



13095  
4 March 2014

Marian Pate  
Sutherland LEP Review  
NSW Department of Planning and Infrastructure  
PO Box 39  
SYDNEY NSW 2001

Dear Ms Pate

**SUTHERLAND LEP INDEPENDENT REVIEW - RESPONSE TO WESTFIELD SUBMISSION  
32-40 CAWARRA ROAD, CARINGBAH**

We refer to the submission made by Ingham Planning on the draft *Sutherland Local Environmental Plan 2013 (Draft LEP)* in relation to 32-40 Cawarra Road, Caringbah (the **Site**). The submission is dated 29 October 2013 and was made on behalf of Westfield Retail Trust, Dexus Wholesale Property Fund and the Westfield Group (the **Westfield Submission**) in response to the second exhibition of the Draft LEP. The Westfield Submission is attached for your reference (see **Attachment 1**).

On behalf of Costco Wholesale (Australia) Pty Ltd (**Costco**), we are writing to you to clarify the details of Costco's submission on the Draft LEP.

**1.0 AMOUNT OF 'SHOP' GFA**

The Westfield Submission states that, should a 'shop' become a permissible use on the Site, it would enable a 'shopping centre' to be developed with a gross floor area (GFA) of some 38,900m<sup>2</sup>, equating to a gross leasable area (GLA) of 35,000m<sup>2</sup>.<sup>1</sup> It is on this basis (i.e. scale) that Westfield submits the proposed amendment would be contrary to the aims of the Draft LEP and B7 Zone.

The Westfield Submission suggests that should the proposed amendment be supported, Council should consider options for limiting the scale and nature of retailing, by, for example, imposing a maximum retail GFA of 15,000m<sup>2</sup> on the Site.

While the second exhibited Draft LEP included 'shop' as an additional permitted use in Schedule 1 without imposing a maximum GFA, we note that Costco's original submission to Council specifically proposed a GFA cap of 16,000m<sup>2</sup> on the Site (see page 11). Costco has absolutely no intention of developing a shopping centre on the Site with a GFA of some 38,900m<sup>2</sup>.

Costco would be happy for the Sutherland LEP to include a shop GFA cap of 16,000m<sup>2</sup> as originally proposed. This approach would be consistent with the recently gazetted *Liverpool Local Environmental Plan 2008 (Amendment No 26)* to facilitate a Costco at Casula (see **Attachment 2**), as well as Blacktown City Council's resolution of 12 February 2014 to amend the *State*

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<sup>1</sup> The site area is approximately 25,935m<sup>2</sup> and the proposed maximum floor space ratio under the Draft LEP is 1.5:1.

*Environmental Planning Policy (Sydney Region Growth Centres) 2006* to facilitate a Coscto at Marsden Park (see **Attachment 3**).

## 2.0 RESTRICTION ON NUMBER OF RETAILERS

The Westfield Submission states that a 'shopping centre' could be developed on the Site if a 'shop' becomes a permissible use. In theory this is correct if the LEP does not place any restrictions on the extent of shop GFA or the number of retailers on the Site.

Blacktown City Council recently resolved to seek the amendment of the Blacktown LEP to facilitate a Costco warehouse at Marsden Park. In addition to placing a restriction on the amount of permissible retail GFA on the Site, it is proposed to insert a clause requiring that *"the retail premises is operated by one retailer and/or tenant only"*. The purpose of this restriction was to prevent a number of smaller retailers from operating on the site in a manner similar to a shopping centre.

Costco would be happy to include a similar restriction in Schedule 1 of the Sutherland LEP.

## 3.0 OTHER MATTERS

The Westfield Submission makes a number of assertions regarding a new shopping centre's inconsistency with Section 117 Directions and relevant metro and sub-regional strategies and impact on the retail centres hierarchy in the Sutherland Shire.

Costco's two previous submissions addressed these matters in considerable detail and demonstrated that a Costco use is consistent with Section 117 Directions and relevant strategies, and will not have an adverse impact on the retail hierarchy in the Sutherland Shire.

