

21 December 2012

Ref: S089805

The Chief Executive Officer
City of Sydney
GPO Box 1591
Sydney NSW 2001

Email: sbird@cityofsydney.nsw.gov.au

Attention: Samantha Bird

Dear Ms Bird,

Re: City of Sydney Employment Lands Study 2012 - Background Paper

The Urban Taskforce represents 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 been working with Government as a member of the Employment Lands Taskforce, have extensively contributed to the development of planning principles for industrial lands and will continue to participate in the development of a structure plan for the broader Western Sydney Employment Area. We look forward to working with the Council on this employment lands study.

We are pleased that the Council has commissioned a study into a challenging area of land comprising of the main study area to the south of the City of Sydney Local Government Area, the South Dowling Street site to the east on which the Supa Centa Moore Park is located and the Parramatta Road precinct in Glebe. It is understood that the exhibited background report is, as the name suggests, simply a review of the existing situation and in this regard the background report seeks to set the scene for future work. It will principally inform a draft Employment Lands Strategy and it is this Strategy that will include recommendations for zoning and planning controls for the study area. Our comments are offered as further industry input into the development of an employment lands strategy for the study area.

The background report should question the relevance of IN1 and IN2 zoning

Generally, we note that the vast majority of the study area is predominately industrially zoned land pursuant to the *Sydney Local Environmental Plan 2012* and while not specifically stated in the background report, the study seems to go about looking for evidence to support the application of such a zoning to preserve/protect traditional industrial and logistics land uses. We believe that the background report is lacking discussion about whether the study area remains a vitally important industrial area that needs to be "protected" through the application of IN1 and IN2 zonings.

Furthermore, there seems to be a suggestion that much of the study area needs to be protected from encroaching bulky goods retail and other retail uses. Again there is a focus on the need to use controls to preserve and protect industry even though the report points out that there are significant vacancies and significant limitations in the study area with respect to truck access, traffic congestion, and undersupply of car parking. Hence, the question must be asked and discussed in the background report whether this area remains suited to and can actually support modern industrial growth.

We note that the report does outline some of the important advantages and constraints of the study area and also talks about market dynamics, but seems to be constrained in its review by the perceived need to preserve industry. Justification for this seems to rely on current metropolitan planning, subregional strategy and section 117 directions. It is of concern that the study simply accepts these state level policies without question. We suggest that a more useful study would be one that challenges state planning policy by setting these aside and looks at the area openly, without state imposed planning constraints.

The Study area is suitable for other land uses, not simply more of the same

We accept that the study area occupies a "strategic location" positioned between Sydney airport and the CBD. However, we suggest that the study area is strategically important, not only to traditional industry and logistics, but also to business, all forms of retail and some residential uses.

Even if we were to accept that the area is to be "preserved" for employment generating land uses, then a broader definition of employment generating land uses and employment lands must be adopted. Clearly there are many non-residential uses that generate significantly more employment opportunities than traditionally defined industry. Hence maintaining the suggested IN1 (General Industrial) and IN2 (Light Industrial) zones and limiting Enterprise Corridor (B6), Business Development (B5) and Business Park (B7) is not keeping pace with contemporary thinking on employment generation.

The background report should consider the application of a flexible and/or mixed use zone

The report notes that the area is undergoing transition and needs to keep pace with the changing nature of industry. In this regard, it is logical that there could be a more flexible approach to zoning. Zoning that permits a variety of land uses would be an option worthy of further consideration.

The Green Paper advises that the

NSW Government will introduce a new land use class called an 'Enterprise Zone'. Enterprise Zones will be characterised by very little, if any, development controls providing they do not result in any significant adverse environmental impacts. Enterprise zones will generally be targeted to attract employment generating development but could provide opportunities for mixed use housing investment. In this regard, Enterprise Zones will constitute a more flexible zone.¹

In this regard, consideration of the applicability of the Government's new Enterprise Zone would seem to be a logical inclusion into this study. Even if Council felt that such a zone would not be appropriate, then a broader use of B5, B6 and B7 zones across the study area should be considered.

The background report should seek to determine why there is a high vacancy rate

To make the background report more robust, so that it properly informs future investigations into employment lands, we suggest that Council seek further detail on matters including:

- market demand analysis that articulates what the market is doing in the study area and why the market is acting in the way that it is;
- rental market demand analysis; and,
- supply analysis.

The study must be able to explain why landowners are not redeveloping land within the study area. That is, if the land is so valuable and so well located, why is the market not investing in redevelopment if there is such strong demand for sites?

Furthermore, if industrial land is so attractive, why is there a 19 per vacancy rate in the main study area? These issues are worthy of further investigation and explanation.

¹ NSW Government (2012) A New Planning System for NSW - Green Paper July 2012. P.45

To bolster the background report comparison of competing subregions that includes an analysis of rents and council fees and charges should be included.

The background report advises that the study area is severely constrained, particularly in relation to truck access, traffic congestion and car parking. These issues, coupled with ageing industrial stock suggests the need for innovative planning and development controls to encourage renewal and successful employment generating land uses in the study area.

The Urban Taskforce has a keen interest in planning policy targeted at employment generating land uses and in addition to the above we highlight the following for your consideration.

1. Planning must be directed towards employment generation not industry

Fundamental to planning for employment generating land uses is the recognition that industrial uses are but one of many land uses essential to job creation. Successful planning for industrial lands is predicated on a holistic approach to the supply of land for employment generating land uses. Therefore, a useful planning policy would be one that engages in the *employment* lands debate and delivers a supply of land zoned for a wide range of uses including industrial, technology, research, manufacturing, warehousing, logistics, office, retail and business.

Planning should be directed towards generating employment, which could be achieved by expanding permitted uses within an industrial zone to include land uses associated with the largest share of employment, these being retail and office uses.

