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**ITEM 9.3 STATE PLANNING REFORMS****Reporting Manager** Manager Strategic Planning

- Attachments:**
1. Transport Orientated Development Program (*Provided in Attachment Booklet*) [⇒](#)
  2. CCB Submission to TOD Program (*Provided in Attachment Booklet*) [⇒](#)
  3. EIE - Changes to create low and mid-rise housing (*Provided in Attachment Booklet*) [⇒](#)
  4. CCB Submission - EIE - Changes to create low and mid-rising housing (*Provided in Attachment Booklet*) [⇒](#)
  5. CCB Submission - Social and Affordable Housing reforms (*Provided in Attachment Booklet*) [⇒](#)
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**RECOMMENDATION OF DIRECTOR ENVIRONMENT AND PLANNING**

That:

1. Council notes the submissions, provided at Attachments 2 and 5, on the Transit Orientated Development Program and Social and Affordable Housing reforms.
  2. Council endorse the submission on the 'Explanation of Intended Effect: Changes to create low and mid-rise housing', provided at Attachment 4, and forward it to the Department of Planning, Housing and Infrastructure.
  3. Given the announcements made by the Department of Planning, Housing and Infrastructure, a Planning Proposal and draft Development Control Plan no longer be prepared for the North Strathfield Planning Study area.
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**PURPOSE**

Provide an overview of the recently released Transit Oriented Development Program, Social and Affordable Housing reforms and the Explanation of Intended Effect: Changes to create low and mid-rise housing and seek endorsement of a draft submission to be forwarded to the Department of Planning, Housing and Infrastructure.

**EXECUTIVE SUMMARY**

The Department of Planning, Housing and Infrastructure (DPHI) has released a number of initiatives that aim to increase housing supply in metropolitan Sydney and surrounds, including the Transit Oriented Development (TOD) Program, the Explanation of Intended Effect: Changes to create low and mid-rise housing (EIE) and Social and Affordable Housing reforms.

This report provides a summary of the reforms and their impact on the City of Canada Bay (CCB) local government area.

Submissions have been prepared that outline key concerns with the proposals and it is recommended that Council endorse the submission prepared in response to the proposed low and mid-rise housing reforms.

**STRATEGIC DIRECTION**

This report supports Our Future 2036 outcome area:

Direction 3: Vibrant Urban Living

Goal VUL 4: Ensure the built environment respect the unique neighbourhood character and responds deftly to evolving community needs

## BACKGROUND/DISCUSSION

### Transit Oriented Development Program (TOD)

In mid-December 2023, the NSW Department of Planning, Housing and Infrastructure (DPHI) released the *Transit Oriented Development Program* for public comment, provided at *Attachment 1*.

The TOD Program comprises two initiatives.

1. A new State Environmental Planning Policy (TOD SEPP) will be prepared (by the State Government) that amends planning controls to enable additional housing within 400 metres of 31 stations. One station is located in CCB, being North Strathfield.

Under the new TOD SEPP, Residential flat buildings will be permitted in residential zones within the 400m catchment, area and development standards will be implemented to facilitate buildings to a height of 21m and a Floor Space Ratio of 3.0:1. A requirement for a minimum of 2% affordable housing is proposed.

2. Eight transport hubs have been identified as 'Accelerated Precincts' and will be subject to state-led rezoning and landuse master planning processes. The catchment of the Homebush Accelerated Precinct includes land within Strathfield and North Strathfield in CCB.

Development applications with a construction value of above \$60 million in the Accelerated Precinct area would qualify for a State Government assessment pathway rather than assessment by the local authority.

The submission at *Attachment 2* outlines concerns relating to the proposed TOD Program.

The submission notes that the TOD SEPP represents the erosion of decision-making by local government and the undermining of adopted strategic plans. In particular, the City of Canada Bay has prepared various planning studies within the Accelerated Precinct area of Homebush and the TOD SEPP area of North Strathfield. Any master plan prepared by DPHI should recognise the community engagement and strategic work undertaken by Council for the Parramatta Road corridor and for land within the vicinity of the metro station in North Strathfield.

The TOD SEPP area of North Strathfield also overlaps the boundaries of the Homebush Accelerated Precinct. This situation has the potential to cause confusion and will create an unnecessarily complex planning framework.

There is also an incongruency with the height of building and Floor Space Ratio standards under the proposed TOD SEPP that will create unrealistic expectations in relation to the reasonable development capacity of land.

The submission also references the importance of affordable housing, protection of heritage listed places and design quality controls. It is recommended that DPHI commit to engagement with impacted communities and work collaboratively with Council should the reforms progress.

Submissions on the TOD program were due to DPHI on 31 January, and the submission at Attachment 2 was sent to DPHI by the due date.

### Explanation of Intended Effect: Changes to create low and mid-rise housing (EIE)

DPHI also released the *Explanation of Intended Effect: Changes to create low and mid-rise housing* (EIE) for public comment in mid-December 2023, provided at *Attachment 4*.

