, it is unclear if the catchment would apply to sites wholly within only, or those which are wholly and partly within. At present, there is no definition or guidance as to how to determine a walking catchment.

In addition, the establishment of walking catchments does not appear to give consideration as to whether a particular route is “walkable”. Walkability can be significantly compromised by an

area's topography, availability of suitable footpaths and the ability to safely cross a street. These matters should also be included in the establishment of suitable walking catchments.

Accordingly, further guidance and clarification is required as to how to measure the walking catchment, when a site is included or excluded from that catchment and whether that walking route should be subject to topographical, pedestrian infrastructure and pedestrian safety considerations.

Whilst the premise of establishing Precincts based on walking catchments is supported, the application of the thresholds in relation to town centres without major rail based station infrastructure is questioned. People are more likely to walk to a major public transport station than a local centre (regardless of its size). This is reflected in the current Regional and District Plans, which recommend that residential densities around town centres are increased within:

- 800m (10min walk) where they include a major rail-based station; or
- 400m (5min walk) where they do not include a major rail-based station.

Therefore, if the Proposal is to proceed including a criteria for Town Centre Precincts, that the walkable catchment be reduced to 400m.

***Recommendation:***

- e) Provide increased technical guidance as to how walking catchments are to be measured.***
- f) If the Proposal is to proceed including a criteria for Town Centre Precincts, that the walkable catchment be reduced to 400m.***

### **3.2. Dual Occupancies**

The proposal to permit dual occupancies, anywhere in the State within the *R2 Low Density Residential* zone is not objected to, as potential impacts can generally be adequately managed through the implementation of appropriate built form controls.

The explanatory information to the Proposal focuses on the delivery of "two-storey attached duplexes" in a side-by-side format, similar to "semi-detached dwellings". However, the proposed controls within the EIE applies to "dual occupancies", which extends to include both attached and detached forms. The EIE proposes to adopt a single set of controls for both forms of dual occupancy, however, fails to recognise that different sets of controls are required for both forms to ensure adequate amenity is maintained between buildings.

#### **3.2.1. Lot Size**

Council's dual occupancy controls are based on an "attached" built form and are generally consistent with the proposed controls. However, "detached" built forms require larger lot sizes to enable appropriate building separation to ensure the desired future built form character, fire safety, privacy, private open space and access are maintained. In this respect, it is recommended that different minimum lot sizes be established for "attached" and "detached" dual occupancy built forms.

Based on the proposed minimum lot size of 450sqm, this would equate to a land area of 225sqm per dwelling within a dual occupancy. If a 12m wide frontage (minimum requirement) is then applied as proposed, and the second detached dwelling within the dual occupancy was to be provided at the rear of the allotment (e.g. a battle-axe arrangement), it would require a 3m wide access handle of approximately 100sqm in area. The utility of this access handle would be limited to access only, resulting in the provision of a much smaller area (125sqm) upon which to

locate the second dwelling. This in turn is likely to result in reduced levels of landscaped area, private open space and tree canopy provision.

Even if the detached dual occupancy dwellings were located side by side and facing the street, there is a need to maintain nominal building separation to ensure adequate fire safety and amenity outcomes, which also requires increased land area over an “attached” dual occupancy form.

Accordingly, it is recommended that a minimum lot size of at least 550sqm for detached dual occupancies be introduced, to ensure adequate amenity, privacy and fire safety issues can be adequately addressed.

### **3.2.2. Height**

The proposal seeks to allow dual occupancies up to 9.5m in height in the R2 *Low Density Residential*, a 1m increase over that currently permitted under NSLEP 2013.

Despite the EIE envisaging a two storey built form outcome, the proposed height limit would enable the delivery of a three storey building, which has the potential to dramatically alter the desired character of a locality.

It is general practice to utilise an 8.5m height limit for an anticipated 2-storey residential built form, which most R2 *Low Density Residential* zones apply, including North Sydney.

It is further noted that State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP) permits low-rise housing forms, including dual occupancies, but restricts the height limit to 8.5m based on best practice.

The Proposal does not state that existing 8.5m height control is an issue with regard to the delivery of dual occupancies, nor is there any justification provided as to why a 9.5m height limit is appropriate. For these reasons, the maximum height limit should be reduced to 8.5m.

#### ***Recommendation:***

- g) That different development standards be applied for attached and detached dual occupancies.***
- h) That a minimum lot size requirement of at least 550sqm be applied to detached dual occupancies.***
- i) That the maximum height requirement be reduced to 8.5m consistent with the Codes SEPP.***

### **3.3. Low Rise Housing**

#### **3.3.1. Permissibility**

It is proposed to permit manor houses, multi dwelling housing (terraces) and multi dwelling housing with consent within the R2 *Low Density Residential* zone AND where it is located within a Station or Town Centre Precinct.

