



planning consultants

3 July 2017
Our Ref: 9712A.3KO

Ms Carolyn McNally
Secretary
NSW Department of Planning and Environment
GPO Box 39
SYDNEY NSW 2001

Dear Ms McNally

Objection to Draft Amendment to State Environmental Planning Policy (Sydney Region Growth Centres) 2006

DFP has been commissioned by Wiser Capital to prepare a submission to the Department of Planning and Environment (DPE) in response to the public exhibition of draft Amendments to State Environmental Planning Policy (Sydney Region Growth Centres) 2006 (the Growth Centres SEPP), for the North West Priority Growth Area.

In 2016, Wiser Capital acquired land at 17-21 Mason Road, Box Hill (the site), within the Box Hill and Box Hill Industrial precinct.

In summary, Wiser Capital object to the proposed amendments to the Growth Centres SEPP as the proposed amendments effectively downzone the development potential of the land and reduce the number of dwellings capable of being developed on the site by up to 184 dwellings. This will have significant impacts on the potential delivery of dwellings onto the market and the affordability of housing.

1.0 The Site

The site is located on the southern side of Mason Road, Box Hill, within the North West Growth Centre (NWGC). The site approximately 6km from Rouse Hill Town Centre and 12 km from Windsor. A site location plan is shown at **Figure 1**. The site will be located approximately 350m east of the new Box Hill Town Centre.

The Site is legally described as:

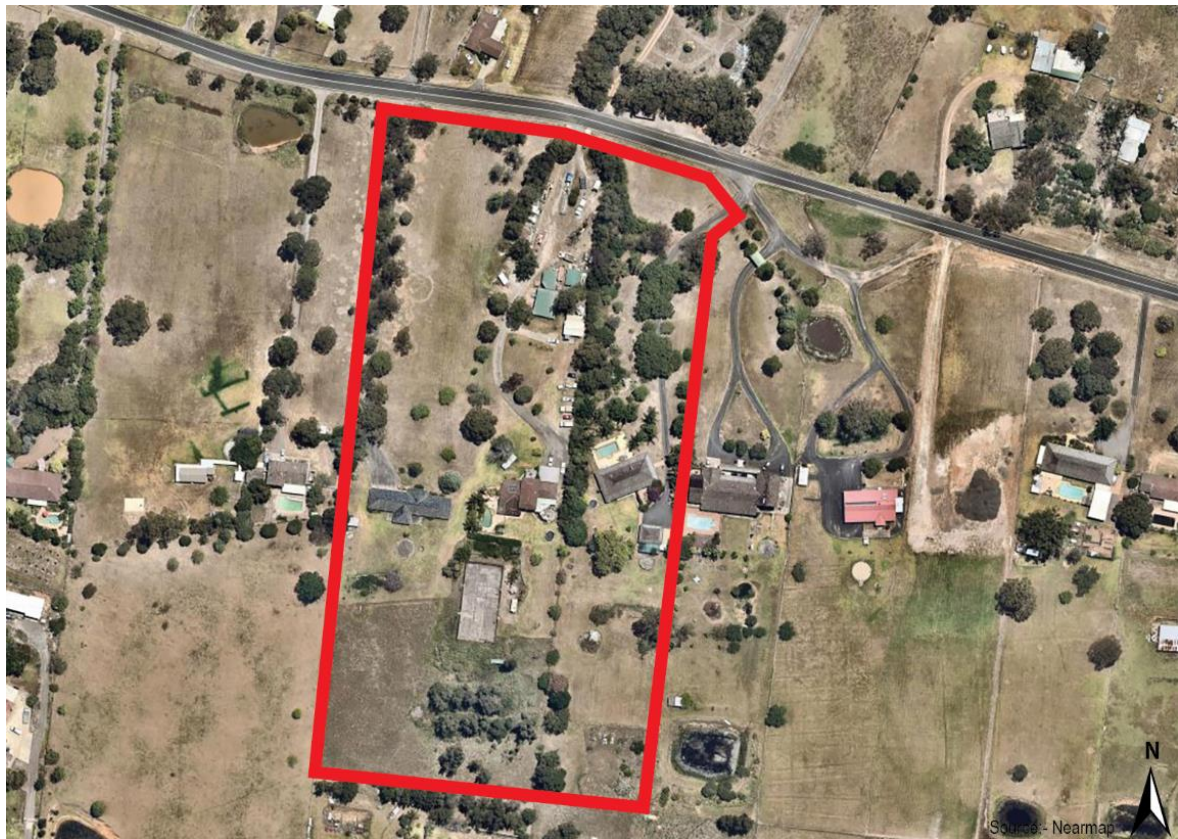
- Lot 68 DP 11104 (17 Mason Road);
- Lot 68 DP 655273 (19 Mason Road); and
- Lot 69 DP 655516 (21 Mason Road).

