

\* Tabled by Mr Wedder  
18 August  
M Foley

## BULKY GOODS RETAIL OUTLETS - LIVERPOOL

### ISSUE:

Draft LEP proposal to make factory outlet retailing permissible at two sites in Liverpool Local Government Area.

### BACKGROUND:

The attached two briefing notes have been provided by the Department of Infrastructure, Planning and Natural Resources (DIPNR) to provide a background to the issue of complaint by Westfield.

Annexure A deals with the process to be undertaken by the Administrator of Liverpool Council in progressing a new LEP making factory outlet retailing permissible at two sites:

- (i) Crossroads - owned by AMP (a proposal for 20,000 sqm); and
- (ii) Orange Grove Road (an existing 15,000 sqm site).

Annexure B deals with advice provided to the Minister about the AMP proposal for the Crossroads site.

### Orange Grove Road Proposal:

X The Orange Grove Road outlet centre was granted approval by Liverpool Council under a DA. *Q? originally 'bulky goods' only later approved*

Westfield has challenged the proposal and is opposed to the development.

The DA was subsequently ruled unlawful by the Land and Environment Court.

The decision was upheld in a subsequent appeal by Liverpool Council.

The centre was opened by Minister Knowles on 21 November 2003 and it is understood that around 400-500 people are employed at the facility.

Liverpool Council (via the Administrator) has drafted a new LEP which will in effect make the development permissible and thereby overcome the previous court decisions. This is an issue Westfield opposes - given the implications for its own business.

|| The New LEP has to be approved by the Minister before 28 April 2004. If not, the factory outlet and thereby the businesses engaged there, will have to close. Upwards of 400-500 people would then be unemployed. *NO, they will be able to operate as 'bulky' only - consistent with original DA. approved.*

### Crossroads Site:

yes ✓ It is understood from DIPNR that the Administrator is separating the Crossroads site from the Orange Grove Road site in the draft LEP.

2.

The Crossroads site does not currently exist whereas the Orange Grove Road site is an existing facility with a range of small businesses and considerable existing employment.

It may be that no further action occurs on the Crossroads site but that will be a matter for future determination as it will not be part of the action to legitimise the current development at Orange Grove Road.

**CURRENT SITUATION:**

There are a range of legal issues that need to be considered by DIPNR in giving advice to the Minister on the proposal for a new LEP.


Some of the issues of concern go to the definition of 'outlet centres' and the complexities of such descriptions.

Clearly, Westfield perceives the current site as a threat to the company's business at Liverpool. It is assumed Westfield feels aggrieved given two decisions by the court overturning the original approval.

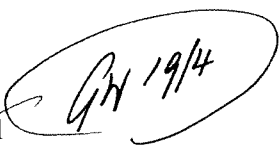
The preferred course of action at this point in time would be to indicate to Westfield the fact that DIPNR is reviewing the applications by the Administrator. Further, that until consideration is given to the issues that arise out of that process then it is difficult to indicate an outcome.

It is assumed Westfield will continue to lobby and pressure government given the deadline facing the existing businesses if an amendment is not made.

I am attempting to obtain additional material from DIPNR, however, in the light of the urgency of this matter this briefing is provided for the Premier's information.

  
Alex Smith  
Executive Director & Chief of Staff  
Office of the Director General

16/4/04

Director General 

~~Premier~~

# Annexure A

## INFRASTRUCTURE, PLANNING AND NATURAL RESOURCES

[SYDNEY REGION WEST]

[for information]

### Purpose:

To advise the Minister on a proposal from AMP Capital Investors for bulky goods retailing and a factory outlet retail centre at the Crossroads site in Casula.

### Background:

- AMP Capital Investors is the owner of the Crossroads site which is located at the intersection of the Western Sydney Orbital and the M5 Motorway in Casula within Liverpool LGA.
- Approximately a third of the site is currently zoned 4(b) Industrial where bulky goods retail is permitted and some of this has already been developed for such retailing. The remainder is currently zoned 4(a) Industrial where bulky goods and most other forms of retailing are prohibited.
- AMP now proposes an additional 18,000sqm bulky goods retailing and a factory outlet retail centre of 20,000sqm at the site.
- Liverpool City Council has prepared and exhibited a local environmental plan to rezone the site to support the proposal. Council has commissioned an independent analysis of the economic impact of the proposal to address concerns raised by objectors and the Department.
- The LEP also proposes to rezone a site at Orange Grove Road, Warwick Farm to facilitate a 15,000sqm factory outlet centre at Orange Grove Road, Warwick Farm. Whilst Council has already granted development consent for that proposal the legality of the consent has been successfully challenged in the Land and Environment Court in a challenge based on the assertion that the use for which consent was granted is not permissible under the existing LEP. That ruling is currently the subject of an appeal to the Court of Appeal for which a call over will be held on 18 March 2004. (later...)

### Issue:

To advise the Minister on the matter to assist in considering a request for a briefing on the matter from AMP Capital Investors.

