



Liverpool city council  
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Our Ref: 289874.2012  
Contact: Graham Matthews 9821 9156  
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11 December 2012



PCU040018

Mr Peter Goth  
Regional Director – Sydney West  
Department of Planning and Infrastructure  
Locked Bag 5020  
PARRAMATTA NSW 2124

Department of Planning  
Received  
14 DEC 2012  
Scanning Room

Dear Mr Goth

**Re: Liverpool Local Environmental Plan (Draft Amendment No. 30)  
Proposed Rezoning of land at 607-611 Hume Highway, Casula**

In accordance with Section 56 of the Environmental Planning and Assessment Act 1979, Council is forwarding the Planning Proposal for draft Liverpool Local Environmental Plan 2008 (Amendment No. 30) seeking gateway determination.

The Planning Proposal relates to an application to rezone land at 607-611 Hume Highway, Casula. The proposal is to add a clause to Schedule 1 of the Liverpool Local Environmental Plan 2008 to allow an additional permitted use for 607-611 (Lots 5-7 DP 15667) Hume Highway, Casula being that "development for the purpose of commercial premises is permitted with consent up to a maximum 4300sqm," and to make an appropriate addition to the Key Sites map.

At its meeting on 28 November 2012, it was resolved that Council:


1. Approves the application to amend the LLEP 2008 to add a clause to schedule 1 to allow an additional permitted use for 607-611 (Lots 5-7 DP 15667) Hume Highway, Casula being that "development for the purpose of commercial premises is permitted with consent up to a maximum 4300sqm."
2. Prepares and forwards a planning proposal to the Minister for Planning and Infrastructure seeking gateway approval in accordance with Section 56 of the Environmental Planning & Assessment Act 1979.

A copy of the Planning Proposal and Council report for Draft Liverpool Local Environmental Plan 2008 (Amendment No. 30) is enclosed for your consideration.

Council requests Gateway consideration of the proposed amendment.

Should you have any questions or require any further information, please contact Graham Matthews, Strategic Planner, on 9821 9156.

Yours sincerely

A handwritten signature in black ink, appearing to read 'T. O'Brien', written in a cursive style.

**Tanya O'Brien**  
Manager Strategic Planning

Encl.

Clr Hadchiti and Clr Hadid left the Chambers at 8.39pm

**NOMR 02**

**ITEM NO:** NOMR 02  
**FILE NO:** 2012/0307  
**SUBJECT:** PLAN 05 - 607-611 (LOTS 5-7 DP 15667) HUME HIGHWAY CASULA  
PROPOSED REZONING TO PERMIT THE DEVELOPMENT OF A  
4300SQM SUPERMARKET, WITH CONSENT

**RECOMMENDATION**

That Council rescinds the resolution relating to item PLAN 05 from the 5 November 2012 Council meeting regarding the proposed rezoning of 607-611 (Lots 5-7 DP 15667) Hume Highway, Casula.

Signed by Mayor Mannoun, Clr Hadid and Clr Ristevski.

**COUNCIL DECISION**

**Rescission Motion:** Moved Clr Ristevski                      **Seconded: Clr Balloot**

That the rescission motion be adopted.

On being put to the meeting the rescission motion was declared CARRIED

**For:** Clr Balloot, Clr Mamone, Clr Harle, Clr Ristevski, Mayor Mannoun

**Against:** Clr Stanley, Clr Shelton, Clr Karnib, Clr Waller.

**Consequential Motion:**

**Motion:** Moved: Clr Ristevski                      **Seconded: Clr Balloot**

That Council:

1. Approves the application to amend the LLEP 2008 to add a clause to schedule 1 to allow an additional permitted use for 607-611 (Lots 5-7 DP 15667) Hume Highway, Casula being that "development for the purpose for commercial premises is permitted with consent up to a maximum 4300sqm".
2. Prepares and forwards a planning proposal to the Minister for Planning & Infrastructure seeking gateway approval in accordance with Sect 56 of the Environmental Planning Act 1979.

**For:** Mayor Mannoun, Clr Balloot, Clr Mamone, Clr Harle, Clr Ristevski,

**Against:** Clr Stanley, Clr Shelton, Clr Karnib, Clr Waller.

That the consequential motion be adopted.

On being put to the meeting the consequential motion was declared CARRIED.