This aspect of the Proposal will create a “subzone” (i.e. the same development type may be either permissible or prohibited within the same zone). This will greatly reduce clarity and is contrary to directions set by the State Government when it established the Standard Instrument LEP and relevant practice notices for the preparation of LEPs and therefore is not supported.

A more appropriate mechanism to increase residential densities is to alter the underlying zoning of land within the Station and Town Centre Precincts to permit the residential accommodation types where they are mandated as permissible (e.g. rezoning land from R2 to R3 or R4) and to

subsequently alter the relevant development standards (e.g. increasing maximum height of buildings control). This is a clearer and more transparent approach when interpreting what is acceptable within a particular zone across an entire LGA. This can only be achieved through a place based planning approach.

### **3.3.2. Manor house definition**

Manor houses are not defined under the Standard Instrument LEP, upon which all council LEPs are based. However, they are defined under the Codes SEPP as follows:

*manor house means a residential flat building containing 3 or 4 dwellings, where—*

- (a) each dwelling is attached to another dwelling by a common wall or floor, and*
- (b) at least 1 dwelling is partially or wholly located above another dwelling, and*
- (c) the building contains no more than 2 storeys (excluding any basement).*

The EIE seeks to amend the definition of manor houses as defined under the Codes SEPP, to remove the restriction on the number of dwellings that may be contained within a manor house. This approach is not supported.

Removal of the dwelling cap from the definition of manor houses will not guarantee that a low scale built form is delivered, consistent with the mandated objectives of the *R2 Low Density Residential zone*.

For instance, whilst the revised definition will retain a requirement to be a maximum of 2 storeys, the scale of development is not based on height alone. There is potential that you could end up with significantly long buildings, out of character with development permitted elsewhere in the *R2 Low Density Residential zone*. Accordingly, there is still a need to limit the extent of dwellings within such a development.

It is unclear if the proposed amended definition will result in the application of two definitions for the same land use term under two different planning instruments. For instance, will the current definition continue to apply under the Codes SEPP along with a different definition under a separate enabling SEPP? If this approach is taken, it will greatly reduce clarity and transparency. If the intent is to apply two different scales of “manor houses” under two separate planning policies in terms of the number of permitted dwellings, then a new landuse definition must be adopted to improve clarity.

To provide increased clarity, consideration should be given to including the definition of manor houses under the Standard Instrument LEP and mandate their use within appropriate zones if this aspect to the Proposal is to proceed.

### **3.3.3. Height**

The proposal seeks to allow manor houses and multi-dwelling housing up to 9.5m in height in the *R2 Low Density Residential* and *R3 Medium Density Residential* zones, a 1m increase over that currently permitted under NSLEP 2013.

The EIE anticipates the delivery of a 2-storey built form outcome, with a potential third storey contained within a “habitable roof”. The assumption that any habitable roof is contained within a pitched roof structure is unlikely and that an outright 3-storey built form with a flat roof will likely be pursued, due to the ability to achieve a much larger building and is likely to result in dramatic changes to the character of the *R2 Low Density Residential zone* and increased amenity impacts.

There is no discussion as to what a “habitable roof” comprises. There is no definition of habitable roof under any environmental planning instrument, nor is it defined under the ADG. In this regard habitable roofs need to be defined, to provide increased levels of certainty as to what is intended.

It is general practice to utilise an 8.5m height limit for an anticipated 2 storey residential built form, which North Sydney Uses in the *R2 Low Density Residential* and *R3 Medium Density Residential* zones.

Further, it is noted that State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP) permits low rise housing forms, including 1 or 2 storey manor houses or multi dwelling housing (terraces). The SEPP also restricts this form of development to a maximum height of 8.5m based on best practice.

The Proposal does not state that existing height controls are an issue with regard to the delivery of manor houses, terraces or medium density housing, nor is there any justification provided as to why a 9.5m height limit is appropriate other than to allow an additional storey within the building’s roof component. Increasing the height limit alone will not lead to an increase in housing supply as envisaged under the EIE.

Furthermore, there appears to be a conflict with the existing and proposed definition of manor houses, which currently restricts the height of such development to two storeys. Therefore, the ability to achieve three storeys is unachievable.

Accordingly, the proposed height limit is strongly objected to and should be reduced to 8.5m consistent with current practices. However, if the proposal is to proceed with a 9.5m height limit, more controls are required to ensure that the appearance of any dwelling remains 2 storey in form, with any potential third storey element contained in a pitched roof form.

