

28 June 2024

**Att: Kiersten Fishburn, Secretary of Department of Planning, Housing and Infrastructure**

CC: Tom Loomes, Executive Director Stakeholder Engagement & Policy Implementation

Dear Ms Fishburn

**Re: Affordable Housing requirements for low- and mid-rise planning reforms**

Earlier this month during a DPHI Community Stakeholder meeting, Shelter NSW was invited to send through our concerns to you and Mr Loomes about the pending low- and mid-rise housing reforms ('LMR') taking effect with zero requirements for planning uplift to deliver Affordable Housing.

This issue was raised in submissions by Shelter NSW and Planning Institute of Australia, among others, to the Department in February 2024. Attached to this letter is both submissions. We reiterate the importance of making provision for Affordable Housing in the LMR housing reforms in concert with PIA NSW.

As you will be aware, the adoption of the LMR housing reforms will lead to planning uplift via changes to land use tables in the Standard Instrument and the introduction of non-refusal standards for certain LMR development. These changes will apply around most train stations **and** commercial centres across NSW. In terms of geography, the LMR housing reforms will have far greater reach than that of the TOD Program, and so relying on Affordable Housing requirements mandated under the TOD Program to capture all LMR uplift is not possible.

The planning control differences between the TOD Program and LMR housing reforms are relatively minor around their six storey mid-rise controls, yet the LMR housing *Explanation of Intended Effect* did **not** make the same clear commitment for mandatory inclusionary zoning (set at the low 2% minimum) from day one.

In a recent report, *Release the Pressure* (12 June 2024, p. 22), the NSW Property Council's researchers noted that that the development industry had now come to accept the 2% Affordable Housing contribution requirement associated with the TOD Program.

Whether the new LMR controls include an Affordable Housing (in perpetuity) requirement will become a watershed policy moment for many communities struggling with the cost of living and wanting to retain cohesive neighbourhoods where lower-income renters can continue to

live. Importantly, it will assist local businesses to successfully keep many of their lower paid essential workers who live nearby.

The LMR statewide policy enacted across all LGAs should begin to address our chronic market housing shortage. However, the immediate impact on many insecure lower income renters will be exacerbated as existing low-cost rentals around these centres are demolished to make way for new dwellings that command premium rents as part of a major accelerated construction program intended to occur on a regional scale. There will be displacement of renters, due to rental stress and the loss of renting opportunities, but to where?

**At a minimum, we assert that the LMR housing reforms should mirror TOD Affordable Housing requirements and incorporate inclusionary zoning from the outset.** We recommend requiring Affordable Housing contributions at the rate of **at least** 2%, scaling up according to a pre-notified schedule that will deliver capacity to **substantially** increase the number of Affordable Housing dwellings (being Affordable in perpetuity). The Department should lead this policy work and any underpinning research and viability testing required, or at the very least, dedicate sufficient resources to Councils to undertake their own viability testing. Further research should also be done on the design of contribution schemes to maximise the delivery of Affordable Homes.

As the TOD Program alone will generate relatively small numbers of new Affordable Homes, the inclusion of Affordable Housing requirements for LMR will be critical for demonstrating policy consistency and credibility, delivering on intergenerational fairness and equity, and scaling up Affordable Rental Housing capacity to mitigate the unintended but likely harm to many lower income renters. To this end, we also direct the Department to **recommendation number 5** in Shelter's attached submission, being the need to close loopholes in the *Housing SEPP* that allow demolition of lower-cost rentals without adequately accounting for the effects of gentrification.

We thank you for continuing dialogue on this important reform.

Sincerely,



John Engeler  
**CEO Shelter NSW**



Sue Weatherley MPIA (Fellow)

**NSW President, Planning Institute of Australia**