The Westfield Submission raises no objection to a use such as Costco on the Site. It only raises objection to a new shopping centre. Costco's submission on the Draft LEP is specifically related to the provision of a Costco development and any amendment to the Draft LEP should be considered in this light.

Should you have any queries about this matter, please do not hesitate to contact me on 9409-4967 or [ycarr@jbaplanning.com.au](mailto:ycarr@jbaplanning.com.au).

Yours faithfully



Yvette Carr  
Principal Planner

**Attachment 1:** Westfield Submission

**Attachment 2:** *Liverpool Local Environmental Plan 2008 (Amendment No 26)*

**Attachment 3:** Resolution of Blacktown City Council dated 12 February 2014



*Our Ref: 13152*

29<sup>th</sup> October 2013

The Manager  
Environmental Planning Unit  
Sutherland Shire Council  
Locked Bag 17  
SUTHERLAND NSW 1499

Dear Sir

**RE: Submission to Sutherland Draft LEP 2013 – 32-40 Cawarra Road Caringbah**  
**Ref: LP/03/79340**

This submission to Draft Sutherland Local Environmental Plan 2013 (the Draft LEP) relates to a proposal to include the land use “shop” as an additional permitted use on land described as part 32-40 Cawarra Road, Caringbah, as detailed in Schedule 1 of the Draft LEP. The submission is lodged on behalf of our clients Westfield Retail Trust, Dexu Wholesale Property Fund and the Westfield Group who have joint interest in Westfield Miranda Shopping Centre and are committed to developing and encouraging retailing, entertainment, dining and other services in existing and planned town centres that are well served by public transport and local infrastructure.

The subject land proposed for retail use comprises an area of 25,935m<sup>2</sup> in the southern portion of the Sutherland Shire Industrial Estate, 32-40 Cawarra Road, extending east along Meta Street. The land is identified as Site 9 in the additional Permitted Uses Map to Schedule 1 of the Draft LEP. Schedule 1 contains a list of sites where specified additional land uses are to be permitted.

The subject land is proposed to be zoned B7 Business Park in the Draft LEP and the Floor Space Ratio (FSR) Map to the Draft LEP permits the site to be developed to an FSR of up to 1.5:1. Should a “shop” become a permissible use on the subject land, it would enable a shopping centre to be developed on the site with a gross floor area (GFA) of some 38,900m<sup>2</sup>, equating to a gross leasable retail area (GLA) of 35,000m<sup>2</sup>. This is a substantial unplanned shopping centre, which is effectively being inserted into an industrial area that has specifically been identified for future business park development to provide local white collar employment for Shire residents. At present 70% of white collar workers must commute outside of the Shire to their workplace.

We have viewed the site and locality and examined planning reports, policies and strategies relevant to the proposal to include “shop” as an additional permitted use on the subject land. Such a proposal should not be supported by Sutherland Shire Council for the following reasons.

Urban and Regional Planning, Environmental Planning and Statutory Planning  
Registered Office: Lyndhurst, Suite 19, 303 Pacific Highway, Lindfield N.S.W 2070  
Telephone: (02) 9416 9111 Facsimile: (02) 9416 9799  
email: [admin@inghamplanning.com.au](mailto:admin@inghamplanning.com.au)  
A.C.N. 106 713 768

[www.inghamplanning.com.au](http://www.inghamplanning.com.au)