The site is 4.462ha in area and is currently predominately used for rural residential purposes. A home based business also operates from 19 Mason Road. The block is generally rectangular in shape and slopes up from Mason Road to a ridgeline and the falls again towards the rear property boundary. Existing landscaping comprises scattered trees, manicured gardens and grassed areas.



Figure 1: Site location plan

An aerial photograph of the site is shown at **Figure 2**.



The proposed townhouses will be located on the central and southern parts of the site.

The Growth Centres SEPP does not map the site as containing any heritage items, riparian protection areas or protected native vegetation. The site is not mapped as being bushfire prone land. The site is also within the biodiversity certified area of the NWGC.

As shown in **Figure 3** the site is zoned part R3 Medium Density Housing and part R4 High Density Housing.

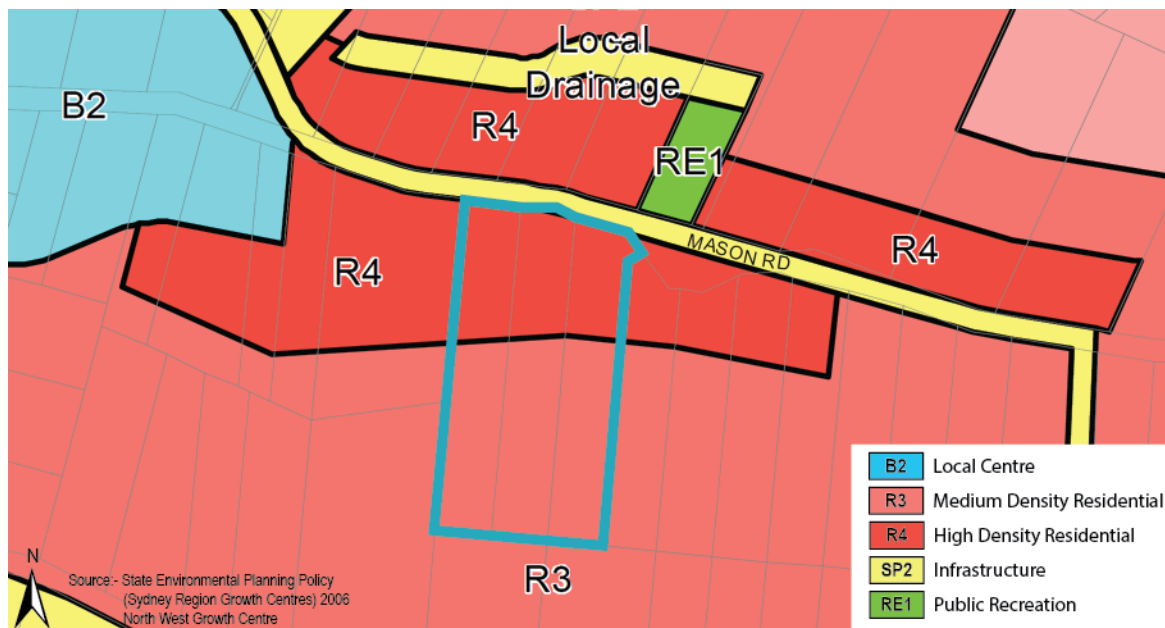


Figure 3: Zoning Map extract

The R3 zoned land has a 14m building height limit and the R4 zoned land has a 21m building height limit. The R4 zoned land also has a Floor Space Ratio of 2:1.