***Recommendation:***

- j) Manor houses, terraces and multi dwelling housing not be permitted within the R2 Low Density Residential zone.***
- k) That if an increase in permissibility is pursued, that it be achieved through the appropriate rezoning of the land to a zone that permits the land use term, rather than through the creation of a subzone subject to a place based planning approach.***
- l) That manor houses be defined under the Standard Instrument LEP and mandated as permissible with consent in the R3 Medium Density Residential zone and leave it to councils to determine where they are to be located subject to the outcomes of their Local Housing Strategies.***
- m) That if required, a new sub-term to “residential flat building” be created and incorporated within the Standard Instrument LEP to reflect the outcomes of the proposal with a cap on the number of dwellings being imposed to ensure that the development remains modest in scale.***
- n) That the maximum height for low rise housing be 8.5m consistent with the Codes SEPP.***

### **3.4. Mid-Rise Housing**

#### **3.4.1. Permissibility**

It is proposed to permit residential flat buildings (RFBs) and shop top housing (STH) with consent within the *R3 Medium Density Residential* zone AND where it is located within a Station or Town Centre Precinct. This aspect of the proposal is strongly objected to.

The EIE assumes that all councils apply the available residential zones under the Standard Instrument LEP in the same way, with approximately 25% of councils prohibiting RFBs in the *R3 Medium Density Residential* zone. However, all councils use various combinations of the available residential zones. No recognition is given to those councils who use the *R3 Medium Density Residential* zone as the highest and best residential zone (e.g. Mosman Council), which could result in discrepancies as to why RFBs are prohibited or not in the R3 zone within different LGAs.

This aspect of the proposal will also create a “subzone” (i.e. the same development type may be either permissible or prohibited within the same zone). This has the ability to greatly reduce clarity and is contrary to directions set by the State Government when it established the Standard Instrument LEP and relevant practice notices for the preparation of LEPs.

A more appropriate mechanism to increase residential densities is to alter the underlying zoning of land within the Station and Town Centre Precincts to permit the residential accommodation types where they are mandated as permissible (e.g. rezoning land from R2 to R3 or R4) and to subsequently alter the relevant development standards (e.g. increasing maximum height of buildings control). This is a clearer and more transparent approach when interpreting what is acceptable within a particular zone across an entire LGA.

The EIE states that the proposed mid-rise housing development controls (i.e. height and FSR) are also to apply to employment zoned lands where RFBs and STH are also permissible in these zones. Potential exists that the employment function of these lands could be undermined, if councils do not have sufficient controls in their LEPs to protect the employment function of those lands (e.g. minimum non-residential floor space ratio controls). Whilst non-residential floorspace ratios are applied to the *MU1 Mixed Use* zone under NSLEP 2013, there is no such safeguard under the *E1 Local Centre* zone.

The Regional and District Plans state that “*housing should not compromise a centre’s primary role to provide goods and services and the opportunity for the centre’s employment function to grow and change over time*”. The EIE states that the proposed midrise development standards will also apply to the employment zoned lands. This has the potential to undermine the ability of existing town centres to grow to provide sufficient levels of employment floorspace to meet the needs of the local resident population. The proposal will effectively prevent the horizontal expansion of existing centres, placing more pressure for employment floorspace to be provided vertically. However, if that vertical capacity is occupied by strata titled residential dwellings, it will prevent the ability for those centres to grow.

It is noted that the proposed TOD SEPP seeks to impose “Minimum active street frontage controls in the *E1 Local Centre* and *E2 Commercial Centre* zones”. It is recommended that a similar provision should also be applied under this Proposal to ensure a level of consistency and protect employment lands if proceeded with as exhibited.

#### **3.4.2. Height controls**

There appears to be an inconsistency between the establishment of the proposed maximum height controls for mid-rise housing within the Station and Town Centre Precincts. Using the ADG as a base, an allowance of 3.1m floor to floor for each storey and a 1m roof allowance, Table 1 provides an indication as to what the anticipated height controls should be.

<b>TABLE 1: Height Control Comparison</b>			
	<b>ADG</b>	<b>Proposed</b>	<b>Difference</b>
<b>4 storey building</b>	<i>13.4m</i>	<i>16m</i>	<i>+2.6m</i>
<b>6 storey building</b>	<i>19.6m</i>	<i>21m</i>	<i>+1.4m</i>

It is unclear as to why there is a difference in excess height between a 4-storey and 6-storey built form.

The Proposal therefore would result in the erection of much taller buildings than that currently envisaged under the ADG. Council has recently seen an increase in the significant excavation of sites to accommodate additional storeys upon a site whilst complying with the height control. Accordingly, there is potential that much taller buildings in terms of storeys could be delivered contrary to that envisaged under the EIE. Therefore, it is recommended that the proposed maximum building heights be reduced to represent a more realistic building height as follows:

- 4-storeys - reduced from 16m to 14m; and
- 6-storeys - reduced from 21m to 20m.

A slight increase over the ADG base amounts would enable consideration to be given to any topographical changes across a site.

As previously indicated, the proposed mid-rise housing height controls would also apply to land within an employment zone within a Town Centre Precinct where residential development is permitted. Non-residential uses require the utilisation of greater floor to floor heights to ensure adequate servicing and amenity. Despite the consistent application of an employment zone, different centres can have very different localised conditions which could affect the height of a building. For instance, some town centres may require only one level of non-residential development, whereas others may require four. This would necessitate the creation of different height requirements for non-residential zones.