- (a) The proposal to allow “shop” uses on the land is considered contrary to the aims and objectives of the Draft LEP and the proposed B7 Zone, particularly given the potential scale of retail development that would be permitted i.e. up to 35,000m<sup>2</sup> GLA.
- (b) The proposal is inconsistent with the Planning Minister’s S117 Directions with respect to Business and Industrial Zones and Integrating Land Use and Transport. The proposal is also at odds with the planning principles and strategies of the Sydney Metropolitan Planning Strategy and associated Draft South Sub-Regional Strategy, which seek to encourage retailing to be located in centres that are well served by public transport and maintain strategic industrial lands for industrial and related purposes.
- (c) The proposal constitutes an undesirable precedent for the establishment of retail land uses within the Caringbah/Taren Point B7 Business Park Zone, and encourages other retail developments to seek an amendment to the B7 Zone at Cawarra Road, to allow retailing on other nearby sites in this precinct.
- (d) Implementation of the White Paper – “A New Planning System for NSW” whereby the B7 Zone is proposed to be replaced with an Enterprise Zone, with retail uses permitted. This has the potential to result in significant future expansion of retail activity in the Cawarra Road precinct. Such retail expansion could be readily justified as an extension to existing retail activity developed in the southern sector of the precinct, with Council’s endorsement as currently proposed in Draft LEP 2013.
- (e) The development of a substantial area of retailing at 32-40 Cawarra Road will adversely impact on the retail hierarchy of the Sutherland Shire and the viability and economic performance of existing established town centres, particularly the nearby Caringbah Town Centre, located some 1.2kms south of the site.
- (f) The proposal will result in the loss of a significant area of B7 zoned land ideally suited to business park development, with a consequent reduction in much needed white collar office/business employment opportunities.
- (g) The limited availability of public transport to the locality, combined with the scale and likely form of retail development on the site, will result in a substantial increase in traffic, exacerbating existing levels of traffic congestion at main road intersections such as Taren Point Road/Captain Cook Drive, Taren Point Road/Box Road and Cawarra Road/Captain Cook Drive and in local streets, particularly at peak periods. The proposal should be forwarded to NSW Roads and Maritime Services for consideration.
- (h) Allowing a major retail development in an “out-of-centre” location will increase the level of car dependency in Sutherland Shire and nearby local government areas in the retail catchment, encourage multiple car trips, increase vehicle kilometres travelled and potentially reduce the patronage and viability of public transport in Sutherland Shire.
- (i) Introduction of a retail land use, which achieves a higher economic return per unit of land area, compared to industrial and business park uses, may be expected to exert an upward pressure on land prices in the industrial area, making future industrial and business park development less viable and encouraging other retail development to locate nearby in the industrial area.



- (j) Major retailing activities should be located in or adjoining existing town centres so that the viability of those centres is not undermined and convenience and amenity for the Sutherland Shire community is optimised.
- (k) Currently some 70% of Sutherland Shire residents employed in office/business activities must commute on a daily basis outside the Shire to obtain employment. The proposal will result in the loss of a significant area of B7 zoned land ideally suited to business park development, with a consequent reduction in much needed white collar office/business employment opportunities in Sutherland Shire.

It is requested that Sutherland Council not proceed with the proposal to allow retailing at 32-40 Cawarra Road, Caringbah, by deleting this land (Site 9) from the Map of Additional Permitted Uses and from Schedule 1 of the Draft LEP. Permitting retail development of Site 9 cannot be justified on town planning grounds.

Should Council decide to facilitate dispersal of retailing within Sutherland Shire by proceeding with the proposal to permit retailing on the Subject Land, then we urge Council to consider options for limiting the scale and nature of such retailing to a low density warehouse retail form. This is the retail form that was the catalyst for the proposal to allow retailing on the site.

Planning controls have been applied in similar “warehouse retail” proposals, e.g. Liverpool, where suitable provisions were included in the LEP to limit the floor area and scope of retailing on the nominated out-of-centre site at Casula. In the case of the Subject Land, a maximum retail floor space of 15,000m<sup>2</sup> and FSR of 0.6:1 should be applied and retail building form restricted to a single operator, in a large floor-plate retail warehouse building typology.

We trust that Council will support this submission and amend Sutherland Draft LEP 2013, as requested, by deleting 32-40 Cawarra Road, Caringbah from Schedule 1 of the Draft LEP. Please contact the undersigned should you require any further information.

Yours faithfully

Nick Juradowitch

**Director**

**INGHAM PLANNING PTY LTD**

**Attachment:** Planning Assessment Report dated 29<sup>th</sup> October 2013, prepared by Ingham Planning Pty Ltd (including as appendices, an Assessment of Economic Issues prepared by Urbis and a Transport Review prepared by Colston Budd Hunt & Kafes Pty Ltd).