Note: Cllr Hadchiti and Cllr Hadid were not in the chambers when this item was voted on.

Adjournment of the meeting was called by the Chair for 10 minutes at 8.59pm.

Council resumed at 9:14pm.

**PLAN 05**

**ITEM NO:** PLAN 05  
**FILE NO:** RZ-3/2012  
**SUBJECT:** 607-611 (LOTS 5-7 DP 15667) HUME HIGHWAY CASULA PROPOSED  
REZONING TO PERMIT THE DEVELOPMENT OF A 4300SQM  
SUPERMARKET, WITH CONSENT.

**RECOMMENDATION**

That Council:

1. Refuses the application to amend the Liverpool Local Environmental Plan 2008 to rezone land at 607-611 (Lots 5-7 DP 15667) Hume Highway, Casula from B6 - Enterprise Corridor to B2 Local Centre.
2. Refuses the application to amend the Liverpool Local Environmental Plan 2008 to add a clause to Schedule 1 to allow and additional permitted use for 607-611 (lots 5-7 DP 15667) Hume Highway, Casula, being that, "Development for the purpose of commercial premises is permitted with consent up to a maximum of 4300sqm."
3. Writes to the applicant outlining Council's resolution in this regard.

**COUNCIL DECISION**

**Motion:** **Moved: Clr Hadchiti** **Seconded: Clr Hadid**

That the recommendation be adopted.

Clr Ristevski foreshadowed an intention to put forward a motion to defer this item.

On being put to the meeting the motion was declared CARRIED and the foreshadowed motion LAPSED.

**Vote for:** Clr Stanley, Clr Shelton, Clr Hadchiti Clr Balloot, Clr Hadid,  
Clr Karnib

**Vote against:** Mayor Mannoun, Clr Ristevski, Clr Harle, Clr Mamone

Note: Clr Waller was absent from the meeting when this item was voted on.

## LIVERPOOL CITY COUNCIL

### CITY PLANNING REPORT

ORDINARY MEETING

05/11/2012

<b>ITEM NO:</b>		<b>FILE NO:</b>	<b>RZ-3/2012</b>
<b>SUBJECT:</b>	<b>607-611 (LOTS 5-7 DP 15667) HUME HIGHWAY CASULA PROPOSED REZONING TO PERMIT THE DEVELOPMENT OF A 4300SQM SUPERMARKET, WITH CONSENT.</b>		
<b>COMMUNITY STRATEGIC PLAN REFERENCE:</b>	<b>LIVERPOOL HAS A RANGE OF BUSINESS AND EMPLOYMENT OPPORTUNITIES</b>		
<b>APPLICANT:</b>	<b>MACROPLAN DIMASI</b>		

#### EXECUTIVE SUMMARY:

Council has received an application to rezone approximately 11,000sqm of land at 607-611 (lots 5-7 DP15667) Hume Highway Casula to facilitate the development of a 4,300sqm Woolworths supermarket with 189 car parking spaces and two associated loading docks.

The applicant has proposed that the development is facilitated either by the site being rezoned as B2 – Local Centre, or that an additional use be added to Schedule 1 of the LLEP 2008 to facilitate the development of the site for a 4,300sqm retail outlet (supermarket).

The proposal is inconsistent with a range of State policies, draft State policies and the draft Liverpool Retail Centres Hierarchy Review. This report recommends that Council refuse the rezoning application.

#### DETAILED REPORT:

##### Background

In July 2012, Council received a rezoning application seeking to facilitate the development of a 4,300sqm Woolworths supermarket with 189 car parking spaces and two associated loading docks at 607-611 (Lots 5-7 DP15667) Hume Highway, Casula.

The site is located on the Hume Highway, approximately 4.4 kilometres from the Liverpool CBD and less than 800 metres from the existing local centre at Casula Mall.

The existing use of the land is as an auto-wrecker (Lot 5), a business manufacturing and retailing ceramic pots (Lot 6) and as a commercial building (Lot 7) with four shop fronts. There are also dwelling houses situated at the rear of each of the lots.