Accordingly, applying a blanket approach to height controls without due regard to the intended use of the land is not acceptable nor supported. This can only be adequately achieved through a place-based planning approach. On this basis, it is strongly recommended that the application of the Proposal to employment zones be removed in its entirety and only progress subject to place-based planning approach.

### **3.4.3. FSR controls**

North Sydney Council does not typically utilise FSR controls for development within the LGA with a couple of exceptions including:

- Application of a blanket FSR control across the entire *E1 Local Centre* zone, with the exception of the Cammeray Town Centre where no such control applies; and
- Isolated sites throughout the LGA (predominately in St Leonards/Crows Nest) where spot rezonings have occurred to provide a greater level of certainty over built form outcomes.

Council generally relies on the other development provisions to manage built form including, height, setbacks, building separation, overshadowing, landscaped area and site coverage.

The proposal has given no consideration to outcomes achieved by applying an FSR control to various land sizes. Generally, the bigger the site is, the greater the ability to spread the floor space across a site and effectively reduce height. On smaller sites however, it is more likely that

the maximum height will be reached before the maximum FSR control can be met. This is largely due to the consistent application of setback controls and site coverage and landscaping requirements applying regardless of site size. Developers will generally push to further increase height limits on the basis that the allowable FSR control has not been met. This then builds in unrealistic expectations, which give rise to adverse built form outcomes.

Further, the setting of FSR controls appears to have been based on a crude application of 50% of a site's area comprising gross floor area for each storey that is permitted. On this basis, the building is likely to have a site coverage in the order of 67% (based on a gross building area efficiency rate of 75% per storey), which is well in excess of that permitted under NSDCP 2013 (45%). This would also result in a low level of landscaped area being provided which may not be capable of accommodating vegetation which can match the scale of the proposed development. In this respect, the proposed FSR requirements should be reviewed to ensure that the quantum of floor space can actually be delivered.

It is assumed that the maximum FSR controls are to be applied to the employment zones also if RFBs are also permitted in those zones. Given that employment zones often employ different setback controls to ensure a particular built form, it is likely that meeting the maximum FSRs will result in a shorter building than if applied in a residential zone. On this basis, different FSR controls would be required for development in the employment zones if this aspect is progressed.

It is recommended that that the proposed FSR controls be removed in their entirety from the Proposal as they have the potential to deliver unrealistic expectations and do not adequately consider the real amenity impacts of a development.

Alternatively, if the proposal is to proceed with FSR controls, it should be revised such that neither the maximum height or FSR controls can be exceeded. This will prevent developers from seeking breaches for one of these development standards, just so that they can achieve the other development standard. This is important given the generic nature of these proposed controls across Greater Sydney.

***Recommendation:***

- o) that residential flat buildings and shoptop housing not be permitted within the R3 Medium Density Residential zone.***
- p) that if an increase in permissibility is pursued, that it be achieved through the appropriate rezoning of the land to a zone that permits the land use term, rather than through the creation of a subzone.***
- q) That the proposed development controls relating to mid-rise housing not be applied within employment zones to Station and Town Centre Precincts.***
- r) That should the intent to increase residential densities within employment zones to Station and Town Centre Precincts be pursued, then it should be subject to a place-based planning approach with the preference given to amending development controls within employment zones to ensure their employment functions are not undermined and maximum heights and FSRs be established to reflect an appropriate mixed use form. Such amendments should be subject to further community consultation.***
- s) That if the mid-rise housing aspect of the Proposal is to progress, that:***
  - (i) the maximum height limit within a 0-400m walking catchment of a Station or Town Centre Precinct be reduced from 21m to 20m.***
  - (ii) the maximum height limit within a 400-800m walking catchment of Station or Town Centre Precinct be reduced from 16m to 14m.***

- (iii) separate building heights on employment zoned land be established to reflect their commercial status and be subject to further community consultation.*
- (iv) the FSR controls be removed in their entirety. However, if an FSR control is applied, then:*
  - a provision be included which prevents the breaching of either the height or FSR control; and*
  - that separate FSR controls be established for employment zones and subject to further community consultation.*

### **3.5. Apartment Design Guide (ADG)**

The ADG provides consistent planning and design standards for apartments across the state. In particular, it provides design criteria and general guidance about how development proposals can achieve the 9 design quality principles identified under Chapter 4 - *Design of residential apartment development* to the Housing SEPP.

The Proposal seeks to allow a relaxation of a number of the development standards and criteria contained within the ADG as it relates to mid-rise residential flat development permitted under the Proposal. The premise of this is to ensure that *“design controls applying to mid-rise housing proposals are appropriately differentiated to facilitate smaller apartment buildings”*.

The standards established under the ADG were premised on ensuring good design and amenity for residents within the development and adjoining properties. Furthermore, they have been established with regard to a strong place-based approach and community consultation, rather than a blanket approach as currently being proffered.