The area of the site that is zoned R3 is 27,093m² and the area of the site that is zoned R4 is approximately 17,527m².

2.0 Box Hill Precinct

The Box Hill and Box Hill Industrial Precincts (“the Precincts”), located within the NWGC were released concurrently by the Minister for Planning in October 2009, allowing Precinct Planning to commence. The Box Hill Precinct was rezoned in April 2013.

The Box Hill and Box Hill Industrial Precincts Development Control Plan (Box Hill DCP) sets out detailed planning controls for the development of the Box Hill and Box Hill Industrial Precincts. The Box Hill DCP includes an Indicative Layout Plan (ILP) which establishes the proposed new street network and land uses in the Box Hill Precinct release area. The ILP (**Figure 4**) identifies future retail/commercial centres, residential areas, parks, sporting fields and riparian corridors.

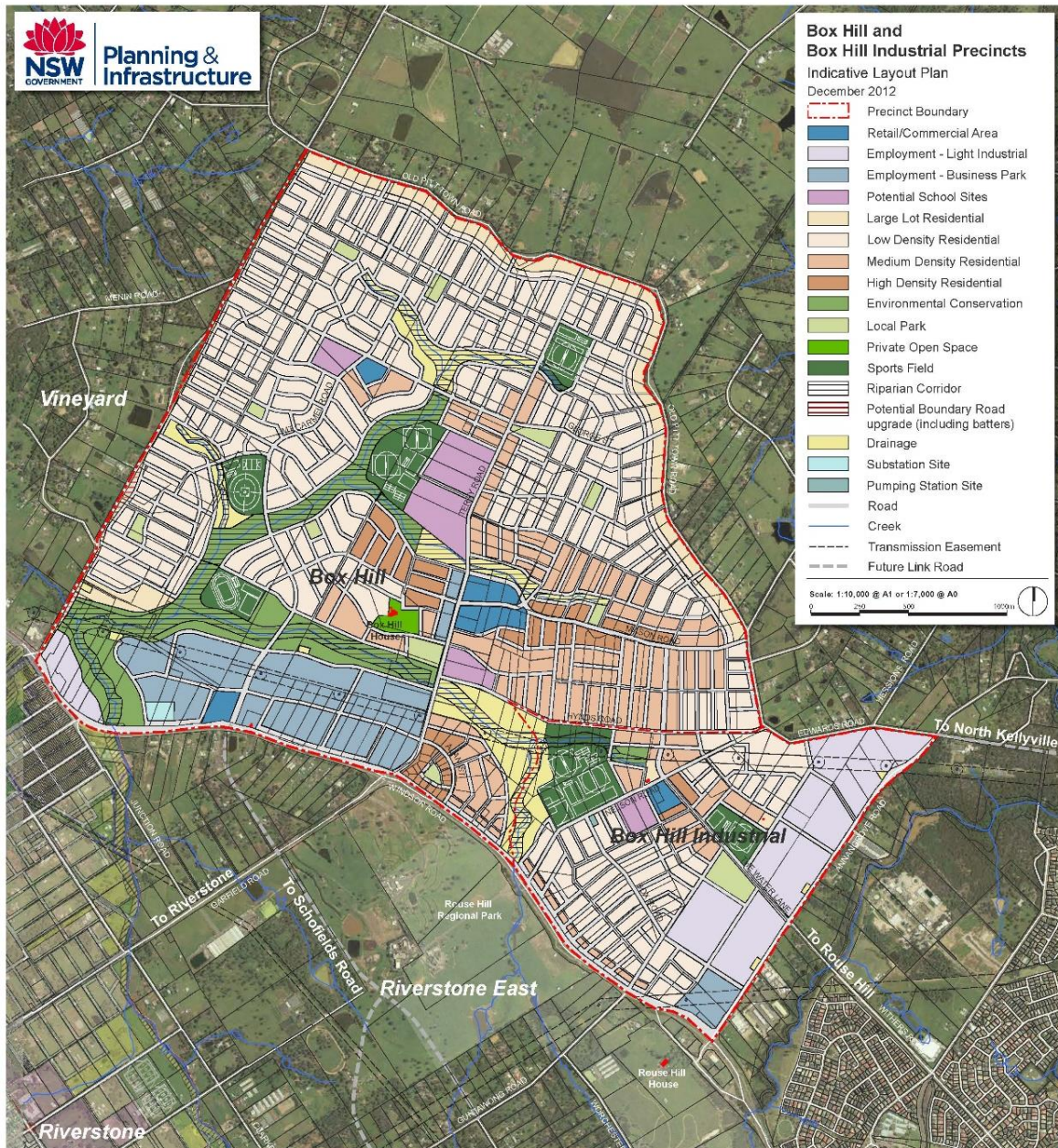


Figure 4: Box Hill Indicative Layout Plan

An extract of the Indicative Layout Plan showing the site is included at **Figure 5**.

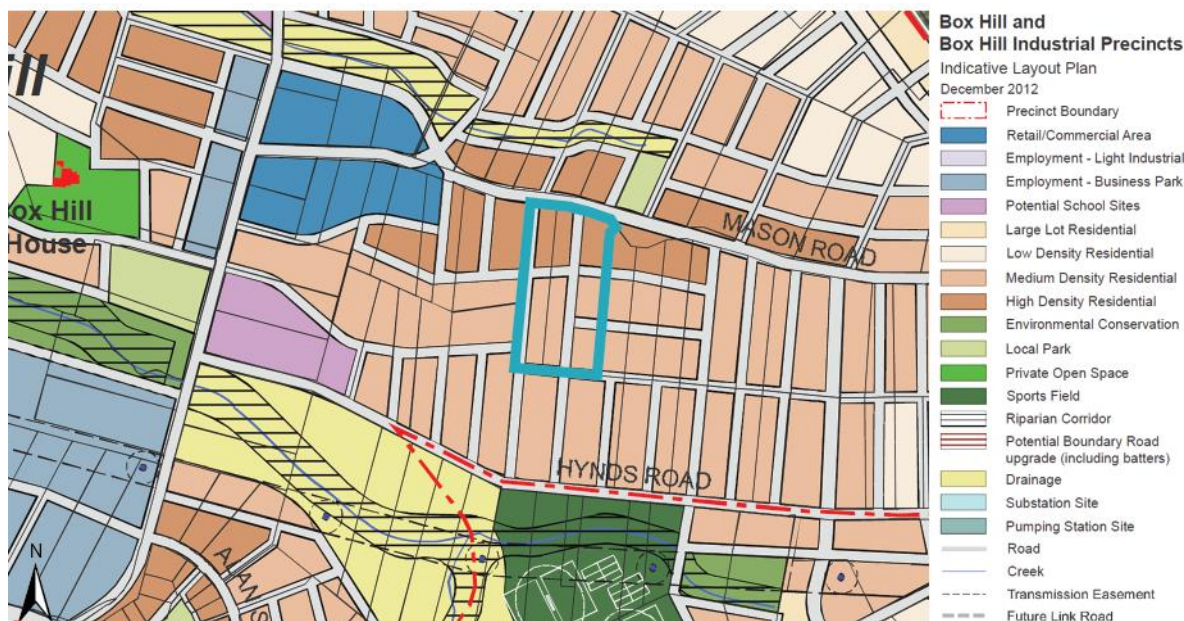


Figure 5: Extract of the ILP showing the site

As can be seen the site is within close proximity to the future Box Hill Town Centre. On the 15 December 2016, the Sydney West Central Planning Panel granted development consent to a mixed use development comprising 20,718m² of retail and commercial floorspace and 668 apartments at 29-31 Terry Road (future Box Hill Town Centre). The approved buildings range from 6 to 9 storeys in height. The site is approximately 650m from the approved town centre development.

