

29th November, 2007

Ms Penny Holloway
General Manager,
North Sydney Council
PO Box 12
North Sydney NSW 2059

Attention: Mr. Brad Stafford

By Facsimile: 9936 8177

Dear Ms Holloway

RE: North Sydney Draft Local Environmental Plan Amendment No. 28 – North Sydney Centre

The NSW Urban Taskforce would like to take this opportunity to respond to the exhibition of the above plan amendment ("the proposed LEP amendment").

The NSW Urban Taskforce is an industry organisation representing the development sector. Founded in 1999, the NSW Urban Taskforce represents companies involved in planning and development of the urban environment. Current members of the NSW Urban Taskforce include some of Australia's most prominent developers, construction companies, major infrastructure providers, planners, architects, financiers and lawyers involved in urban development.

The NSW Urban Taskforce supports the clarification of zones within North Sydney Centre and the general push to increase the level of commercial zoning within the Centre. However, we believe that some of the consequential amendments and proposed development standards/controls will limit the opportunity for sites to be redeveloped and for the centre to grow.

Without real growth and revitalisation of the centre accommodating new and additional employment opportunities North Sydney will not meet the expectations of the Metropolitan Strategy.

The Metropolitan Strategy envisages North Sydney as a place that will be a focus for world class business, tourism, cultural, health, education and entertainment activities. The *North Sydney Local Environmental Plan 2001* and amendments under draft LEP No. 28 will not facilitate the fulfilment of the objectives of the Metropolitan Strategy and will not facilitate growth and revitalisation of the North Sydney Centre.

This concern is reflected in the correspondence of the NSW Department of Planning to Council dated 26 October 2007 where it is stated that "...study has shown that 5 sites are feasible and could produce up to 180,090 sqm (72%) of 250,000 sqm of additional floor space in the CBD, reliance on such a small number of sites is of concern ...".

North Sydney LEP 2001

Division 4 of Part 3 of the North Sydney LEP 2001 ("NS LEP 2001") contains specific provisions relating to development within the North Sydney Centre. These provisions (inserted in 2003) sought to encourage the development an additional 250,000 square metres of commercial floor space within the centre.

Apparently, the State Government and the council agreed on a target of only 250,000 square metres because of capacity limitations of North Sydney train station.

The 2003 changes also introduced a composite shadow area as the primary tool to control the level of development within the centre. Sitting under the shadow controls were supplementary controls that directed absolute building height, minimum site area, building design requirements and street setbacks.

The proposed LEP amendment maintains the target of 250,000 square metres of additional commercial floor space, but seeks to review and replace the development controls relating to building height, massing and floor space ratios. It also rationalises the extent of mixed use zoning and replaces it with a commercial zoning.

We believe that the target of an extra 250,000 square metres of commercial floor space is inadequate and should be revisited, in light of:

- the 2005 identification of North Sydney as part of Global Sydney;
- the 2017 delivery of new CBD Rail Link which is expected to provide additional rail capacity through the CBD, with a second north south harbour crossing, with a new railway station at Victoria Cross; and
- the 2006 identification of a possible metro line along the Global Economic Corridor from Macquarie Park through the CBD to Port Botany and Airport.

Preston Row Patterson feasibility study

The letter accompanying the section 65 certificate issued by the Department of Planning to enable the exhibition of draft LEP No. 28 referred to the Preston Rowe Patterson Feasibility Study ("PRP Study"). The Department expressed concern at the reliance of the study and North Sydney Council on a limited number of sites to achieve the targeted 250,000 sqm of additional floor space within the North Sydney centre.

We question both the methodology and conclusions of the PRP study. We believe it will not be possible or economically feasible for an additional 250,000 sqm of commercial floor space to be developed within the North Sydney centre above the level in existence in 2003.

Since 2003 Council has approved 88,315 sqm of commercial floor space and has concluded that five sites have the potential to generate a further 205,510 sqm.

While it is true that 88,315 sqm of commercial floor space has been approved since 2003 not all of the approvals have or will be acted upon. Presently a consent has been surrendered (3-11 Ward Street) and a court decision is pending on another approval (136-140 Walker Street).

It is also not clear whether the floor space quoted in the PRP Study is a net figure of additional floor space above the level at 2003 or whether it is a gross figure of approved floor space without any allowance being made to reflect the loss/replacement of floor space to be removed/demolished in the site redevelopment.