### Consideration:

- An economic impact statement prepared for AMP and submitted in support of the Crossroads proposal claims that it's combined impacts with the Orange Grove Road proposal on Liverpool and any other nearby centres would be acceptable. However Council has not carried out an independent analysis of this assertion.
- Westfield, as owner of the nearby Liverpool Shoppingtown centre has made a detailed submission on the draft LEP claiming that the combined impacts of the proposals on the Liverpool CBD would be too high and that the plan allows for even more floorspace than has currently been identified.
- The differing interpretations made about the potential economic impacts of the Orange Grove Road and Crossroads proposals by Westfield and AMP need clarification before the LEP can proceed further. The Department has advised Council that an independent analysis should be carried of the impact of the proposals to justify their retail and traffic impacts in relation to draft SEPP66 and the impact of the loss of employment land before the plan can proceed further. Council is currently working towards this. The Department has asked Council to supply this study before it can be determined if Council may proceed to use its delegated S69 powers to progress the plan.
- The draft LEP is also subject to a holding objection form the RTA which is concerned about the traffic impact of the proposal.

*NO Court  
decision  
goes against  
development*

- The Department has taken no role in the Court proceedings relating to the Orange Grove Road property and has not commented on the legality of the development consent at any stage. However it is understood that Minister Knowles opened the premises on 21 November 2003 and that there are currently about 392 people directly employed at the centre.

**Recommendation:**

That above be noted.

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Team Leader  
16 February 2004  
Tel 9895 7603

Stephen Driscoll  
**Regional Planning Coordinator**  
**Sydney Region West**

# Annexure I



proceed further and Council will need to reconcile these differences before it can permitted to use its Section 69 delegation to progress the plan.

- The workability of the legal definition of outlet centre that is proposed in the draft plan will also need careful consideration before the plan can be made and this may need further consideration in association with PC.

**Recommendation:**

That the approach to the consideration of the draft plan outlined above be agreed.

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24 March 2004  
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(Endorsed)

Stephen Driscoll  
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**Sydney Region West**

Gary Prattley  
**Executive Director**  
**Sydney Regional and Local Planning**



## ANNEXURE 1

### Advice to Michael Meagher of Minister Beamer's Office concerning Departmental Policy on Factory and Bulky Goods Retailing Issued 25 February 2004

In summary, our current position on such proposals is:

- DIPNR supports the development of innovation in the retail sector and wishes to ensure that planning does not stifle such innovation nor deny a range of consumer choice of retail formats.
- The planning system seeks to support investment in the vitality of new and existing centres and the employment and service benefits they efficiently deliver. It also acknowledges that there are some circumstances when non-centre activity provides a community benefit.
- The principal reference point for current policy guidance is the *Integration of Land Use and Transport (ILUT) Policy* package that was released in 2001. This package included an approved Government policy statement, guidelines for implementation and the statutory component: Draft SEPP 66. The package aims to support investment confidence in centres and provide better access to jobs and services and better use of State and community assets. The policy recognises that there is a community and environmental cost of dispersed commercial activity and poor design - especially where this leads to the degradation of activity and employment centres or loss of industrial lands.
- The *Draft SEPP 66 Integration of Land Use and Transport* applies to rezoning and development decisions relating to 'trip generators' such as offices and shopping centres (including factory and bulky goods retail outlets).
- The Policy component of the package specifically refers to factory outlets as follows: *...these comprise sales of manufactured goods often described as 'seconds' or 'surplus', usually at discounted prices. These should be treated like normal retailing outlets unless they are genuinely ancillary to on-site manufacturing and used only occasionally. Other forms of factory outlets are simply shops seeking low rents and could be encouraged to agglomerate in existing declining centres where they can play a positive role in their revitalisation.*
- The Policy states that where there is a genuine need to locate retail development (such as factory outlets) in a non-centre location *...alternatives may be acceptable when a net community benefit is clearly established. That is, proposals must ensure that there will be no detrimental effect on public investment in centres and that private investment certainty in centres is maintained. They should also be able to provide the same performance as a centre, with suitable accessibility to: manage travel demand, utilise public transport; and moderate car use.*
- Industry consultation undertaken in a review of emerging retail formats indicates a preference for purpose designed discount fashion outlets. Such formats are encouraged in the right location for trip generating retail activity.
- The key relevant elements of the ILUT policy package referred to above are proposed to be incorporated in the State Planning and Metropolitan Strategy that are currently being prepared. The draft SEPP is proposed to remain in place until covered by this work.
- It is also important that Councils keep abreast of emerging commercial / retail land supply trends and needs and ensure that strategic planning identifies suitable areas / arrangements consistent with State policy directions.

In relation to the Crossroads proposal, as discussed, Council has been asked to commission its own independent economic impact analysis on the proposal. It will be asked to assess the merits of the LEP in relation to this and the requirements of the ILUT package in its S68 submission to the Department and thus will need to demonstrate appropriate net community benefit associated with the proposal if it is to proceed.