

3 July 2017

Department of Planning & Environment
GPO Box 39,
SYDNEY NSW 2001

Dear Sir/ Madam,

**NORTH WEST DRAFT EXHIBITION PACKAGE
AMENDMENTS TO STATE ENVIRONMENTAL PLANNING POLICY (SYDNEY REGION GROWTH CENTRES)
2006 – FOR NORTH WEST PRIORITY GROWTH AREA**

CPS make the following submission in relation to the *Amendments to State Environmental Planning Policy (Sydney Region Growth Centres) 2006* (Growth Centres SEPP) placed on exhibition by the Department of Planning and Environment (DPE) on 15 May 2017.

Our client has a committed financial investment to redevelop two (2) hectares of land at 84 Tallawong Road, Rouse Hill that is based on the provisions within the *Blacktown Growth Centres Precinct Plan 2013* contained within Appendix 12 of the Growth Centres SEPP.

The proposal to redevelop this land for residential flat buildings (approx. 380 dwellings) is well advanced, with a development application (DA) due to be lodged with Blacktown City Council (Council) in August 2017.

The dwelling density changes proposed within the North West draft exhibition package will neutralise the current proposal, and inflict critical financial losses to our client who has made an investment based on the current Growth Centres SEPP provisions.

1. Notification of Impending Changes to Consent Authorities

Our client's proposal has been before Council as part of a pre-DA lodgement meeting on 2 May 2017, with minutes of the meeting released from Council on 9 May 2017. The plans for this pre-DA were supplied to Council on 24 April 2017.

Within the pre-DA meeting, and also within the pre-DA minutes, Council raised no mention of the impending public notification of the Amendments to the Growth Centres SEPP. The pre-DA minutes even go so far as confirming the minimum dwelling density control of 25 dwellings per hectare with no maximum.

The Explanation of Intended Effect (EIE) included as part of the North West draft exhibition package goes to some extent to outline that the proposed density changes have been discussed and agreed in principle with the councils.

However if the councils have been in discussion with DPE and agreed in principle to the impending changes, CPS query why such impending changes to the Precinct Plan have not been conveyed to developers?

While this may be a question best put to Council, CPS request DPE advise on when the said discussions/agreements with councils took place, and whether any direction was provided by DPE on how to inform developers of the impending notification of the changes.

2. Savings and Transitional Provisions

CPS acknowledge savings provisions have the effect of providing some fairness to applicants for development consent, by ensuring that their DAs are assessed by the prevailing controls and standards at the time of their application.

Under the current provisions of the Growth Centres SEPP, clause 1.8A within Appendix 12 'Blacktown Growth Centres Precinct Plan' includes the following savings and transitional provision relating to pending DAs.

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

Importantly, for the interpretation on the above, clause 1.1 of the Growth Centres SEPP stipulates the name of the Precinct Plan is the '*Blacktown Growth Centres Precinct Plan 2013*'.

A review of the draft Precinct Plan contained within the North West draft exhibition package indicates the new Precinct Plan will be called the '*Blacktown Growth Centres Precinct Plan 2015*'.

The aforementioned draft Precinct Plan also indicates that the current savings provision relating to pending DAs is to remain, such that it will ensure DAs made but not yet determined before the commencement of the draft Precinct Plan will be assessed and determined as if the draft Precinct Plan had not commenced – refer page 15 of the EIE.

Accordingly, CPS understand the provisions of clause 1.8A will continue to apply, with the '*Blacktown Growth Centres Precinct Plan 2013*' simply substituted for '*Blacktown Growth Centres Precinct Plan 2015*' in the new Growth Centres SEPP.

While the above is quite clear, and generally consistent with the impending gazettal of new EPI's, CPS was somewhat surprised to see DPE's '*Addendum – Transitional Arrangement and Mapping Changes*' added to the EIE on 19 May 2017 which states:

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 strength of the language used above, specifically *'required to apply the provisions'*, is inconsistent with Section 79C(1)(a)(ii) of the *Environmental Planning and Assessment Act 1979* (the Act) which indicates a consent authority must simply take into consideration a proposed EPI that is or has been the subject of public consultation.

This contradiction is also evident within the Addendum released to the EIE on 19 May 2017 which in the first paragraph states Section 79C of the Act *"requires the consent authority to consider..."* then under bullet point '1' on the same page states a consent authority is *"required to apply the provisions"*.

In this regard, CPS question why DPE has chosen to rephrase the provisions of Section 79C(1)(a)(ii) to be definitive in the application of the Addendum over that of the current provision of the Growth Centres SEPP.

3. Inconsistency between maximum dwelling density and zoning

It is acknowledged that the North West draft exhibition package includes planning changes to create dwelling density bands, whereby maximum dwelling densities will be added to the existing minimum dwelling densities currently provided by Clause 4.1B of the Precinct Plans.

It is understood that the maximum dwelling densities are proposed in response to concerns raised by councils regarding the capacity of planned infrastructure and the unanticipated dwelling densities that are being proposed by incoming and submitted DAs.

However, the proposed dwelling density is inconsistent with the R3 Medium Density Residential zone objectives and the inherent higher forms of development that are permissible within. For example, the proposed dwelling density range T3 within the Blacktown Precinct is 15-35 dw/ha. This dwelling density results in corresponding land sizes of:

- minimum density of one (1) dwelling per 666.7m² of land, and
- maximum density of one (1) dwelling per 285m² of land.

The minimum and maximum areas required by the dwelling density range are essentially representative of Torrens Title subdivision developments, noting that the minimum lot size for subdivision contained in the North West draft exhibition package are 300m² for dwelling houses and 400m² for dual occupancy developments within the Blacktown Precinct.