New South Wales

## **Liverpool Local Environmental Plan 2008 (Amendment No 26)**

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Planning and Infrastructure, make the following local environmental plan under the *Environmental Planning and Assessment Act 1979*.

SAM HADDAD

As delegate for the Minister for Planning and Infrastructure

## 2013 No 16

Clause 1 Liverpool Local Environmental Plan 2008 (Amendment No 26)

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# Liverpool Local Environmental Plan 2008 (Amendment No 26)

under the

Environmental Planning and Assessment Act 1979

### 1 Name of Plan

This Plan is *Liverpool Local Environmental Plan 2008 (Amendment No 26)*.

### 2 Commencement

This Plan commences on the day on which it is published on the NSW legislation website.

### 3 Land to which Plan applies

This Plan applies to part of Lot 200, DP 1090110, corner of Beech Road and Parkers Farm Place, Casula.

### 4 Maps

Each map adopted by *Liverpool Local Environmental Plan 2008* that is specified in Column 1 of the following table is declared by this Plan to be amended or replaced, as the case requires, by the map specified opposite in Column 2 of the table as approved by the Minister on the making of this Plan:

Column 1	Column 2
Name of map being amended or replaced	Name of amending or replacement map
Liverpool Local Environmental Plan 2008 Flood Planning Area Map (4900_COM_FLD_013_020_20090731)	Liverpool Local Environmental Plan 2008 Flood Planning Area Map (4900_COM_FLD_013_020_20121220)
Liverpool Local Environmental Plan 2008 Key Sites Map (4900_COM_KYS_013_020_20080815)	Liverpool Local Environmental Plan 2008 Key Sites Map (4900_COM_KYS_013_020_20121220)

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## **Schedule 1      Amendment of Liverpool Local Environmental Plan 2008**

### **Schedule 1 Additional permitted uses**

Insert after clause 19:

#### **20      Use of certain land at Casula in Zone B5**

- (1) This clause applies to part of Lot 200, DP 1090110 in Zone B5 Business Development at the corner of Beech Road and Parkers Farm Place, Casula, as shown coloured green on the Key Sites Map.
- (2) Development for the purposes of retail premises, business premises, a service station and a vehicle repair station is permitted with consent if the total gross floor area of that development is not greater than 14,000m<sup>2</sup>.



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# Planning & Development.

MinuteNumber: Council Meeting Date: 19/02/2014

**Council meeting date: 12/02/2014**

**Report Number: SD340009**

Director City Strategy & Development Author: McDermott F. (SH), Manager: Shannon C.

**ITEM: <#> DE3434**

**SUBJECT:**

**SD340009 - Further consideration of a request to prepare a Planning Proposal to allow a Costco Retail Warehouse on land at Marsden Park**

**FILE NUMBER: RZ-13-1008**



## SUMMARY OF REPORT:

1. This report considers and responds to information submitted by JBA, on behalf of Costco Wholesale Australia Pty Ltd, in response to Council Officers' initial recommendation to refuse a request to prepare a Planning Proposal to allow a Costco Retail Warehouse on land at Hollinsworth Road, Marsden Park.
2. On 30 October 2013 Council resolved to defer the matter to allow JBA the opportunity to review the report and submit a response for Council's further consideration.
3. Having regard to the information now provided by JBA, it is recommended that Council initiate the preparation of a site-specific amendment to the Growth Centres SEPP to permit the development of the Costco Retail Warehouse.
4. Attachments to this report are:  
Attachment 1 – Previous Council Report SD330094.

## REPORT:

1. **Background**
  - a. The Business Paper for the Ordinary Meeting of Council held on 30 October 2013 included a report (SD330094 – copy at **Attachment 1**) outlining a request from JBA, on behalf of Costco Wholesale Australia Pty Ltd, to prepare a Planning Proposal to amend *State Environmental Planning Policy (Sydney Region Growth Centres) 2006* to allow a Costco Retail Warehouse development on land at Hollinsworth Road, Marsden Park within the Marsden Park Industrial Precinct (MPIP) of the North West Growth Centre.
  - b. Following consideration of the Planning Proposal, the report concluded that the core

business of a Costco Retail Warehouse is retailing, which is fundamentally a centre-based activity and as such the proposed location for the development in a B5 Business Development Zone in the MPIP is not appropriate given that a new Town Centre to serve the North West Growth Centre is planned to be developed only 1.6km away in the Marsden Park (Residential) Precinct. On this basis the report considered it both practical and feasible that Costco can and should locate in the new Marsden Park Town Centre which is zoned to permit the full range of activities provided by a Costco Retail Warehouse. The report recommended that the request to prepare a Planning Proposal not be supported.