It is strongly recommended that no variation is permitted to the development standards and criteria under the ADG, particularly with regard to built form outcomes.

The key issues with regard to the proposed variations is provided in the following subsections.

#### **3.5.1. Side Setbacks / Building Separation**

The ADG states that setbacks should vary according to a building’s context and type. Larger setbacks can be expected in suburban contexts in comparison to higher density urban settings.

In particular, it is anticipated that greater setbacks are required in residential zones in comparison to employment and mixed use zones as they often present very different characters. However, setbacks need to be established with regard to a place-based planning approach to ensure that the desired future character of an area is not unreasonably eroded.

The relaxation of setbacks at the topmost part of a building can also have impacts on solar and daylight access and presentation of a human scale to the public domain.

The Proposal also seeks to increase the side and rear setbacks by *“an additional 1m for every 2 storey difference in height between neighbouring buildings”*. It is unclear if this is intended to apply to existing sites that are also afforded greater heights under the proposal or only where there is an interface to an existing building that has a lesser height. This needs confirmation to provide greater clarity.

Notwithstanding, this proposed additional setback requirement appears to be less than additional 3m requirement that is recommended under the ADG where there is a transition to an adjoining zone or area of lesser density or intensity. No information has been provided to justify this reduction in additional setbacks to areas where there is a transition.

Having regard to the above analysis, it is recommended that the proposed blanket relaxation of the building setback and building separation controls not be progressed that the existing provisions under the ADG be relied upon.

### **3.5.2. Tree Canopy Target**

It is questioned how a “tree canopy” target is to be achieved, based on a site area requirement. Tree canopies can often expand over hard spaces of a site and the extent of a canopy will vary depending upon the species and age of the trees selected. Therefore, the proposed control does not provide any certainty for an applicant nor anticipated outcomes.

The intent of this control can only be achieved by stipulating minimum landscaped area and deep soil zone requirements, in conjunction with the quantum of trees to be planted. The ADG already contains these requirements. It is therefore recommended that the proposed tree canopy numerical requirements be removed in their entirety and that reliance be left to the existing controls.

### **3.5.3. Car Parking**

Council has recently implemented new parking rates in areas of high accessibility to rail-based public transport in an attempt to manage traffic congestion in what is already a highly compromised network.

The proposal states (pg 29) that “minimum car parking rates to create a consistent set of appropriate requirements for mid-rise housing across the six cities”. However, it is unclear what sort of impact this aspect of the proposal will have, as no rates have been specified.

Notwithstanding the absence of proposed parking rates, the proposal to implement revised “minimum” parking rates will likely undermine Council’s position to manage traffic congestion. It is strongly recommended that maximum parking rates within the Station and Town Centre Precincts be imposed to ensure that walking, cycling and public transport use is prioritised.

#### ***Recommendation***

- t) That all proposed variations to the requirements under the ADG be objected to.***
- u) Consideration be given to imposing maximum parking rates within the Station and Town Centre Precincts to manage congestion and facilitate suitable take up of alternative options to private transport.***

### **3.6. Heritage and Conservation Areas**

The proposed changes to land use permissibility and application of new development standards are to be applied at the zoning level and will ignore other underlying constraints to development, in particular, heritage and conservation.

The Proposal suggests that heritage items and heritage conservation area controls under a council’s LEP will continue to apply and that such matters will be required to be considered in the development assessment process on a merit basis. This presents a level of cognitive dissonance between these concepts.

Application of the proposed planning controls to isolated or small groups of heritage items may be reasonable in some instances, if subject to an appropriate assessment of the impacts. This has often worked in the past, where heritage items and new development can work in tandem where the significance of the heritage item is maintained. However, their application to heritage conservation areas will almost certainly have a significant detrimental impact on the conservation area.

The significance of a heritage conservation area primarily relates to the consistency in its built form, visual character and the collective sense of place. Permitting development in some instances up to three-times the bulk and scale of development within an established heritage conservation area as proposed, has the ability to significantly undermine its heritage significance and would be contrary to meeting objective (f) to the EP&A Act.

If the Proposal is to be implemented as exhibited, it is also likely to create a significant level of contestability under both the Council assessment process (including Local / Regional Planning Panel) and under any Land and Environment Court appeal.

It is further acknowledged, that the consideration of heritage and conservation matters for such development under the Proposal as exhibited will lead to increased assessment timeframes due to the additional heritage matters to be considered and is contrary to the State Government's intent to reduce assessment timeframes and speed up housing delivery.

For the reasons outlined above, it is strongly recommended that the proposed controls for low and mid-rise housing be excluded from applying to all heritage conservation areas.

***Recommendation***

- v) ***That the proposed development controls for low and mid-rise housing be specifically excluded from applying to land located within a heritage conservation area.***

**3.7. Affordable Housing Delivery**

The concurrent proposed TOD Program seeks to introduce mandated requirements for the provision of affordable housing. However, the extent of this requirement is being limited to the 8 Accelerated Precincts and 31 TOD Precincts.