A new school, Santa Sophia Catholic College, is proposed on land at 40 - 46 Terry Rd, Box Hill and will have up to 2,000 students (Kindergarten to Year 12 school). The school is planned to open on the site around 2020 (from 2018 the will operate from a temporary site in Schofields). The site is approximately 1km from the new school.

The site is well located and accessible to the future town centre and new school. In addition, the site will also be a short distance to new open space and planning fields directly south of the site, on Hynds Road. Mason Road is the proposed bus route from Box Hill Town Centre to Rouse Hill Regional Centre and as such the site will have convenient access to Rouse Hill Regional Centre and the proposed Railway Station and T-WAY stop.

3.0 Proposed Development of the Site

Since acquiring the site in 2016, Wisser Capital have been preparing development concepts for the site. A pre-DA meeting was held with The Hills Shire Council in February 2017 to discuss a multi-unit housing development on the R3 zoned land. At the time it was noted that separate developments applications would be lodged for the R3 zoned land and R4 zoned land.

On 23 June 2017, Wisser Capital lodged a development application with The Hills Shire Council for the proposed construction of 111 townhouses, basement carparking, landscaping and a four lot subdivision of the site. On 25 June 2017, Wisser Capital lodged a development application for 325 apartments, basement carparking, landscaping and a neighbourhood shop.

The combined value of these developments is approximately \$155 million.

4.0 Draft Amendment to State Environmental Planning Policy (Sydney Region Growth Centres) 2006

DPE has exhibited amendments to the Growth Centres SEPP for the NWGC (now referred to as the North West Priority Growth Area). The North West Priority Growth Area Land Use and Implementation Plan was also exhibited.

The proposed amendments (relevant to the Box Hill Precinct and the site) include:

- Making the North West Priority Growth Area Land Use and Implementation Plan the “structure plan” for the North West Priority Growth Area.
- Introducing maximum densities for all residential areas that have been rezoned under the Growth Centres SEPP.

Relevant to the site the proposed amendments to the density controls are:

Table 1 Box Hill Precinct – Proposed Residential Density for the site

Zone	Current Minimum Density (dw/ha)*	Proposed Minimum (dw/ha)	Proposed Maximum (dw/ha)
R3	18	15	30
R4	30	30	100

* No maximum dwelling density control applies to the site

R3 zoned land

The net developable area for the townhouse site, calculated in accordance with the Box Hill Development Control Plan (BHDCP) is 2.765ha. Therefore, under the draft SEPP amendment, the potential maximum dwelling yield for the site would be 83 dwellings. As noted above, Wiser Capital are seeking approval for 111 dwellings, which has a residential density of 40 dwellings per hectare and complies with the current Growth Centre SEPP controls.

The proposed development will be 28 dwellings above the proposed maximum residential density control.

The draft SEPP amendment imposes a significant constraint on the development potential of the site beyond that of the current Growth Centre SEPP and BHDCP. In relation to the R3 zoned land, the development potential of the site is governed by the minimum residential density control and building height control. The density of development is also controlled by the controls in the BHDCP, including:

- Site Coverage (maximum);
- Landscaped area (minimum);
- Requirements for Principal Private open space (PPOS);
- Front setback (minimum);
- Corner lots secondary street setback (min);
- Side setback (minimum); and
- Rear setback (minimum).

Forty dwellings per hectare is considered appropriate for R3 Medium Density zoned land in a growth centre.

R4 Zoned land

The net developable area for the R4 zoned land, calculated in accordance with the BHDCP is 1.6974ha. Therefore, under the draft SEPP amendment, the potential maximum dwelling yield for the site would be 169 dwellings. The proposed development is seeking approval for 325 apartments, which is 156 dwellings above the proposed maximum residential density control. The proposed development has a density of 191 dwellings per hectare.

