



New South Wales
TREASURY

CRay 18/5/09
Mr Sam Haddad
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Department of Planning
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RECEIVED

18 MAY 2009
Director-General

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13 MAY 2009

Sam
Dear Mr Haddad

Draft Centres Policy – discussion paper

I refer to the Department of Planning's recent request for public comments on the Draft Centres Policy.

NSW Treasury supports the Department of Planning's objective of creating a planning framework that allows market forces to determine the amount and type of retail development. However, the Draft Centres Policy stops short of providing sufficient flexibility to allow this outcome to be achieved.

NSW Treasury considers that further changes should be made to the Draft Centres Policy and to the existing planning framework to better facilitate retail and commercial development. The attachment to this letter is NSW Treasury's submission to the discussion paper which outlines these recommended changes. NSW Treasury is available to work with the Department of Planning to develop and implement these recommendations.

Yours faithfully

Philip Mussared
Deputy Secretary

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for consideration
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NSW Treasury submission to the discussion paper on the Draft Centres Policy

NSW Treasury supports the Department of Planning's objective of creating a planning framework that allows market forces to determine the amount and type of retail development. However, the Draft Centres Policy stops short of providing sufficient flexibility to allow this outcome to be achieved.

Further changes should be made to the Draft Centres Policy and to the existing planning framework to better facilitate retail and commercial development. This submission outlines NSW Treasury's comments and recommendations on the Draft Centres Policy and the broader planning framework.

Comments on the Draft Centres Policy

Policy objectives

1. An earlier draft of the Centres Policy included a policy position that the supply of floorspace for retail should always exceed demand. This is an inefficient way to address the notion that planning laws are restricting retail competition. Firstly, an excess supply of retail land may be at the expense of other sectors. Secondly, a policy position of perpetual excess supply will place continual downward pressures on retail land prices. This objective should not be reflected in any aspect of retail planning policy.
2. The key principle that should underlie all land use planning, including the Centres Policy, is that land should be used for its highest and best use having regard to external costs, eg. environmental, social and cultural. The Centres Policy should promote this as the objective of the Centres Policy. The six key principles outlined in the Draft Centres Policy should be considered as means to supporting the overall policy objective.
3. To achieve the policy objectives, as much of the demand for retail floorspace as possible should be supplied through the strategic planning framework. Planning for retail development in a strategic way provides increased certainty for the industry. It should also reduce the planning related cost of developing land as developers are not required to undertake ad hoc planning activities to support rezonings.

Floorspace Supply and Demand Analysis

4. The Department of Planning propose working with councils to undertake Floorspace Supply and Demand Analysis to form the evidence base for setting targets. Given the complexity of the analysis involved in this process, there will be a benefit in undertaking this analysis in a coordinated way. This will promote consistency across regions. Therefore, it is recommended that the Department of Planning lead the analysis, prioritising high growth retail areas.

From an analytical perspective, the Department of Planning's proposal to build the evidence base through a "bottom-up" approach seems appropriate. This is likely to involve forecasting the retail floorspace requirements for a range of unique retail end uses. However, to further facilitate the operation of the retail market, it is proposed that floorspace targets not be expressed for individual uses but as a retail aggregate for an area. This will give the retail industry greater flexibility in the type of retail outcomes that are possible than if targets are set for specific end uses.

Assessment of out of centre developments

5. The assessment process for "out of centre" development that is proposed in the Draft Centres Policy is based on a "sequential test" approach. This approach contradicts the objectives of allowing new centres to grow and allowing the market to determine the need for particular types of retail and commercial development.

If the criteria used to assess "out of centre" proposals is robust enough, where the cost on the community of a development compares favourably with the cost of a within centre development, a proposal should be considered. Conversely, where the cost to the community of an "out of centre" development is greater than the cost of a within centre development, the development should not be considered. As such, it is recommended that the proposed sequential test not be adopted, and that an assessment of the likely net community benefit of a development be the criterion for determining whether an "out of centre" development is considered for rezoning.

6. The draft Centres Policy requires Councils to use a "suitability test" where they investigate a new centre while a Community Benefit Test is required for spot rezonings. It is neither equitable nor efficient that the test criteria that a developer needs to satisfy for a spot retail rezoning differs from the criteria that a council needs to consider when planning for new centres. The same test should be applied in both scenarios.
7. As outlined in the Draft Centres Policy, a formal cost benefit analysis is recommended for larger projects. For consistency, it is proposed that cost benefit principles be adopted in all instances. To assist developers in this process, it is also recommended that the *NSW Government Guidelines for Economic Appraisals* be used, rather than the Commonwealth guidelines prescribed in the Draft Centres Policy.

Adopting the NSW guidelines will also address a number of flawed principles that are included in the Draft Centres Policy. For example, Cost Benefit Analysis should assess the impacts on specific firms, households and individuals. Many of the considerations included in the Community Benefit Test criteria relate to performance against high level strategic planning documents. In addition, the Draft Centres Policy also proposes the use of multiplier effects in measuring the benefits to the community of a rezoning. These effects are typically not included in cost benefit analysis.

For the purpose of undertaking these assessments, the main heads of consideration should be:

- The difference in land values which would result from the proposed land use – this represents the core benefit of a rezoning proposal and reflects the value that the community/market attribute to the change in use
- The cost of providing government services – primarily infrastructure costs and typically transport and water related infrastructure
- Costs associated with transport impacts such as congestions and trip frequency and length
- Any change in environmental costs such as the impact on habitats, amenity etc.

Other factors such as employment effects (job creation etc) and the impact on land values of other enterprises should also be considered. However, it is expected that these will only be relevant to significant rezoning proposals. NSW Treasury is available to work with the Department of Planning to refine the Community Benefit Test Criteria with the objective being to have a more practical and relevant set of criteria.

Competition considerations in development assessment

8. It is not appropriate for the planning system to make a determination about the competition implications for an existing business that may arise from a new development. The profitability of both existing and new market entrants should be a matter that is determined by the market forces, not by land use planning.

However, where a proposed development may possibly have an impact on the viability of an entire centre or community, there may be a case for considering this broader impact as part of the assessment process.

Comments on the broader planning framework

Metropolitan strategy

9. Given the similarity between many of the centres in the Metropolitan Strategy hierarchy, it is difficult to identify the value in having the number and types of centres included in the current hierarchy. The decision about whether to invest in retail land in a Stand-alone Centre rather than in a Town Centre should be determined by the community's demand for different products and services.

To this extent, imposing planning restrictions on the type of retail that can locate in these different centres limits the ability of market forces to determine retail development outcomes. An argument can be made that the need to differentiate between centres from a strategic planning perspective should only arise where there is a market failure in delivering a particular form of retail development that arises in part from a shortage of retail land.

Standard LEP

10. The existing retail/commercial land use zonings included in the standard local environmental planning instrument share a degree of commonality, with the differences between a number of zonings being very minor.

As with the centres typology, the objective should be to have as few and as broad land use zoning categories as possible. Differentiation in zonings should only exist where the infrastructure and environmental impact of different development types vary significantly. This will provide retailers with the greatest flexibility in deciding the type of retail, including bulky goods, which they provide while also providing infrastructure agencies with reasonable certainty about the potential demand that will be created within a specific zoning.