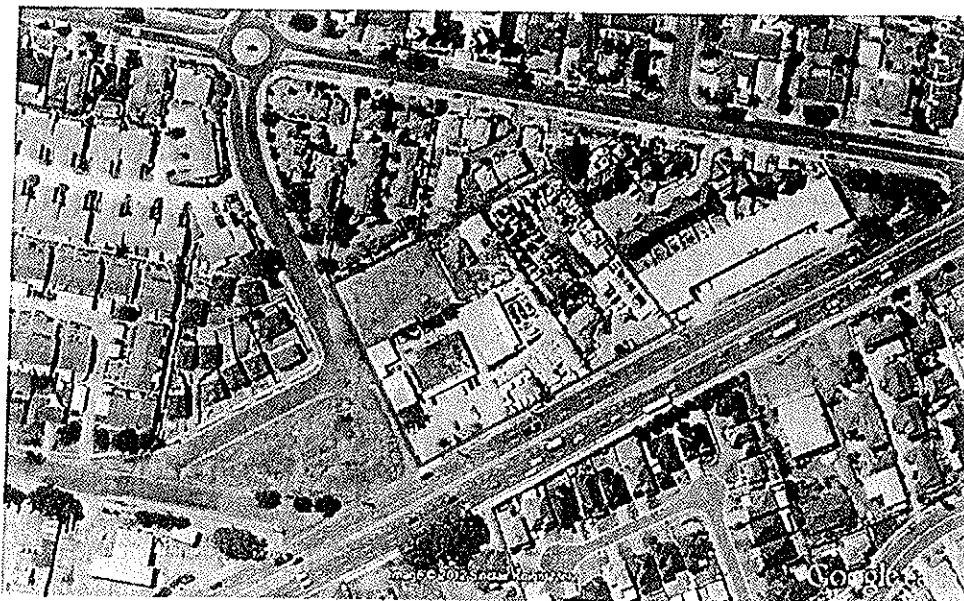


Figure 1: Location map

#### **The site**

The site comprises the following lots:

- 607 Hume Highway, Casula – Lot 5 DP 15667;
- 609 Hume Highway, Casula – Lot 6 DP 15667;
- 611 Hume Highway, Casula – Lot 7 DP 15667

The subject site is an irregular rectangle in shape and has an approximate frontage to the Hume Highway of 133 metres, with a proposed secondary frontage of 90 metres to Ingham Drive. The subject site is located 760 metres from the existing Casula Mall town centre (zoned B2). The overall site area of the three lots is 10,908sqm. The proposal seeks access from the extension of Ingham Drive to the Hume Highway and the consequent closure of Pine Road. It further assumes that Council will provide traffic lights at the newly created Ingham Drive/Hume Highway intersection. The applicant also intends to retain road access to the site from the Hume Highway for delivery vehicles only.

The three lots which compose the subject site are currently separately owned. The applicant has stated, however, that they have taken out an option to purchase the entire site.

Title to the land situated immediately to the south west of the site, zoned SP2 - Local Road is currently held by the owner of 1 Pine Road, Casula. In order to facilitate access to the subject site, a suite of purchases will be required whereby the land necessary for the extension of Ingham Drive is purchased by Council, while the existing portion of Pine Road

currently meeting the Hume Highway, which is to be closed, will be sold to the owner of 1 Pine Road, Casula.

