SJB Planning

Sydney
Level 2
490 Crown Street
Surry Hills NSW
2010 Australia
T 02 9380 9911
F 02 9380 9922

Melbourne
25 Coventry St
Southbank VIC
3006 Australia
T 03 9699 6877
F 03 9696 6234

sjb.com.au
planning@sjb.com.au

Planning Proposal

General Manager
Liverpool City Council
Locked Bag 7064,
Liverpool BC NSW 1871

Attention: Mr. Theo Zotos

23 June 2011

Re: Planning Proposal – "Weekend Markets" site Orange Grove Road, Warwick Farm

Dear Theo,

We refer to Council's letter of 16 June 2011 and the matters which you have requested to be addressed arising from the initial review of the Planning Proposal lodged with Council on behalf of Gazcorp Pty Ltd the owner of the "Weekend Market" site.

Attached to this submission is a response from Leyshon Consulting that addresses the issues raised by Council in relation to the economic impact assessment matters.

For clarification and certainty whenever the phrase "retail based development" is used in the Planning Proposal, this is simply a recognition that under planning definitions and case law the intended factory outlet centre is a form of retail use, albeit one with special characteristics and site requirements as detailed in the attached submission from Leyshon Consulting. The applicant is also willing to prepare and lodge a Development Application that could be exhibited and considered concurrently with any statutory exhibition of the draft amending LEP. This approach would confirm the intention of the Planning Proposal to support a factory outlet centre and to facilitate the consideration of the assessment issues concurrently.

The response generally addresses the headings of Council's letter.

Facilitating the Factory Outlet Use

It is stressed that the Planning Proposal has been prepared and lodged to facilitate the use of the site as a factory outlet centre. Such a use supports the bulky goods centre on the adjoining Mega Centre site. The operation of the two proposed uses will benefit each use due to their adjoining location and operation. This clustering of these compatible forms of retailing supports their on-going viability, the ability of the employment lands to generate economic return and to generate employment opportunities for the Liverpool Council area.

The Planning Proposal for the rezoning of the site to zone B6 included two (2) options available to Council address the existing clauses applying to the B6 Zone regarding restrictions retail on use.

We understand that Council has some concerns regarding the broader categorisation of the proposed use of the site and that consideration is potentially premature, notwithstanding the justification provided.

In this respect we propose to amend the planning proposal to:

- Maintain the current zone as B5;
- Provide for an additional use of "retail premises" on the site;
- Limit the total area of "retail premises" to a GFA of 20,000m², allowing limited opportunity for expansion and equating to the existing building areas on-site; and
- Limit the size of any single tenancy to 1,200m² (an existing tenancy in the building is 1,100m² in area).

With these restrictions there is a clear policy statement that:

- Retail is being considered as an additional use in the zone – it doesn't alter the broader underlying intent of the zone;
- The amount of retail premises permitted is essentially limited to what is existing and has previously operated; and
- The limit on the size of the tenancy – prevents supermarkets and Discount Department Stores from locating to the site here – and providing Council with the appropriate timeframe to consider the suitability of the site for a broader retail function as part of the strategic review of the Comprehensive LEP.

The restrictive nature of the controls also provides Council with the requested basis to defend any application that is inconsistent with these provisions.

This approach would also amend existing Item 13 of Schedule 1 of the LLEP 2008 which is the provision that gave permissibility to the current weekend market use.

The suggested provision could read as follows:

13 Use of certain land at Warwick Farm in Zone B5

(1) This clause applies to Lot 121 DP 876962 in Zone B5 Business Development at Orange Grove Road, Warwick Farm.
(2) Development for the purpose of a single building comprising retail premises having a maximum Gross Floor Area of 20,000m² is permitted with consent.
(3) No single retail tenancy shall be greater than 1200m²

This would allow approximately a retail factory outlet with a total of NLA retail area well below the volume assessed in the Economic Impact Assessment submitted with the Planning Proposal. The balance of the permitted FSR would remain available, subject to suitable assessment under Section 79C of the *Environmental Planning and Assessment Act 1979* (EP& A Act), for land uses, such as bulky goods premises, to be provided on the site.

The use of the Schedule 1 additional permitted use would also maintain the underlying existing zone and therefore the available land zoned to permit unrestricted bulky good premises.

Demand for and location of bulky goods retail floor space.

The implication of the proposal on Council retail hierarchy has been addressed in the accompanying additional information for Leyshon Consulting.

It is noted that the policy "Integrating Land Use and Transport - The Right Place for Business and Services" was part of a suite of policies from Draft SEPP 66 – Integration of Land Use and Transport. This SEPP was not proceeded with and no longer has status as a draft Environmental Planning Instrument (EPI). This is consistent with the Direction in Planning Circular PS08-013 that EPI's that have not been made within 3 years of exhibition are no longer matters for consideration under Section 79C of the EP& A Act. It is also noted the policy is not referred to in either the Metropolitan Plan for Sydney 2036 or the Draft Centres Policy of April 2009. Despite this and as Council have requested that this former policy be addressed it has been considered as follows.

