



**In this issue:**

**New Planning Controls – The  
Transport Oriented  
Development (TOD) Program**

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Development (TOD) Program**

In December 2023, the NSW Government announced the Transport Oriented Development (**TOD**) Program. The TOD Program will deliver State-led rezoning and aims to increase housing supply around priority transport hubs.

The TOD Program has two components:

- **Accelerated precincts:** Will focus on 8 precincts to create infrastructure and capacity for 47,800 new homes over 15 years. Land within 1,200 metres of 8 rail and metro stations will be rezoned: Bankstown, Bays West, Bella Vista, Crows Nest, Homebush Hornsby, Kellyville and Macquarie Park.
- **New planning controls:** Will focus on precincts that have existing infrastructure and are located within 400 metres of 31 stations to create capacity for 138,000 new homes over 15 years: Adamstown station, Ashfield station, Banksia station, Berala station, Booragul station, Canterbury metro station, Corrimal station, Croydon station, Dapto station, Dulwich Hill station, Gordon station, Gosford station, Hamilton station, Killara station, Kogarah station, Kotara station, Lidcombe station, Lindfield station, Marrickville station, Morisset station, Newcastle Interchange, North Strathfield metro station, North Wollongong station, Rockdale station, Roseville station, St Marys metro station, Teralba station, Tuggerah station, Turrella station, Wiley Park metro station and Wyong station.

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On 29 April 2024, the NSW Government announced that the amended planning controls will be delivered through the State Environmental Planning Policy (Housing) Amendment (Transport Oriented Development) 2024 (**TOD SEPP**).

The first 18 hubs (of the 37) will be affected by the amended planning controls from 13 May 2024: Adamstown, Booragul, Cardiff, Corrimal, Gordon, Hamilton, Killara, Kogarah, Kotara, Lidcombe, Lindfield, Morisset, Newcastle Interchange, Roseville, Teralba, Turrella, Woy Woy and Wyong.

The planning controls will be contained within 'Chapter 5 Transport Oriented Development' of the State Environmental Planning Policy (Housing) 2021 (**Housing SEPP**):

- **Permissibility** – Section 154 allows residential flat buildings in residential zones and local centre zones, along with shop top housing in local and commercial zones.
- **Floor Space Ratio (FSR) & Building Height** – Section 155 allows a maximum floor space ratio of 2.5:1 and allows residential flat buildings to be built to a maximum height of 22 metres, and buildings containing shop top housing to be built to a maximum height of 24 metres.
- **Affordable Housing** - Section 156 requires a mandatory 2% affordable housing contribution for buildings with a minimum gross floor area of 2,000 sqm, to be delivered onsite and in perpetuity.
- **Lot Size & Width** – Section 159 introduces a minimum lot width of 21 metres.
- **Street Frontages** – Section 160 encourages local centre zones to consider active street frontages of buildings at the ground floor.
- **Apartment Design Guide (ADG)** – Section 161 retains the Apartment Design Guide as the guiding document for apartment development.

### ***Local Environmental Plans & Heritage Conservation***

A merit-based assessment will continue to apply to developments in TOD-SEPP locations. However, relevant environmental controls will only apply to the extent they are not inconsistent with TOD SEPP standards.

The TOD SEPP standards will also apply in Heritage Conservation Areas (HCA). Information provided by the Department of Planning, Housing and Infrastructure suggests that the new controls will not apply to heritage items, however, whilst published mapping for the TOD SEPP appears to distinguish heritage items, there is nothing in the text of the instrument that gives any effect to this distinction, or otherwise results in the provisions not applying to items. At face value, unless some further amendment is forthcoming, the provisions will apply and heritage, and cl 5.10 of any LEP, will be a part of the merit assessment.

### ***Infill Affordable Housing***

The Infill Affordable Housing Incentives in the Housing SEPP will apply to TOD SEPP locations, with any contributions to be in addition to the requirement to provide 2% affordable housing. Any bonus height or FSR provisions contained within the Housing

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SEPP, or a local environmental plan may create more onerous requirements with respect to affordable housing.

However, this means that the 20% - 30% height and FSR bonuses for Infill Affordable Housing can be claimed in addition to TOD SEPP incentives.

### **Seniors Housing**

The seniors housing incentives which include FSR bonuses between 15% and 25% will apply to TOD SEPP locations, creating more retirement living at density.

### **Savings Provisions**

The TOD SEPP provisions do not apply to a development application made, but not determined, on or before 13 May 2024 or a modification application made after 13 May 2024, if it relates to a development consent granted on or before 13 May 2024.

Development Applications are expected to start being lodged from mid-2024 with State-led rezonings in the eight focus precincts to be completed by November 2024.

For more information see: State Environmental Planning Policy (Housing) Amendment (Transport Oriented ) 2024 under the Environmental Planning and Assessment Act 1979 <https://legislation.nsw.gov.au/view/pdf/asmade/epi-2024-135>

Transport Oriented Development Program  
<https://www.planning.nsw.gov.au/sites/default/files/2023-12/transport-oriented-development-program.pdf>

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