*Current zoning (extract of LEP showing the current zoning)*

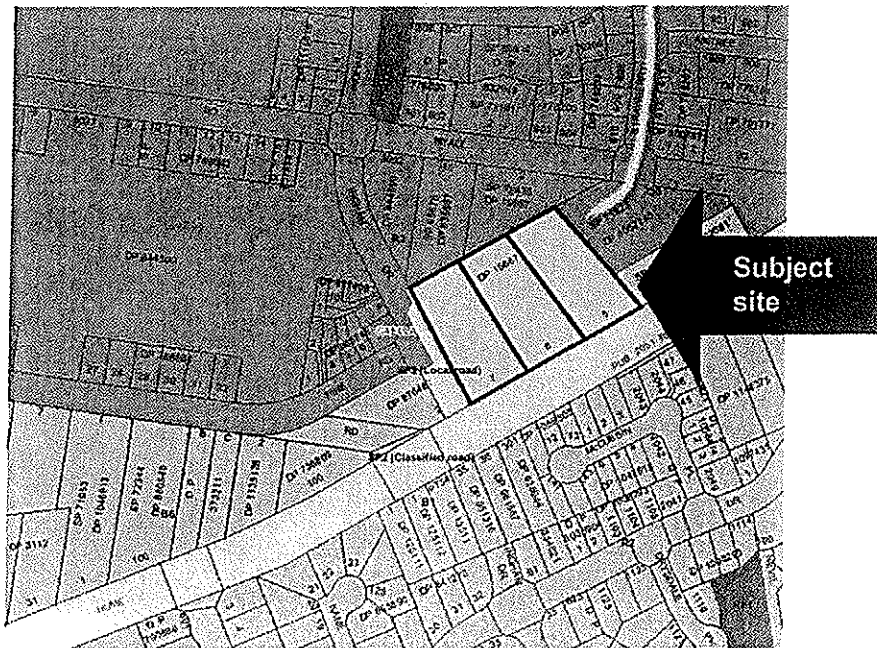


Figure 2: Existing Zoning – subject site selected in bold

The existing zoning of the site is B6 – Enterprise Corridor. The Draft South West Regional Strategy defines the intent of Enterprise Corridors as providing low-cost accommodation for a range of retail, light industrial and commercial developments that would not easily integrate into centres. It notes that the Standard LEP Template permits the restriction of retailing in Enterprise Corridors, to maintain economic strength of centres by limiting retailing of food and clothing. (Regional Strategy, p39)

The objectives of the B6 - Enterprise Corridor zone as defined by the Liverpool Local Environmental Plan 2008 are as follows:

- To promote businesses along main roads and to encourage a mix of compatible uses.
- To provide a range of employment uses (including business, office, retail and light industrial uses).
- To maintain the economic strength of centres by limiting the retailing activity.
- To provide primarily for businesses along key corridors entering Liverpool city centre, major local centres or retail centres.
- To ensure residential development is limited to land where it does not undermine the viability or operation of businesses.
- To provide for residential uses, but only as part of a mixed use development.



The B6 - Enterprise Corridor zoning permits development of a number of commercial, light industrial and residential uses, but restricts the maximum size of any individual retail premises to a maximum floor space of 1600sqm.

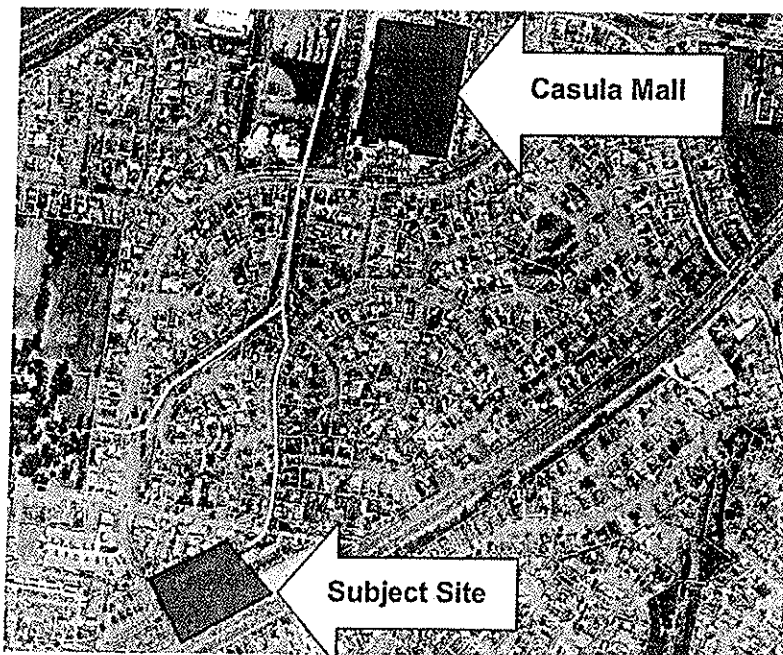


Figure 3: Contextualisation of site for proposed rezoning

The diagram shows the proximity of the subject site proposed for rezoning as compared to the existing B2 - Local Centre site known as the Casula Mall. The subject site is located 760 metres from the Casula Mall, within the walking catchment of the B2 - Local Centre zoned site (Metropolitan Strategy, p59).

### **PROPOSED AMENDMENT TO LIVERPOOL LOCAL ENVIRONMENTAL PLAN (LLEP) 2008**

The proposal is to make such changes necessary to the LLEP 2008 to permit Development for the purpose of commercial premises ... with consent up to a maximum of 4,300sqm, at the site, whether by rezoning 607-611 Hume Highway, Casula from B6 Enterprise Corridor to B2 Local Centre or by amending Schedule 1 of the LLEP 2008 to permit such an additional use of the site, and amend the LLEP 2008 Key Sites Map to reflect the additional use.