- c. The General Manager, Director City Strategy and Development and Manager Strategic and Precinct Planning subsequently met with representatives from JBA and Costco to discuss Council Officers' concerns with the proposal. At the request of the proponent Council resolved at the Ordinary Meeting on 30 October 2013 to defer the matter until such time as JBA had an opportunity to review the Report and submit a response for Council's consideration.
- d. This Report considers the information submitted by JBA in response to Council Report SD330094 and provides further advice to Council as to whether it should support the request to prepare a Planning Proposal.

## 2. **JBA Submission in Response to Council Report**

- a. JBA has provided a further submission for Council's consideration. The submission is supported by a supplementary Traffic Report and Economic Impact Assessment which provide further analysis and commentary on the issues related to the subject site and, in particular, aspects related to the implications of the proposal for the future Marsden Park Town Centre.
- b. It is JBA's view that the selected site in the MPIP is the most appropriate location for the Costco Retail Warehouse to support the increasing population in the North West Growth Centre for the following reasons:
  - i. The Department of Planning and Infrastructure (DP&I) has previously indicated, when issuing its Gateway Determination for the Costco Warehouse at Casula (which is also located in a B5 zoned bulky goods precinct), that a Costco Warehouse has many of the characteristics of a bulky goods premises and is more appropriately located in a bulky goods precinct. The DP&I has consistently advised Costco of its desire that Costco co-locate in bulky goods clusters.
  - ii. The Bulky Goods Precinct in which the Costco Warehouse is proposed is already planned to accommodate a number of other bulky goods uses, including Ikea and Masters stores (with a Bunnings store approved just to the north). Therefore the location of a Costco Warehouse store in proximity to these other bulky goods uses will provide a number of co-location benefits and is expected to result in a number of economic benefits.
  - iii. The precinct planning for the Marsden Park Bulky Goods Precinct is already well-advanced and can readily support a new Costco development in the near future.
  - iv. It is not considered that the proposed SEPP Amendment to support a Costco Warehouse use in the Bulky Goods Precinct would result in any unacceptable precedent being set. The Planning Proposal is specifically for a Costco use which is very different from a standard retail use and should be assessed on its merits.
- c. JBA also submits that there are a number of strong arguments against locating a Costco Warehouse development in the planned Marsden Park Town Centre,

including:

- i. The urban design controls for the Town Centre in Schedule 3 of the Blacktown City Council Growth Centres Precincts Development Control Plan 2010 (Marsden Park Schedule) do not support the scale and format of a Costco Warehouse on any of the planned anchor sites within the Town Centre.
- ii. The Town Centre is clearly identified as a walkable community focusing on public transport use. This is inconsistent with the Costco Warehouse model which is based on customers using vehicles to access the Warehouse to make bulk purchases which require transport by a vehicle.
- iii. The timeframe of the intended delivery of the Town Centre under the Marsden Park Services Implementation Plan 2012 (Implementation Strategy) forecasts the delivery of the Town Centre by the earliest in 2032. It is unrealistic to expect the delivery of a Costco Warehouse for the North West Growth Centre to be delayed until then.
- iv. The land identified for the Town Centre is currently held in fragmented ownership which could preclude the development of the Town Centre in accordance with the indicative layout plan shown in the DCP. Further, a transport corridor has been reserved in the southern portion of the Town Centre which may reduce the developable footprint of the Centre.
- v. Council's suggestion that the location of the proposed Costco Warehouse within the Marsden Park Bulky Goods Precinct would have unacceptable economic impacts is not supported by the findings of the Costco Marsden Park Economic Impact Assessment (EIA) which was submitted with the Planning Proposal. The supplementary Economic Impact Assessment, by Essential Economics, demonstrates that the proposed Costco Warehouse in the Bulky Goods Precinct would result in no more than a 1.5% reduction in retail spending in the Town Centre, which would be offset by an increase in 33,500 (annual) visits to the Town Centre from Costco customers.