It is questioned why the affordable housing requirement under the proposed TOD Program (15% in perpetuity within the Activation Precincts and 2% in the 31 TOD Precincts) has not been extended to apply more broadly to all Station Precincts across the Six Cities Regions under this Proposal. This would ensure a more consistent approach to the delivery of affordable housing.

The focus on delivering affordable housing around rail-based transport stations is particularly important, as those residents requiring affordable housing are more likely to rely on public transport as their primary method of transportation. If not, it merely displaces those people after 15 years and the problem of accessibility to public transport recommences as they will no longer be able to afford to stay in the same locality.

As such, any affordable housing requirement should be made in perpetuity as any impacts from the proposed uplift gained will also be in perpetuity.

***Recommendation***

- w) ***That an additional provision be incorporated mandating the provision of at least 2% of residential dwellings in a mid-rise housing development (or equivalent monetary contribution), if the development is located within 400m of a rail-based transport station within the Six Cities Regions, consistent with the proposed TOD Program.***
- x) ***That any monetary contribution required for affordable housing under the mid-rise housing controls be expended in the LGA from which it was collected.***
- y) ***That any affordable housing contribution be required to be made in perpetuity.***

### 3.8. Flooding and Other Hazards

The Proposal suggests that the risk of flooding to life and property through local planning controls is a key priority for the State Government and that local controls will continue to apply to the development under the Proposal. However, the Proposal is silent with regard to risks from other types of hazards.

When an LEP is prepared, it must give consideration to the s.9.1 Ministerial Directions. Directions 4.1-4.6 specifically relate to matters of resilience and hazards and cover the following matters:

- flooding,
- coastal management,
- bushfire,
- contamination,
- acid sulfate soils, and
- mine subsidence and unstable land.

These Directions effectively prevent any increase to residential densities in areas affected by known hazards, unless adequate technical studies have been undertaken and it can be clearly demonstrated that future residents in those areas will not be exposed to unacceptable risks. The EIE fails to consider these hazards adequately and is not supported by comprehensive studies which outline how any potential issues are to be addressed.

Not all LEPs, nor SEPPs contain appropriate or sufficient provisions to ensure that risks to human life are minimised with regard to the types of hazards identified above. This further demonstrates that there is need to undertake a placed based planning approach to increasing densities in Station and Town Centre Precincts.

Should the Proposal progress, it is recommended that the proposed provisions are specifically excluded from applying to areas affected by the risks identified under the Ministerial Directions.

#### ***Recommendation***

- z) That part of the Proposal to allow increased residential densities be amended to exclude any land that is affected by hazards identified by the Section 9.1 Ministerial Directions.***

### 3.9. Housing Choice

One of the key objectives of the proposal is to increase housing diversity and choice, by increasing opportunities to accommodate terraces and small rise apartment blocks. The justification for pursuing the proposed amendments is partly based on the analysis of the extent of land zoned across the Six Cities Region. In particular, it states that approximately:

- 77% of land is zoned for low density housing (effectively restricted to detached and semi-detached dwellings);
- 12% of land is zoned for medium density (permitting up to attached dwellings, multi-dwelling housing, and in limited instances residential flat buildings); and
- 2% of land is zoned for high density (permitting up to residential flat buildings);

This analysis fails to recognise the residential capacity of other zones within which housing is being delivered, particularly the employment and mixed use zones. This is important given the proposed controls are to be applied to these zones as well, where RFBs and STH is to be permitted with the Station and Town Centre Precincts.

In addition, no analysis has been undertaken to determine the split of dwelling types regardless of zoning applied. Such an analysis would demonstrate that greater portions of higher density housing is being delivered in the Six Cities Region. This is due to the larger number of dwellings being delivered on a single lot of land and within other zones. Accordingly, the basis for the extent of the reforms is being overemphasised.

Within the North Sydney LGA, approximately 40% of residential land is zoned for low density housing (R2), 25% for medium density housing (R3) and 45% for high density housing (R4). However, if the employment and mixed use zones are also considered, then the area of land available for high density housing increases to approximately 70%.

Furthermore, the diversity of housing within the North Sydney LGA is heavily weighted to high density housing, with the 2021 ABS Census indicating that approximately 76% of the housing stock comprises apartments, 11% dwelling houses, with the remaining 13% multi-dwelling housing (e.g., townhouses / villas). Since this time, the quantum of additional dwellings approved have predominantly comprised apartments, further reducing housing choice.

The proposal to introduce manor houses, terraces and medium density housing into the *R2 Low Density Residential* zone and RFBs in the *R3 Medium Density Residential* zone within Station and Town Centre Precincts has the potential to further reduce housing diversity within the North Sydney LGA.