The proposed apartment development provides a mix of 1,2 and 3 bedroom dwellings, consistent with the Apartment Design Guide, and has an average floor area of 100m² per apartment (when common circulation, storage and building efficiencies are included). If this average floor area is applied to the proposed controls, which will only allow for a maximum of 169 dwellings, the achievable FSR would be an FSR of 1:1, half that of the current controls. An FSR of 1:1 is not considered appropriate for high density zoned land, with a 21m building height limit, in a planned growth centre.

The draft amendment to the Growth Centres SEPP is inconsistent with the current residential density control, being the FSR, yet the draft amendment does not seek to amend the height and FSR controls. To achieve the FSR allowable under the current controls, the average floorspace for apartments would need to be approximately 200m², which would result in unaffordable dwellings and financially unfeasible development. Such an outcome is inconsistent with one of the objects of the EP&A Act which seeks to encourage “the promotion and co-ordination of the orderly and economic use and development of land”. Further it is also inconsistent with design objectives of the Apartment Design Guide.

If implemented, the maximum residential development control will lead a significant variation to the built form on R4 zoned land as some sites have development approvals consistent with the development achievable under the current controls. Other sites will have a significantly different, under-developed and inconsistent built form.

The planning controls in the Growth Centres SEPP and BHDCP are the result of extensive planning studies undertaken by the DPE prior to the rezoning of the land and its release for urban development. The planning controls that have informed the current design have been in force since April 2013. Residential density of R4 zoned land is determined by FSR and height controls. The density of development achievable should therefore have been apparent to the DPE and The Hills Shire Council. In fact we note that DPE amended the building height control in the Cudgegong Road (Area 20) as the FSR was not achievable under the previous height controls.

The proposed amendments significantly reduce the development potential of the site and consequently the viability of the development as land acquisition and investment decisions have been based on the planning controls that currently apply, and that have applied since the land was released over four years ago.

The proposed changes to the planning controls are punitive and will have an impact on housing affordability as a potential decreased yield will lead to increased prices and/or a delay in releasing housing and land onto the market. Land values for undeveloped land already rezoned for medium and high density housing are reflected in the development yield achievable under the current controls, not the minimum density achievable. The dramatic reduction in the achievable density (up to 184 dwellings on our clients land) will result in a significant disconnect between the underlying land values and dwelling supply achievable to enable a viable development. This will result in dramatic halt to the supply of new developments until such time

that developments become financially viable. The reduction in land values will have a significant impact on developers who have bought land as the loan to value ratio will fall which will jeopardise lending and may result in foreclosures if additional security against the loans cannot be provided.

The proposed changes are also considered counter to the NSW Government agenda and recent announcement to fast track the delivery of land onto the market and the introduction of further stamp duty concessions to improve housing affordability.

The proposed changes are also inequitable as there is a significant benefit to those sites that have already been developed or have the benefit of a development consent. The imposition of a maximum residential density cap on such sites has no effect. The imposition of a maximum density cap on undeveloped sites or sites without the benefit of an existing development consent unfairly restricts the development potential of land already rezoned for urban development.

The Growth Centres are the most appropriate location to provide new housing as these are the areas the State Government and Council's have committed significant resources to service these areas. If the key issue is the under provision of infrastructure, there are other alternative measures available such as:

- Additional investment in new infrastructure;
- Augmentation of existing infrastructure;
- Acquisition of additional land for social infrastructure purposes;
- Review of the State Infrastructure Contributions (SIC) Levy and Section 94 Infrastructure levies (it is noted that SIC levy is under review); and
- Review of the planning controls in the BHDCP (and other DCPs).