### 3. **Supplementary Traffic Report by GTA**

- a. The supplementary Traffic Report, prepared by GTA Consultants in support of JBA's submission to Council, concludes that:
  - i. Costco is not a traditional retailer that would sit well within a Town Centre, as it is more like a bulky goods operation which is almost totally dependent upon the customers arriving and transporting their goods by car. This is indeed why the majority of Costco stores in Australia are not provided in Town Centres, but in retail parks with good transport access, such as the proposed store at Marsden Park.
  - ii. Were Costco to be located in the Town Centre, it would result in significant additional traffic entering the Centre which would introduce additional conflicts with pedestrians and cyclists and would certainly increase traffic congestion in the Centre. The need to provide an additional 700 parking spaces for its individual use would also mean that the area around the Town Centre would be dominated by car parking.
  - iii. In summary, a Costco store is not the type of use that would be best located in a Town Centre as it would introduce a planning use that heavily relies on customers bringing vans and cars into what is planned to be a pedestrian/active travel environment.

### 4. **Supplementary Economic Impact Assessment by Essential Economics**

- a. The supplementary Economic Impact Assessment (EIA), prepared by Essential

Economics in support of JBA's submission, provides specific responses to the particular concerns about the likely retail impact on the Marsden Park Town Centre raised in Council Report SD330094. In summary, the EIA concludes that:

- i. The proposed Costco Marsden Park site is an excellent location that responds to commercial realities and is consistent with strategic land use policies and objectives related to service provision and employment generation in urban growth areas.
- ii. The ability to develop a Costco Warehouse in the Marsden Park Town Centre is severely constrained by the land-intensive nature of the Costco development model and the objectives of the Marsden Park Precinct Planning Report to deliver a street-based shopping environment that integrates with residential and community functions.
- iii. The potential trading impacts on the Marsden Park Town Centre associated with the proposed Costco Marsden Park are negligible and would not delay or undermine the growth and development of the Town Centre as currently supported by land use policy.
- iv. The proposed Costco Marsden Park would be expected to bring over 600,000 visits annually to the Industrial Precinct that otherwise would not visit the area, with each of these visits having the potential to generate sales at the nearby Marsden Park Town Centre.
- v. An alternative Costco location in the region would potentially deliver "all of the trading impact and none of the benefit" to the nearby Marsden Park Town Centre.
- vi. Costco is a unique business model in the Australian context that does not replace "traditional" retail formats, such as those proposed for the Marsden Park Town Centre.

#### **5. Council Officers' Response to JBA's Submission and Supplementary EIA and Traffic Report**

- a. Council Officers have considered the response provided by JBA to the concerns raised in Council Report SD330094, along with the supplementary EIA and Traffic Report by Essential Economics and GTA respectively. The supplementary EIA, in particular, addresses Council Officers' initial criticism that the Planning Proposal did not address the potential trading impacts of the proposed Costco on the future Marsden Park Town Centre. This lack of analysis by JBA was one of the primary reasons why refusal of the Planning Proposal was originally recommended.
- b. In this regard it is acknowledged that the proposed Costco Warehouse will serve a regional trade area, which means that the competitive trading impacts will be distributed widely and thinly across a number of centres. It is therefore accepted that the proposed Costco development will result in a very minor reduction in retail trade for the Marsden Park Town Centre, which is considered to be a very minor impact within the bounds of a normal competitive environment.
- c. It is also acknowledged that, whilst the ideal land use zone for a Costco Retail Warehouse is the B2 Local Centre Zone, in the present circumstances the proposed site within the B5 Business Development Zone in the MPIP is an acceptable alternative to service the North West Growth Centre, given the very real development constraints set by the lack of infrastructure provision to the planned Marsden Park Town Centre and extended timeframe for the expected delivery of such. Council Officers accept that it would be unreasonable to expect Costco to wait until the Town Centre is implemented, or to place unrealistic infrastructure costs on Costco to

provide the appropriate infrastructure to enable its early development.