2. Single uses zones do not reflect the needs of contemporary employment generating activities

The nature of industry has changed and will continue to change rapidly. Changes in manufacturing processes, introduction of new high technology industry and the rise of larger format retail means that land traditionally zoned "industrial" must permit a variety of land uses, all of which are significant generators of employment opportunities. Hence, maintaining single use industrially zoned land is rapidly losing relevance.

There is no doubt that there will be requirements for zoning rules to separate heavy, potentially polluting industry from other uses. However, lighter, cleaner, modern industry is compatible with other land uses and these uses should be able to co-locate within the same zone. In fact, this is the most effective means of allowing industry clustering. Permitting a variety of land uses within a zone enables a market response to business establishment and location selection.

In any event, a relevant industrial land supply policy would be one that focuses on employment generating land uses and facilitates the provision of land for employment generating enterprises.

The Productivity Commission found that:

Broadening the zones — for example, by limiting industrial areas to only narrow high-impact industrial uses and creating broad employment zones which can include commercial, light industrial, retail and even high-density residential where appropriate — and reducing prescriptive land use conditions will free up land and make it available to its most valued uses ...²

The Commission believes that:

Only high impact industrial businesses would be located separately because of their adverse effects on other land users or because planning outcomes are improved through their location near major economic infrastructure.

Broader zones would remove the artificial distortions created by the current planning and zoning system both within retail (general retail and bulky goods) and between retail and other businesses (such as commercial and light industrial).³

² Productivity Commission, *Economic Structure and Performance of the Australian Retail Industry: Draft Report (2011)* 208.

³ Ibid 222.

In the Productivity Commission's separate (and final) report on planning, development assessment and zoning, the Commission said that:

For most businesses (commercial, service providers and some light industrial), there are limited and identifiable impacts associated with their location decisions and therefore few planning reasons why they should not be co-located in a business zone.⁴

We strongly suggest that the Employment Lands Study be focused on the implementation of a more flexible, multi-purpose employment zoning. Even within classic "industrial zones" - if they are to continue - there needs to be more flexibility as to the range of permitted uses. We also note that the Victorian Government recently announced that the retailing of bulky goods will be allowed in that state's industrial zones.

3. **Evidence that regulation to preserve land purely for industrial purposes should be provided**

The background report suggests that without regulation, strategically important industrial lands will be re-developed for non-industrial uses. There is, therefore, intent to prevent normal market activity occurring in relation to these lands.

We draw Council's attention to the NSW Government's *Guide to Better Regulation*.⁵

Government action is commonly justified on the basis of responding to market failures or imbalances. It is important to determine whether there is a need for government to be involved, or whether the problem will be solved through market forces or by existing regulations at the State or Commonwealth level.⁶

As the guide makes clear:

Competitive markets:

- provide the most efficient means of allocating resources to maximise the benefits to the community
- ensure the goods and services that consumers demand are produced efficiently, and
- encourage innovation and broader consumer choice.

'Market failure' has a very precise meaning in economics. It does not simply mean dissatisfaction with market outcomes. It refers to a situation when a market left to itself does not allocate resources efficiently. Where market failure exists, there is a potential role for government to improve outcomes for the community, the environment, businesses and the economy.

Governments may intervene to change the behaviour of businesses or individuals to address market failure or to achieve social and environmental benefits that would otherwise not be delivered. Government intervention is not warranted in every instance of market failure; in some cases the private sector can find alternative solutions. ...

Externalities are costs or benefits arising from an economic transaction received by parties not involved in the transaction. Externalities can be either positive (external benefit) or negative (external cost). The existence of externalities can result in too much or too little of goods and services being produced and consumed than is economically efficient. For example, where the cost of producing a good does not include its full costs, say in relation to environmental damage, then a negative externality is said to exist. This results in the good being over-produced (and under-priced).⁷

This extract explains that regulatory intervention may be necessary if:

- there is serious prospect that the market will not factor in negative externalities; and
- these costs are likely to outweigh the positive benefits created through normal market process.

⁴ Productivity Commission, *Performance Benchmarking of Australian Business Regulation: Planning, Zoning and Development Assessments: Productivity Commission Research Report Volume 1* (2011) XLVI.

⁵ NSW Department of Premier and Cabinet, *Guide to Better Regulation* (2009).

⁶ *Ibid* 11.

⁷ *Ibid* 29-30.

If the background report and future Employment Lands Study is to recommend regulation including zoning and development controls, it should also set out the externalities that justify land use regulation designed to prevent normal market activity from occurring. The background report offers some justification by suggesting that existing Industrial lands are coming under pressure for rezoning to alternative uses (generally commercial or residential). However, this is an observation that, the economic value of the land whose use is to be regulated would be higher in non-industrial uses. It does not establish that the community would be made worse off, due to the presence of externalities. The only basis for artificially lowering the economic value of land through regulation is that there are unpriced external costs equal to or greater than the loss caused via regulation. Hence, if it is true that industrial uses must remain in the study area, industrial businesses will respond by paying more for such land. These higher prices will mean that for truly locally essential industrial purposes, the continued industrial use will remain the highest and best use of the land and redevelopment will not occur. That is, regulatory controls to "protect" the land would not be necessary.

The Urban Taskforce argues that for many industrial sites in the inner suburbs of Sydney, there is likely to be no convincing argument that sufficient externalities are present which require land to be exclusively reserved for industrial as opposed to more generalised employment or other uses.

Thank you for the opportunity to comment on this background report and we look forward to a continued dialogue on these important issues.

Yours sincerely

Urban Taskforce Australia

A handwritten signature in blue ink, appearing to read 'Chris Johnson', with a long horizontal flourish extending to the right.

Chris Johnson, AM
Chief Executive Officer