Of the five sites identified in the PRP Study to accommodate up to 205,510 sqm of floor space, we believe that the redevelopment of three of the sites is not economic. This is due to current building value and use, building ownership patterns (strata title ownership), and the minimal increase in achievable floor space provided under the proposed amendment LEP beyond the level of floor space currently on site.

Of the remaining two sites identified under the PRP Study: if the difficulties of fractured ownership in strata titled buildings were able to be overcome and all of the lots were purchased in one line, without paying a premium, as assumed by the study, then the maximum additional floor space to be achieved above that currently existing would be 76,330 sqm, some 129,180 sqm below the target.

The proposed amendment

The above discussion raises serious questions regarding the potential for additional commercial floor space to be developed within the North Sydney Centre under the provisions of the proposed LEP amendment.

This further throws into doubt the potential for North Sydney to maintain its role as part of "Global Sydney" in the Metropolitan Strategy.

It is also difficult to see how the objectives for the North Sydney centre can be achieved, particularly those of clause 28B of North Sydney LEP 2001 which seeks:

- (a) to maintain the status of the North Sydney Centre as a major commercial centre within Australia,...
- (h) to encourage the provision of high-grade commercial space with a floor plate, where appropriate, of at least 1000 square metres,
- (i) to achieve a variety of commercial space, ...
- (k) to encourage a diverse range of employment, living, recreation and social opportunities,

Development control objectives

The objectives within clause 28B seem to be at odds with each other:

- on the one hand prohibiting further residential development within the centre, yet seeking to encourage a diverse range of living environments; or
- seeking to encourage the rebuilding of older buildings yet requiring the maintenance of existing of open space on private land and the preservation of existing setbacks and landscaped areas.

The opportunities to redevelop sites to provide both new and additional high grade commercial floor space within North Sydney centre is dictated by the building height and floor space controls referred to on the LEP map and within draft clause 28D.

The primary objective of the clause is:

to achieve a transition of building heights generally from 100 Miller Street (Northpoint) and 79-81 Berry Street (being the location of the tallest buildings) stepping down towards the boundaries of the North Sydney Centre,

This transition is proposed by nominating a maximum building height for each site within the North Sydney Centre.

Building heights

However, if a site redevelopment is proposed that complies with the building height nominated on the map yet may result in a net increase in overshadowing of any degree between 12 noon and 2pm on any day on land described in clause 28D (2) (b) then consent may not be granted for the development. It is unclear from the text of the proposed amendment or the supporting material the basis on which a no net increase in overshadowing is to be measured.

This also assumes that the special areas as shown on Sheet 9 of the map of the proposed amendment are to be preserved and will not be altered by a future development proposal. In effect it is assuming that the existing building envelopes on these sites will remain static. It is unclear how this control will encourage high-grade commercial floor space within the North Sydney centre.

Inconsistency between FSR and building heights

The proposed amendment says that where there is an inconsistency between the building height and floor space ratio controls shown on the LEP map then the building height control will prevail. Draft clause 28D(8) indicates that there will be circumstances where the floor space ratio nominated on the map will not be achieved.

This provision (combined with the opportunity to seek a variation to both the height and floor space ratio standards provided there is no net increase in overshadowing under the nominated circumstances) means there is a degree of uncertainty as to what the true development potential of any given site is.

The building height control is a tool being used to control shadowing of residential areas surrounding the North Sydney centre and open spaces within and adjoining the centre. However, the controls nominated on sheets 1 and 11 of the proposed LEP amendment have taken a conservative approach to future development. They encourage retention and refurbishment of existing buildings rather than the opportunity to redevelop sites within the North Sydney centre.

If the primary objective of the proposed controls is:

- containment of the centre to the existing footprint
- protection of adjoining public spaces and residential areas from over shadowing

then **there will be very little new non-residential floor space in the North Sydney centre.**

If however the objective is to ensure the continued importance of North Sydney as a key commercial centre through:

- refurbishment of appropriate buildings; and
- construction of new buildings with additional floor space,

then **either the boundaries of the centre need to be expanded and/or the proposed height and floor space ratio controls need to be reviewed.**

Presently the combination of development controls, land ownership patterns and the special area provisions will combine to prevent the growth of the North Sydney Centre.

Yours sincerely

NSW Urban Taskforce

A handwritten signature in black ink that reads "Aaron Gadiel". The signature is written in a cursive style with a long, sweeping underline that extends to the right.

Aaron Gadiel
Chief Executive Officer