If the population is greater than anticipated, investigations should be undertaken to determine the extent of public infrastructure such as open space, road network, drainage, infrastructure and utilities such as electricity, water and sewer that would be needed to service the anticipated population. Once these services are understood, it will then be possible to recalculate Section 94 Contribution Plans and the SIC Levy to determine the funding models required to facilitate the expected population.

DFP is acutely aware of the restrictions imposed by the NSW State Government in relation to the \$30,000 Section 94 Contribution cap, however, it is possible to review this via IPART should the amount of Section 94 Contributions required to service the new population exceed \$30,000 per dwelling. It is however anticipated that with the larger densities achieved, that there should be greater efficiencies in providing public infrastructure such as open space and traffic networks.

Whilst the proposed implementation of the maximum residential density target is objected to, if such a target is to be ultimately implemented, it should not be done until the SIC levy and Section 94 plan reviews are completed. If additional infrastructure levies and Section 94 contributions are required, this will have less of an impact on housing supply and affordability than the dramatic reduction in housing supply that will result if the proposed amendments are implemented.

Savings and Transitional Provisions

The proposed savings and transitional provisions contained in the Explanation of Intended Effect and the proposed DCP amendments are inconsistent. The Explanation of Intended Effect Addendum issued on 19 May 2017 proposes the following:

A consent authority is not required to apply the provisions of the Explanation of Intended Effect to a DA lodged before Monday 22 May 2017.”

The Growth Centres amending DCP states:

If a development application has been made before the commencement of this DCP in relation to land to which this DCP applies and the application has not been finally determined before that commencement, the application must be determined as if this DCP had not commenced.

These above provisions are inconsistent.

The proposed savings provisions applying to DAs lodged prior to 22 May 2017 is objected to as it is grossly unfair to applicants who were in the process of finalising DAs. If the proposed draft amendments are to be implemented there should be a greater transition period for owners and developers who have acquired land, in good faith, based on the current planning controls, which have been in place for several years. This would protect those applicants who were in the process of completing DA submissions for lodgement prior to the exhibition of the proposed amendment.

At a minimum, the amendments proposed under the proposed draft amendment should only apply to a development application made after the end of the exhibition period (i.e. 4 July 2017). Alternatively, the amendments should only apply to a development application made, but not yet determined before the commencement of the amending policy. This approach is also consistent with the Savings and Transitional Provisions for previous amendments to the Growth Centres SEPP set out in Schedule 1 of the Growth Centres SEPP. Given the significant impacts that will occur to the supply of housing and affordability of housing, a longer transitional timeframe would be appropriate.

5.0 Summary and Conclusion

DFP has been commissioned by Wiser Capital to prepare a submission to DPE in response to the public exhibition of the Draft Amendment State Environmental Planning Policy (Sydney Region Growth Centres) 2006 (the Growth Centres SEPP).

In 2016, Wiser Capital acquired land at 17-21 Mason Road, Box Hill (the site), within the Box Hill and Box Hill Industrial precinct.

In summary, Wiser Capital object to the proposed amendments to the Growth Centres SEPP as the proposed amendments effectively downzone the development potential of the land and reduce the number of dwellings capable of being developed on the site. This will have significant impacts on the potential delivery of dwellings onto the market and the affordability of housing.

The proposed changes will result in potential reduction in supply of 184 dwellings onto the market from this site only. The proposed changes to the planning controls are punitive and will have an impact on housing affordability as a potential decreased yield will lead to increased prices and/or a delay in releasing housing and land onto the market. The proposed changes are also considered contrary to the objects of the EP&A Act, the aims of the Precinct Plan and counter to the NSW Government housing affordability agenda and recent announcements to fast track the delivery of land onto the market and budget announcements to improve housing affordability.



If you have any questions, please contact Kirk Osborne on 9980 6933 or at kosborne@dfpplanning.com.au.

Yours faithfully
DFP PLANNING PTY LTD

A handwritten signature in black ink that reads 'K. Osborne'.

KIRK OSBORNE
PRINCIPAL PLANNER

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Reviewed: A handwritten signature in black ink that reads 'W. Gosling'.