- d. The concept of a “retail warehouse” is not recognised as an individual form of development in the NSW Government's Standard Instrument definitions. Since Costco first started to establish operations in NSW, the DP&I has provided consistent advice on site acquisition and planning to Costco, which is to seek to co-locate with significant bulky goods uses and, in particular, to seek to locate in bulky goods centres that need regeneration or where it would help establish an activity centre.
- e. It is on this basis that the Planning Assessment Commission approved a Concept Plan under Part 3A of the Environmental Planning and Assessment Act 1979 for a Costco Warehouse on Parramatta Road at Auburn in April 2010. More recently and more relevantly, Liverpool Council and the DP&I made Amendment No.26 to Liverpool LEP 2008 to facilitate a Costco Warehouse in a B5 Zone within the Crossroads Homemaker Centre at Casula. It is instructive to note the following comments by the DP&I in the relevant Gateway Report and that of the LEP Review Panel:

*"i. The consumer behaviour and nature of the proposed Costco model reflects the nature and behaviour for bulky goods premises.*

*ii. The “loss” of land for bulky goods development is negligible because the proposed uses are essentially the same as the uses which are otherwise permissible in the existing zone and are similar in nature.”*

- f. Furthermore, the DP&I noted that:

*“The Costco business model (i.e. a retail warehouse) is not recognised as an individual form of development under the Standard Instrument definitions. Most uses proposed are generally consistent with the general character of the uses permissible within the B5 Zone, except for the proposed retail use, which is considered to be inconsistent with the objectives of the zone and problematic. Under these circumstances, the use of Schedule 1 is considered to be the best way to manage the Planning Proposal. It will allow the proposed use to be carried out on the specific site rather than in all B5 Zones across the whole LGA. It may also allow the permissibility of retail to be qualified by ensuring that any retail use is accompanied by the other zone consistent uses. This will limit the risk of the site being used for stand-alone retail purposes if the Costco DA does not proceed.”*

- g. In this regard Council Officers are now comfortable that any potential for the Planning Proposal to set a precedent for other retail premises to be located in the B5 Zone can be mitigated by the inclusion of a site-specific clause in the SEPP that would place restrictions on the site area, floor space and tenancy arrangements of any future retail development, such that it would really only meet the requirements of Costco. Essentially this would allay Council Officers' initial concerns about allowing retail development in an out-of-centre location. This matter is discussed in further detail in Section 6 below.

## **6. Further Consultation with JBA, Costco and Sydney Business Park**

- a. On 10 December 2013 Council Officers met with representatives from JBA, Costco and Sydney Business Park (landowner) to further discuss the merits of the Planning Proposal.
- b. At the meeting Council Officers reiterated concerns about the proposed retail

development in the B5 Zone and a preference for Costco to locate within the planned Marsden Park Town Centre, however acknowledging that the Costco model is different to standard retail premises. However, the issue was raised as to how the Planning Proposal could be amended/structured so that it was specific only to a Costco operation, and thus remove any concern that the proposal would create a precedent for other retail premises in the B5 Zone potentially resulting in a very large quasi retail centre in an out-of-centre location.

- c. JBA submits that the suggested wording for the Schedule 1 Amendment noted in the Planning Proposal (see below) would achieve this intent and provide Council with the comfort needed to ensure that only a Costco Warehouse would eventuate on the site.

