

10 September 2009

The Hon. Nathan Rees MP  
Premier of NSW  
Level 40 Governor Macquarie Tower  
1 Farrer Place  
SYDNEY NSW 2000

By e-mail: [thepremier@www.nsw.gov.au](mailto:thepremier@www.nsw.gov.au)

Dear Premier

**Re: Liquor Amendment (Temporary Licence Freeze) Bill 2009**

The Urban Taskforce is a non-profit organisation representing Australia's most prominent property developers and equity financiers. We provide a forum for people involved in the development and planning of the urban environment to engage in constructive dialogue with both government and the community.

We have serious concerns with the above proposed legislation, introduced into Parliament on 3 September 2009.

Traditionally, regulators have understood the need for the private sector to have security of title in order to make investment decisions. Property rights are the basis for that security in NSW law. Without secure property rights, a company is unable to borrow securely against an asset to finance business investment. Nor will a business be willing to pay the price of an asset, if key positive qualities of an asset are subject to regulatory risk.

The proposed legislation sets a dangerous precedent because it empowers the government to make regulations willy-nilly that may profoundly affect the property rights of NSW citizens. Our specific concerns are set out below.

1. **Any land anywhere in NSW to be added as a part of the "freeze precinct" by regulation** (proposed section 47J).
2. **The "freeze period" can be extended by regulation** (proposed section 47A(1)).
3. **Liquor-related development consents cannot be granted in affected precincts, including those that are added by the government later on by regulation** (proposed section 47I).

This means that anyone looking to acquire land in NSW for possible development of, say, a shopping centre with a liquor retailer, or premises that may include a bar, must now factor in an additional regulatory risk. Their land could now be designated as part of a "freeze precinct" before they can get their development consent. This new risk will adversely affect land acquisition and dampen development activity.

We would not be surprised if the freeze period was extended once the legislation passes through parliament. In particular, we are very concerned that politically motivated action groups will pressure the government to declare additional freeze precincts in order to block specific advertised development applications. As a regulation is a legislative tool, it could be motivated by any number of political reasons and the bona fides of any decision could not be tested in court.

Existing property owners may face a loss of value because of the increased regulatory risk. They will be denied any compensation, even though, in effect, their property may have been devalued by a government order specific to their land.

This is only the latest in a series of measures taken by the NSW Government in the last three years that have undermined the certainty and predictability of property rights.<sup>1</sup>

Businesses investing in NSW should be able to expect a stable regulatory environment that respects their rights. The statutory framework put in place by this legislation deprives those interested in contributing to urban renewal and expansion the certainty they need to invest. This is disappointing, because the construction activity made possible by property developers contributes \$69 billion to the national economy each year and creates 709,000 direct jobs. The construction industry is Australia's third largest source of employment. For every \$1 million in construction expenditure, 27 jobs are created throughout the broader economy.

We would welcome an opportunity to discuss these issues further.

Yours sincerely

**Urban Taskforce Australia**

A handwritten signature in black ink, reading "Aaron Gadiel". The signature is fluid and cursive, with a long horizontal stroke extending from the end.

Aaron Gadiel  
Chief Executive Officer

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<sup>1</sup> More information on other steps taken by the NSW Government to undermine property rights is available here: <http://www.urbantaskforce.com.au/attachment.php?id=2559>.