The intent of the EIE is to increase the supply of low and mid-rise housing typologies in station and town centre precincts. Station and town centre precincts are defined as land within:

- 800m walking distance of heavy rail, light rail or metro stations;
- 800m walking distance of land zoned E2 Commercial Centre; and
- 800m walking distance of land zoned E1 Local Centre or MU1 Mixed Use, but only if the zone contains a wide range of frequently needed goods and services, such as full-line supermarkets, shops and restaurants.

The proposed changes are described in more detail below. Commentary on the implications of these changes for the City of Canada Bay is provided at the end of this section.

### *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: 450m<sup>2</sup>
- 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 station and town centre precincts. 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 development commonly referred to as townhouses, 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: 500m<sup>2</sup>
  - 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: 600m<sup>2</sup>
  - 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: 500m<sup>2</sup>
  - minimum lot width: 12 metres
  - minimum car parking spaces: 1 per dwelling

### *Residential flat buildings and shop top housing*

The proposed changes for mid-rise housing relate specifically to development for the purposes of “residential flat buildings” and “shop top housing” in R3 Medium Density Residential zones. 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 within 400 metres walking distance of a station or town centre precinct, the proposed non-refusal standards for mid-rise housing include:

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

For development between 400 and 800 metres walking distance of a station and town centre precinct, the proposed non-refusal standards for mid-rise housing include:

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

#### *Comment*

The reforms will enable a diverse range of housing to be provided in locations that have good access to services. However, the broad scope of the EIE means that the majority of CCB will be impacted, with established suburbs being irrevocably altered over time.

There are numerous E1 Local Centre zones in the CCB, many of which comprise small groupings of neighbourhood shops. Of these, local centres, three contain a supermarket and Council has not identified any of these Local Centres as being suitable or appropriate for rezoning in any strategy or study. Permitting four to six storey apartment buildings, either within these small neighbourhood centres or within the vicinity of these centres is inconsistent with the existing and desired future character of these places.

The SEPP will also have a significant and irreversible impact on heritage protected places and Council is not aware of any analysis of the impact of such a policy intervention on particular buildings or on the integrity of heritage conservation areas. Numerous historical places will be lost where the protection of a heritage listed place ‘is inconsistent with the new standards’.

The draft submission at *Attachment 4* outlines concerns relating to the EIE. The draft submission recommends:

- removal of E1 Local Centre zones from the application of the SEPP;
- exclusion of heritage items and heritage conservation areas from the application of the SEPP;
- specific improvements of the proposed development standards to be included in the SEPP; and
- a range of other matters for consideration by the Department.

This report seeks Council’s endorsement of this submission (at Attachment 4). Submissions on the EIE are due on 23 February 2024.

#### **Affordable Housing Bonus**

In December 2023, the DPHI amended the in-fill affordable housing provisions of *State Environmental Planning Policy (Housing)* to further incentivise the delivery of affordable housing in response to the NSW Government’s commitments under the National Housing Accord (the Accord). This SEPP can be applied to development that includes at least 10-15% of its Gross Floor Area (GFA) as affordable housing. The incentives offered include Floor Space Ratio and Height of Building bonuses of up to 30%, on a sliding scale depending on how much Affordable Housing GFA is proposed.

In-fill affordable housing bonuses may not be achieved on all sites due to site constraints and local impacts such as solar access, privacy or the visual impacts. In this way, development applications that seek to apply the in-fill housing bonus will be subject to a merit assessment and the bonus is not to be treated as an entitlement.

The submission at *Attachment 5*, highlights various concerns with the affordable housing bonus, including the requirement that affordable housing is only required to be maintained for 15 years and potential impacts on the amenity of existing residents, as consent authorities are encouraged to consider the flexible application of development controls where development includes affordable housing.

### **TIMING / CONSULTATION AND / OR RISK CONSIDERATIONS**

Council officers have raised significant concerns with DPHI regarding the timing of the release of these major planning reforms, as well as the generally insufficient time allowed for briefing of elected Councillors and preparation of submissions.

The submission on the TOD Program was due on 31 January 2024. Due to the deadline for this submission, a draft copy of the submission was circulated to Councillors prior to being forwarded to DPHI. It is anticipated that the TOD SEPP will commence in April 2024 and the Accelerated Precinct will be finalised before the end of 2024.

The EIE relating to low and mid-rise housing is on exhibition until 23 February 2024. At the conclusion of the exhibition period, the NSW Government will consider the submissions it receives before finalising the proposed planning reforms. It is expected that the planning reforms will take effect in 2024.

The social and affordable housing reforms were not publicly exhibited and only a limited timeframe was provided for Council Officers to provide feedback. For this reason, there was insufficient time to refer the draft submission to a Council meeting.

The proposed planning reforms generally undermine the role of the local government in setting land use planning policy in consultation with the local community. In this way, the reforms undermine strategic planning in New South Wales and erode the role of Local Strategic Planning Statements, Local Housing Strategies and Development Control Plans.

### **FINANCIAL CONSIDERATIONS**

There are no financial considerations associated with this report.

### **LEGISLATIVE AND POLICY CONSIDERATIONS**

On 16 May 2023, Council resolved to prepare a Planning Proposal and draft Development Control Plan for the North Strathfield Planning Study area. Given the TOD Program will lead to amendment of local planning controls that will prevail over work undertaken by Council, it is recommended that this planning work no longer proceed.