***Development on Part Lot 18 and Part Lot 19, DP 262886, Hollinsworth Road***

*1. This clause applies to part Lot 18 and part Lot 19 in DP 262886 in Zone B5 Business Development.*

*2. Development for the purposes of “retail premises” and “vehicle repair station” is permitted with consent.*

*3. Development including “retail premises” is permitted with consent only where:*

- i. The retail premises is located on land with a minimum site area of 20,000 sq.m;*
- ii. The retail premises has a minimum gross floor area of 13,000 sq.m; and*
- iii. The retail premises is operated by one retailer and/or tenant only.*
- d. The purpose of subclause 3. above is to prevent smaller retailers which require less floor space from operating on the site. If such retailers were allowed to operate on the site, this could adversely impact upon the established retail centres hierarchy within the locality. These smaller retailers are better suited to sites which have improved public transport facilities and greater accessibility, typically within centres. The proposed clause would prevent small retailers from establishing in the B5 Zone and ensure they are appropriately located in centres.
- e. In addition to this, Costco has indicated that it would lodge a Development Application (DA) and accompanying Statement of Environmental Effects (describing in detail the operation of a Costco Warehouse as a membership retailer) for consideration concurrently with the Planning Proposal (most likely after the Gateway stage) so that Council can obtain certainty that the proposed Costco operation is in accordance with the operation described in the Planning Proposal. Council would have the option of conditioning or requiring the use of the premises in accordance with the description of a Costco provided for in the Statement of Environmental Effects. Alternatively, if Costco was to lodge a DA for a retail operation that was radically different to what has been foreshadowed, then Council would have the power not to proceed with the Planning Proposal.
- f. Furthermore, for the Casula Planning Proposal the DP&I advised Liverpool Council in its Gateway Determination that it could “back-zone” the site if Costco did not take up the development. Costco has advised it has no objection to a similar note being placed on the Gateway Determination for Marsden Park.

## **7. Conclusion**

- a. In response to Council Report SD330094, Costco has taken steps to address Council Officers’ initial concerns in relation to the proposal, by suggesting the imposition of restrictions on the permissible site area, gross floor area and tenancy of any retail

premises on the site as part of the Schedule 1 Amendment. Furthermore, Costco has indicated it would be willing to link the Planning Proposal to a DA, to provide Council with the requisite certainty to proceed with the proposal.

- b. On this basis, it is therefore recommended that Council support the request to prepare a Planning Proposal to enable the development of a Costco Retail Warehouse on land at Hollinsworth Road, Marsden Park and resolve to forward the Planning Proposal to the DP&I for a Gateway Determination in accordance with the provisions of the Environmental Planning and Assessment Act 1979.

#### ▼ RECOMMENDATION:

1. Council prepare a Planning Proposal to include the clause referred to in Section 6c. of this Report within Schedule 1 of Appendix 5 – Marsden Park Industrial Precinct Plan under State Environmental Planning Policy (Sydney Region Growth Centres) 2006.
2. Council forward the Planning Proposal to the Department of Planning and Infrastructure to obtain a Gateway Determination.
3. The applicant be advised of Council's resolution.

#### ▼ ATTACHMENTS:

Attachment 1 – Previous Council Report SD330094.



[A1SD340009.PDF](#)

#### ▼ COMMITTEE RECOMMENDATION:

1. Council prepare a Planning Proposal to include the clause referred to in Section 6c. of this Report within Schedule 1 of Appendix 5 – Marsden Park Industrial Precinct Plan under State Environmental Planning Policy (Sydney Region Growth Centres) 2006.
2. Council forward the Planning Proposal to the Department of Planning and Infrastructure to obtain a Gateway Determination.
3. The applicant be advised of Council's resolution.
4. It be noted that Mr. A. Duggan, on behalf of the applicant, was received by the Planning & Development Committee between 7.35 p.m. and 7.40 p.m.

#### ▼ COUNCIL RESOLUTION:

1. Council prepare a Planning Proposal to include the clause referred to in Section 6c. of this Report within Schedule 1 of Appendix 5 – Marsden Park Industrial Precinct Plan under State Environmental Planning Policy (Sydney Region Growth Centres) 2006.
2. Council forward the Planning Proposal to the Department of Planning and Infrastructure to obtain a Gateway Determination.
3. The applicant be advised of Council's resolution.
4. It be noted that Mr. A. Duggan, on behalf of the applicant, was received by the Planning &

## Development Committee between 7.35 p.m. and 7.40 p.m.