Despite multi-dwelling housing and attached dwelling housing being permissible with consent in the *R3 Medium Density Residential* and *R4 High Density Residential* zones, these residential housing types are less likely to be pursued as a development option in these zones. This is due to the larger profits achievable for redeveloping a site with a RFB, as more smaller dwellings can be accommodated in comparison to dwellings within multi-dwelling housing or attached dwelling development on the same site. This in turn would reduce the diversity of housing types being provided within the LGA.

Whilst permitting manor houses, terraces and multi-dwelling housing in the *R2 Low Density Residential* zones may increase the ability to deliver this type of housing, it would come at the expense of providing any other low-density housing forms such as detached dwellings and semi-detached dwellings.

The State Government has over the last 10 years been seeking to increase housing diversity by promoting the delivery of the “missing middle” (i.e. attached dwellings, townhouses, and villas). This position is reinforced through the Regional and District Plans set by the State Government. However, the intent behind this proposal has seen the State Government shift its focus away from delivering housing choice in terms of land use type to scale of development in terms of built form intensity.

Council’s Local Housing Strategy (LHS) has identified a clear housing supply gap for key worker housing and affordable housing for the very low and low-income households. It also identified the need to maintain and manage a diverse dwelling mix to meet identified demand and facilitate affordable choices whilst also provisioning for housing to meet the needs of seniors and people with disabilities. The LHS also acknowledges that the majority of the new housing to be delivered in the LGA will comprise apartments within the areas zoned *R4 High Density Residential* and *B4 Mixed Use* (now *MU1 mixed Use*).

Therefore, whilst it is recognised that permitting low-rise housing in the *R2 Low Density Residential* zone and RFBs in the *R3 Medium Density Residential* zone could contribute to more affordable forms of housing across a greater portion of the LGA, it would be at the expense of

increasing housing diversity. Both issues are important and so any one value should not necessarily be bluntly prioritised over the other.

***Recommendation***

***aa) Allow councils to determine an appropriate mix of housing, based on localised population projections to be implemented through their Local Housing Strategies.***

**3.10. Other Capacity Issues**

Whilst the proposal focuses on increasing density where the State Government has already expended money on infrastructure, namely transport related, it is silent with regard to the actual capacity of land to accommodate additional density. There are many other forms of infrastructure, such as education, health, emergency services, utilities services (e.g. water supply/removal, electricity, telecommunications etc), open space and community-based infrastructure (e.g. libraries, child care centres). No consideration has been given to whether there is sufficient capacity in these types of infrastructure to accommodate the additional residential density increases proposed. This can only be achieved through the undertaking of a holistic place-based planning approach.

As has been discussed elsewhere in this submission, the ability to close the infrastructure provision gap as growth occurs, has been steadily curtailed given the State Government's restriction on a council's capacity to raise contributions to deliver local infrastructure.

Progression of the Proposal without an appropriate analysis of all matters is likely to lead to future issues which will require lengthy solution finding after the fact.

***Recommendation***

***bb) Progression of the Proposal should be deferred until a proper place-based planning process can be undertaken and ensure that all relevant issues have been considered in an area's capacity to accommodate such an increase in density or whether it can subject to appropriate amplification or addressing.***

**3.11. Local Infrastructure Contributions**

The EIE identifies that councils can continue to apply relevant local infrastructure contributions plans and that some changes may be needed to a council's current contributions framework to allow for anticipated growth.

It is suggested however, that the Proposal will require all councils affected by the Proposal to review their local infrastructure contributions plans and determine appropriate updates to respond to the additional demands for new and augmented local infrastructure created by the additional population permitted as a result of implementing the Proposal.

Preparation of such a review and implementation of any required amendments takes a significant amount of time and resources, none of which is likely to be provided by the State Government. This in turn delays the ability to levy and provide the necessary infrastructure to meet the demands of the new population.

The recent introduction of the Housing and Productivity Contribution (HPC) to go towards the provision of state and regional infrastructure such as roads, parks, hospitals and schools further pressures on housing affordability and should ultimately be paid through general taxes. Further, HPC funds collected from an area need not be expended in the same area and no direct nexus needs to be established nor works schedule be committed to as is the case for Local Infrastructure Contributions. Therefore, this approach has the potential to widen the infrastructure gap in some localities.

Council's current Local Infrastructure Contributions Plan is also affected by a State imposed 'cap' of \$20,000 per additional dwelling. This cap has been in place since 2010 and has never been indexed, despite the newly implemented HPC already been subject to indexing, less than 6 months after coming into effect.

The State imposed cap on residential development further hampers the ability to deliver additional local works, services and facilities, especially in an area such as North Sydney where acquisition costs for land is extremely high and the ability to deliver additional public open space in areas of identified intensification is heavily restricted.

Therefore, the \$20,000 State cap imposed on local councils is in urgent need of review as the purchasing power of \$20,000 and its ability to fund necessary supporting local infrastructure is considerably reduced in comparison to what it was 13 years ago.