In this regard, from an economic land development perspective, the proposed dwelling density range of T3 will best facilitate Torrens Title subdivision style developments, even when higher forms development, such residential flat buildings, are permitted within the R3 zone.

Accordingly the draft dwelling densities provide incentives for dwelling houses on their own allotments, which is perceivably more valuable than a comparable apartment within residential flat building.

This consequence conflicts with the R3 zone and its objectives:

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To support the well-being of the community by enabling educational, recreational, community, religious and other activities where compatible with the amenity of a medium density residential environment.*

Within the R3 zone of the Blacktown Precinct, residential flat buildings, and shop top housing are permitted with consent.

In this regard, the proposed density bands of 15-35 dw/ha within the R3 zone conflicts with the second objective 'to provide a variety of housing types', as it will incentivise development of dwelling houses (detached and semi-detached) and dual occupancy developments on lots averaging 300m².

Accordingly, the proposed maximum density of 35dw/ha does not appropriately consider the R3 zoning and the permissible developments contained therein.

4. Higher forms of development, per capita, are less intensive in terms of infrastructure consumption

In consideration of the consequential outcome of the maximum dwelling density provision, as discussed in item 3 of this submission, the proposed planning changes will, counter-intuitively, result in an exacerbated impact on infrastructure.

This is because, per capita, people living in higher density developments that are appropriately located, will place a reduced strain on local infrastructure than compared to people living in separate Torrens Title allotments. As is generally accepted:

- Apartment dwellers generally exhibit lower car ownership, resulting in a reduction of road infrastructure consumption (road upkeep, parking requirements);
- Apartment developments require a reduced amount of land for habitation (due to the vertical nature), and therefore require less land and associated development to be connected to existing road and stormwater infrastructure;
- Opportunistic patronage of appropriately located public parks is increased, therefore decreasing to overall maintenance cost of such corresponding infrastructure;
- Opportunistic patronage of appropriately located public transport is increased, therefore decreasing overall maintenance cost of such corresponding infrastructure;
- Opportunistic patronage of appropriately located child care services is increased, therefore decreasing overall maintenance cost of such corresponding infrastructure;
- Opportunistic patronage of appropriately located educational facilities is increased, therefore decreasing overall maintenance cost of such corresponding infrastructure;

In this regard, to support the realisation of the planned infrastructure, and reduce the cost of the maintenance of such infrastructure, it is more beneficial to permit higher form developments, such as residential flat buildings, in appropriately location development sites, instead of incentivising lower forms of development within higher order zoned land such as R3 Medium Density Residential.

For example, 84 Tallawong Road, Rouse Hill, can appropriately accommodate residential flat buildings in terms of future occupant amenity, as the site is within 600m of the Cudgegong Train Station, within proximity to regionally significant roads such as Schofields Road and Windsor Road, located opposite to RE1 Public Recreation zoned land, and within 2.8km of Rouse Hill Town Centre.

Accordingly, a maximum dwelling density of 35dw/ha on the aforementioned site does not achieve the following:

- Development of permitted higher density style development, and
- Result in a reduced infrastructure consumption efficiency.

It is submitted that R3 zone land, such as 84 Tallawong Road, Rouse Hill, where appropriate residential flat building development can be accommodated, be treated differently than the R2 zoned land and R3 zoned that are located further from planned amenities, when aligning densities with planned infrastructure.

5. Opportunities to augment supporting infrastructure already built in within the residential zoning

As noted before, the North West draft exhibition package which include maximum dwelling densities, are the result of infrastructure capacity concerns. However, the residential land use zones (R2 and R3) contained within Appendices of the Growth Centres SEPP support the opportunity to provide for the needs of the community, as outlined by the following land use objective:

- *To support the well-being of the community by enabling educational, recreational, community, religious and other activities where compatible with the amenity of a low density residential environment.*

In support of the above zone objectives, the corresponding land uses that support infrastructure required for a residential environment, include:

places of public worship, community facilities, child care centres, neighbourhood shops are identified under item 3 as being permitted with consent, and educational establishments are additionally permitted as they are not identified as a prohibited use under item 4, and therefore falls under 'Any other development not specified in item 2 or 4' of item 3.

In this regard, opportunities to augment infrastructure within the growth centres are already built in to the current residential zoning, and therefore the market is capable of supporting the planned infrastructure as the precincts become more developed.

6. Impact on Infrastructure

CPS understand that councils have been receiving DAs for permissible uses that far exceed the minimum residential densities within the Growth Centre SEPP.

The EIE outlines the introduction of maximum residential densities has been put in place to ensure the infrastructure planned to support the growth centre's population will be sufficient.

However to simply introduce the proposed maximum residential densities without having due regard to the significant level of investment made by developers and other stakeholders within the area is considered careless and unreasonable.

For those DAs that are already lodged, but not yet determined, opportunities should be afforded to provide an alternative solution to council's infrastructure concerns. This may include considerations being given to voluntary planning agreements (VPAs) to address any shortfalls in infrastructure, and help ensure such developments can remain environmentally sustainable within the local area.

Such alternative solutions could help protect the significant financial investments made by developers and other stakeholders, while at the same time ensuring DAs already in the system do not overburden planned infrastructure.

Should any revisions be made to the draft Precinct Plan or North West draft exhibition package, CPS request that we be notified and furnished with the revised documents for our review.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Ben Tesoriero', with a long horizontal flourish extending to the right.

Ben Tesoriero
Director
Creative Planning Solutions Pty Limited (CPS)