Specifically, the applicant wishes to amend LLEP 2008 such that it would be permissible to develop the subject site by constructing a 4300sqm Woolworths supermarket with 189 parking spaces and two associated loading docks.

## Consistency with legislation and State and Local Strategies

### 1. Environmental Planning and Assessment Act 1979

#### (i) Section 5 - objects

The applicant argues that: "Leasable commercial floorspace caps result in land use planning that is unresponsive to modern retailing requirements and consumer expectations. Such floor space caps contravene Section 5(a) (ii) of the Environmental Planning and Assessment Act (the Act). Specifically, the floorspace cap does not enable the promotion and coordination of the orderly and economic use of the development of the land." (MacroPlan p11) The applicant's argument relies on an unacceptably narrow reading of the objectives of the Environmental Planning and Assessment Act 1979.

Clause 7.23(2) of the LLEP 2008 states that, "Development consent must not be granted to development for the purposes of retail premises on land in Zone B6 Enterprise Corridor if the gross floor area of the retail premises is more than 1,600 square metres." Such a restriction is consistent with Section 5(a)(i) of the Act, which permits "proper management" of land "for the purpose of promoting the social and economic welfare of the community and a better environment". Further, it does not contradict the provisions of Section 5(a)(ii) of the Act which call for "the promotion and co-ordination of the orderly and economic use and development of land", clearly giving Council the authority to appropriately regulate land usage.

#### (ii) Section 117 Ministerial Directions

The applicant has referenced Ministerial Directions 1.1, 3.4, 6.3 and 7.1 in support of their proposed rezoning. In assessing the applicant's proposal, it is important to assess consistency with the various directions sited.

#### *Ministerial Direction 1.1 Business and Industrial Zones*

Ministerial Direction 1.1 applies when a Council "prepares a draft LEP that affects land within an existing or proposed business or industrial zone."

The objectives of the direction are:

- (a) encourage employment growth in suitable locations,
- (b) protect employment land in business and industrial zones, and
- (c) support the viability of identified strategic centres.

The applicant has asserted that:

*"The planning proposal will support the viability of the strategic centres by providing retail services in response to market demand in a strategic location, with excellent road access and public transport frequency to meet local demand for a supermarket within the 800m radii catchment of the local town centre."* (Macroplan p21)

The proposed development is located 760m from the existing Local Centre zoned land known as the Casula Mall. The applicant's argument is not consistent with accepted definitions of centres as will be elaborated below. The application is not therefore supported by Ministerial Direction 1.1 as claimed. The proposal therefore is not an extension of the existing centre which is recognised in the Metropolitan Strategy. The

proposed development is therefore inconsistent with the objectives of the direction, particularly objective (c).

### ***Ministerial Direction 3.4 Integrating Land Use and Transport***

Ministerial Direction 3.4 applies "when a council prepares a draft LEP that creates, alters or removes a zone or a provision relating to urban land, including land zoned for residential, business, industrial, village or tourist purposes."

Ministerial Direction 3.4(4) stipulates that:

*A draft LEP shall locate zones for urban purposes and include provisions that give effect to and are consistent with the aims, objectives and principles of:*

- (a) Improving Transport Choice – Guidelines for planning and development (DUAP 2001), and*
- (b) The Right Place for Business and Services – Planning Policy (DUAP 2001).*

Ministerial direction 3.4(4)(b) refers to *The Right Place* policy.

With respect to the siting of trip-generating development like large supermarkets, *The Right Place* policy includes the following objectives:

- 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*
- provide people with equitable and efficient access*
- 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 (p3)*

The applicant has argued that the proposal is consistent with the Ministerial Direction, stating:

*Access to the site is supported by a significant walkable catchment of over 5000 people. Whilst freight and private car access are supported by the highway, demand for public services along this strategic route will support the future viability of bus transportation and potential expansion of routes. The planning proposal effectively increases the effectiveness and viability of local public transport along the Hume Highway/Strategic Bus Corridor. (MacroPlan p22)*

### **Public Transport**

Three bus routes (870, 871 and 872) do pass the subject site, and there is a bus stop (north bound) adjacent to the proposed site. The three routes link the site with Liverpool CBD and Campbelltown via the Hume Highway in a very linear way, without linking the site to existing residential neighbourhoods to the east and west. The buses run on a 10-20 minute timetable from around 5.30am to 10pm Monday to Friday.