***Recommendation***

- cc) That the State Government undertake an immediate review of the State imposed infrastructure contributions cap on residential development to ensure that councils can continue to deliver local infrastructure to meet future population demand.***
- dd) That if the proposal is to proceed, that the State Government make funding available for councils to review and update their local infrastructure contributions plans to account for the potential increase in population and the demand generated for local works, services and facilities.***

**3.12. Oversimplification of Issues**

Whilst the affordability of housing is recognised as a critical issue, there appears to be too much focus on increasing housing supply as the only solution.

The current proposed pressure to deliver more housing misinterprets the complex drivers of housing unaffordability and fails to appreciate the role that planning plays to put the right housing in the right place, which includes well-designed homes that are integrated with planned infrastructure, services and facilities to create complete and healthy communities.

It is important to recognise that whilst planning regulates the location and type of new housing, it doesn't control the speed with which housing is developed – nor affect powerful drivers for investment in housing. In short, planning can enable the right housing in the right place – but planning alone can't deliver more houses. The decision to act on planning approvals largely rests with property owners, who make decisions based on a range of market factors including the availability and cost of finance, taxation settings, sales rates, profitability and other market factors.

No analysis has been provided to demonstrate that there is insufficient capacity in the existing planning regime to justify the proposed changes. Nor has there been an analysis of the gap between housing approvals and housing completions. Such an analysis may allude to other issues that may need to be investigated to increase housing supply. These should be done in conjunction with any proposal to increase density.

Therefore, in order for the housing affordability and supply issues to be adequately addressed, further consideration needs to be given to undertaking concurrent reforms outside of the planning sphere.

### **3.13. Speed of delivery**

The concurrent TOD Program is seeking to restrict the life of development consents to two years, to ensure additional housing is delivered more quickly. However, no such incentive is provided within the EIE. It is strongly recommended that the same 2 year time limit be placed on any development permitted within the Station and Town Centres Precincts if the EIE is to be progressed. This will ensure that housing can be delivered more quickly and prevent the withholding of its delivery just to satisfy financial gains.

#### ***Recommendation***

***ee) That a two year life is placed on any consent issued made under the EIE provisions to ensure additional housing is delivered more quickly.***

### **3.14. Conflicting Planning Instruments**

The State Government is currently progressing numerous reforms to increase housing supply. The proposed *TOD Program* and the *Low and Mid-rise Housing EIE* both seek to increase housing supply in proximity of rail-based stations and town centres. This will result in both proposals applying to the same land in some instances. Whilst it is recognised that most of the provisions under both proposals are somewhat the same, there are other aspects that are different. This will lead to a high level of confusion when trying to determine what controls actually apply. It will also likely lead to increased assessment times of development applications as both applicants and determining bodies will be required to address both proposals. To improve clarity, it is recommended, that if the EIE is progressed, that the EIE not be applied to those sites which are subject to the TOD Program.

Council also notes the recent amendments made to the Housing SEPP to assist in the delivery of more affordable housing, through the use of height and FSR bonuses.

The cumulative impacts arising from the combined built form bonuses under the Housing SEPP and the proposed EIE has the potential to create significant adverse amenity impacts and demand for existing and new infrastructure. These issues have not been adequately addressed in the Proposal and could result in the delivery of poor places to live. There is no need to apply both, as there are sufficient incentives under each mechanism.

Redevelopment of infill areas requires a more sophisticated approach. Ad-hoc approaches, such as that proposed can overwhelm infrastructure and cause a chain reaction of poor outcomes and community opposition to development.

It is therefore recommended that the affordable housing provisions under the Housing SEPP should not apply to the proposed areas that the EIE relates.

#### ***Recommendation***

***ff) That the bonus provisions under the Housing SEPP for affordable housing and build-to-rent not apply in conjunction with additional bonus provisions under the EIE.***

### **Conclusion**

Council is supportive of the intent to improve the supply of housing, but subject to undertaking proper place-based planning, such that any additional housing is appropriately matched to associated infrastructure provision.

Council is happy to work the DPHI to identify appropriate areas for increased housing density with due regard to the opportunities and constraints of each locality to ensure that social, environmental and economic impacts on these localities is minimised.

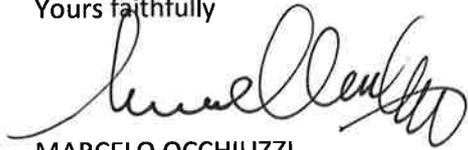
This should be undertaken in line with existing strategic planning practices and should start with the release of the Regional and District Plans incorporating the new housing targets.

Consideration is also to be given to other mechanisms to increase housing supply through the removal of existing hurdles post approval of applications.

Council looks forward to working with the DPHI to address these issues.

If you have any further queries, please contact Council's Director Community, Planning and Environment, Marcelo Occhiuzzi or Acting Manager Strategic Planning, Neal McCarry on 9936-8100.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Marcelo Occhiuzzi', written over a horizontal line.

**MARCELO OCCHIUZZI**  
**ACTING GENERAL MANAGER**