The objectives of the policy were to:

- Locate trip-generating development which provides important services in places that:
  - help reduce reliance on cars and moderate the demand for car travel;
  - encourage multi-purpose trips;
  - encourage people to travel on public transport, walk or cycle; and
  - provide people with equitable and efficient access.
- Minimise dispersed trip-generating development that can only be accessed by cars;
- Ensure that a network of viable, mixed use centres closely aligned with the public transport system accommodates and creates opportunities for business growth and service delivery;
- Protect and maximise community investment in centres, and in transport infrastructure and facilities;
- Encourage continuing private and public investment in centres, and ensure that they are well designed, managed and maintained; and
- Foster growth, competition, innovation and investment confidence in centres, especially in the retail and entertainment sectors, through consistent and responsive decision making.

The rezoning of the land to Zone B6 Enterprise Corridor or amending item 13 of Schedule 1 to permit retail uses for a factory retail outlet do not conflict with these objectives as:

1. The land is already zoned for uses covered by the policy, being bulky goods premises;
2. The Planning proposal would not result in the creation of a new centre, rather amend an existing centre – there is already an established cluster of uses consistent with the purpose for which the land is zoned.
3. The proposal effectively clusters a factory retail outlet with the existing bulky goods centre utilising existing transport infrastructure and co-locating trip generating land uses, thus avoiding dispersal of traffic generating land uses
4. The Planning Proposal seeks to utilise land already zoned to accommodate traffic generating land uses in the form of bulky goods premises in a location that is serviced by public transport and relative proximity to the Liverpool CBD, and
5. The Planning Proposal protects existing community investment in infrastructure by utilising land already zoned for traffic generating purposes and seeking to support the viability of the existing bulky goods Mega centre

The proposed rezoning is not considered to conflict with the objective or intent of the policy *Integrating Land Use and Transport – The Right Place for Business and Services.*

Location of Factory Outlets

The differentiation of a factory retail outlet as a form of retail use is addressed in the attached submission prepared by Leyshon Consulting. It is also noted that retailing has evolved considerably since the release of the *Integrating Land Use and Transport – The Right Place for Business and Services* in 2001. Further detail on the differentiation of the catchment for factory outlet retailing is provided in the attached Leyshon Consulting submission. However it is noted that in recent court cases this type of facility is categorised as a shop and therefore a retail premises.

Because they are defined as shops, the Draft Centres Policy has suggested that the B2 to B4 zones are the most appropriate zones for retail use. This is reflected in the standard template where "Shops" are mandated uses.

However this does not preclude permitting retail within a B5 or B6 zone on the basis of an appropriate assessment of the impacts and strategic decisions in respect to the location of shops and retail areas.

The Planning Proposal as originally submitted provided the justification for permitting retail in this area. However as outlined previously there are more specific provision that can be drafted to limit the nature of the use so that the broader issues relating to retail hierarchy can be considered in a more wholistic way.

In relation to public transport access, the site is serviced by public bus routes 801 and 819 operated by Metro-Link. These routes provide linkage to the Liverpool Transport Interchange, the Prairiewood T-Way and Badgerys Creek. Route 801 operates from 7:15 am to 6:46pm three times per day. The primary bus service for the site is route 819 which operates from 6:43am to 6:15pm. This service operates on a 30 minutes frequency Monday to Friday and an hourly frequency on weekends.

Community and Economic Benefit

The Community and Economic Benefit of the proposal derives from the from the capacity for the designated employment lands to operate seven days per week compared to the current two days per week. As detailed in the Leyshon Consulting report this has the potential to deliver additional full time employment positions to the Liverpool area as well as still providing entry level opportunities for new business start-ups. The potential for additional full-time employment is a major issue to be addressed in the context of the higher than average rate of unemployment in the Liverpool Council area. The factory outlet use has the potential to create 400 full-time jobs in lieu of the current 200 part-time jobs generated by the weekend market. There is potential, as a result of the multiplier effect to facilitate a further 500 indirect jobs. The provision of full-time employment opportunities in the LGA also assists in reducing travel distance to employment consistent with Council's broader strategic objectives to facilitate employment opportunities closer to where people reside and captures expenditure within south-western Sydney.

Conclusion

We trust that the attached information has responded to Council's concerns and that the reporting of the application can proceed to Council's meeting of 25 July 2011.

Should you wish to discuss any aspect of this submission please do not hesitate to contact me or Scott Barwick on (02) 9380 9911 or by email at amccabe@sjb.com.au.

Yours sincerely

AMcCabe

Alison McCabe
Director