By contrast, the existing B2 - Local Centre zoned Casula Mall is serviced by two bus routes which connect Casula with the Liverpool train station via residential neighbourhoods (routes 865 and 866), which service the Casula Mall approximately every 10-15 minutes during morning peak through to 3pm, with less frequent services in the afternoon peak,

with the services running from 5.08am to 9.05pm Monday to Friday (and less frequent services on the weekend).

In addition, bus services 855, 856 and 857 service the Casula Mall from suburbs to the south west (Austral and Bringelly) weekdays at approximately 15-30 minute intervals. The 851/852 service connects the Casula Mall with the Carnes Hill shopping centre in the west by an approximate 30 minute service during weekdays.

A total of seven bus services therefore provide public transport links between Casula Mall, Liverpool CBD and surrounding suburbs on a regular and frequent basis, particularly on weekdays. None of the seven services passes the proposed development site.

The applicant argues that the 855, 856 and 857 routes "operate along Ingham Drive" (Traffic Report p7), however, the nearest bus stop is approximately 200 metres from the proposed site, compared to the direct access provided for the Casula Mall.

The proposed rezoning therefore fails to meet the objectives of *The Right Place* policy, in that:

- the proposed development (a 4300sqm supermarket) would be a substantial trip generator, yet it would not be integrated with an existing centre. Its development will encourage single-purpose trips and not encourage multi-purpose trips, i.e. trips to a single centre where multiple tasks (such as shopping, administration and services) can be transacted in the one area, reducing the need for multiple short single trips to a range of destinations;
- the proposed development is within the 800 metre approximate walkable zone (as defined by the Metropolitan Strategy for Town Centres, p59) of the existing Casula Mall development, which includes substantial public as well as private investment (such as the Casula library), and could undermine (i.e. not "maximise") public investment in the existing centre;
- the establishment of an alternative large retail area in the approximate walkable zone of the existing Casula Mall would fall to "encourage continuing private and public investment" in the existing centre as required by the objectives of *The Right Place* policy (see above).
- the public transport service provided to the proposed site is of a relatively inferior quality compared to that provided to the Casula Mall. Its development would therefore be unlikely to encourage greater public transport use. The Hume Highway location would be likely to encourage more car trips, which is also inconsistent with the aims of *The Right Place* policy.

In terms of the location of retail premises, *The Right Place* policy further argues that, *Supermarkets and large specialist and department stores have an important role in anchoring a broad range of shopping and other services and thereby allow single multi-purpose trips. Retail proposals should be accommodated in centres to allow choice and free pedestrian movement. Ideally, a single retail property should not comprise the whole centre so as to allow for new market entrants and competition and avoid the unnecessary creation of new centres.* (p6)

The proposed development also fails to meet the policy requirements with regard to retail premises in that:

- the proposed development is relatively isolated and is not "anchoring a broad range of shopping and other services". While the site will have some adjoining retail development (at 1 Pine Road), development approval is only for four small shops of a total floor space of approximately 400sqm with and associated parking. A supermarket development at the proposed location will not therefore encourage "single multi-purpose trips".
- the proposed development is not to be located in an (existing) centre.
- the proposed development is a "single large retail property", which will comprise the entirety of the proposed site.

In addition, *The Right Place* policy requires that:

*A centre should not be commercially threatened by competition from a new retail proposal, however Community facilities (including public infrastructure and shopping convenience) must not be placed in jeopardy by the new development. This important legal principle was established by the High Court (see Stephen J, paragraph 17, Kentucky Fried Chicken Pty Ltd v Gantidis (1979) 140 CLR 675) and is most relevant in considering new centre or out-of-centre proposals. (p11)*

The applicant has presented analysis indicating that the likely impact of the development of the proposed supermarket on the Casula Mall would be a 9% fall in turnover for the 2014/15 financial year (\$16.2M – MacroPlan Economic Impact Assessment, table 5.3). The potential impact on the existing centre is discussed further in (Section 6 under the heading "Potentially detrimental impact on existing Casula Mall centre").

### **Ministerial Direction 6.3 Site Specific Provisions**

Ministerial Direction 6.3(4) states that:

*A planning proposal that will amend another environmental planning instrument in order to allow a particular development proposal to be carried out must either:*  
*–allow that land use to be carried out in the zone the land is situated on, or*  
*rezone the site to an existing zone already applying in the environmental planning instrument that allows that land use without imposing any development standards or requirements in addition to those already contained in that zone, or*  
*–allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended.*

The applicant argues that the restriction to the size of retail premises on land zoned B6 – Enterprise Corridor (i.e. not a specific site but an entire zone) applied by clause 7.23 of the LLEP 2008 is inconsistent with Ministerial Direction 6.3 stating:

*The Draft LEP limits the size of developments in B2 – Local Centre zones to 1,600m<sup>2</sup> (sic – the applicant means B6 zones). This restrictive development clause is not reflective of achievable markets and demand. The clause is also unfeasible given the area is approximately 10,000m<sup>2</sup> in size. If this clause was effective, it would result in a large proportion of the site being under-utilised. (p22)*

The applicant's statement is incorrect on two counts; firstly that clause 7.23 of the LLEP 2008 applies to an entire zone (B6 - Enterprise Corridor) and does not impose any extra

development standards other than those already applying to the zone as a whole on the subject three lots. Secondly, the clause only restricts individual retail premises to a maximum of 1600sqm in floor area. There is nothing in the clause which limits the development of more than one retail premises on the site (each of a maximum floor area of 1600sqm), which would enable the full utilisation of the site. Further, the B6 zoning allows for a range of uses that could be developed on the three lots.

The limitation on the size of individual retail premises in the B6 - Enterprise Corridor zone is not therefore inconsistent with Ministerial Direction 6.3 as the applicant claims. Further, it is important to note that this restriction is an existing standard that has been endorsed by Council in August 2011 (Amendment 19 to the Liverpool Local Environmental Plan 2008) and made by the Minister.

### ***Ministerial Direction 7.1 Implementation of Metropolitan Plan for Sydney 2036***

Ministerial Direction 7.1 requires councils in the Sydney Metropolitan area to make plans consistent with the Metropolitan Strategy. The applicant has stated that there is no inconsistency between the proposed development and this direction. The consistency, or otherwise, of the proposal with the Metropolitan Plan will be assessed below.

## **2. Metropolitan Plan for Sydney 2036 & Draft South West Sub Regional Strategy**

Chapter B of the Metropolitan Plan for Sydney 2036 is titled "Growing and Renewing Centres" and outlines the strategic plan for commercial and business development in the Sydney metropolitan region. It emphasises that, "Concentrating a greater number and range of activities near one another in centres well served by public transport makes it easier for people to go about their daily activities and helps to create lively, functional places in which to live, work, socialise and invest." (p58)

The Metropolitan Plan defines a centre as "a place where varying concentrations and combinations of retail, commercial, civic, cultural and residential uses are focused around transport facilities." The Metropolitan Plan indicates that existing local centres are identified in the draft subregional strategy (p58).

The Metropolitan Plan identifies the key elements of the centres policy for metropolitan Sydney as including:

- *concentrating activity in accessible centres*
- *managing out-of-centre development to maximise the economic and social advantages of clustered activity*
- *making provision for the growth and urban renewal of existing centres*
- *planning for new centres to emerge in appropriate locations*
- *influencing the distribution and scale of land uses to improve transport choice and boost active transport and public transport use*
- *concentrating commercial activity and job destinations in centres to achieve agglomeration, productivity benefits and improve workforce access (p60)*

The proposed development – a 4300sqm stand alone supermarket – is not consistent with the State centres policy as articulated in the Metropolitan Plan. The proposed development will not be located in an existing centre and is not advantageously located with respect to public transport.

The Metropolitan Plan also defines the role and purpose of corridors, specifically Enterprise Corridors as follows:

*...[U]se of a B6 Enterprise Corridor Zone should be limited to areas of very high traffic volumes and where it is appropriate to allow a flexibility of land uses to enable productive use of the road corridor.*

*... The amount of retailing to be permitted in the B6 Zone should be set locally. (p61)*

The restriction on the floor space of individual retail premises located on land zoned B6 - Enterprise Corridor to 1600sqm by clause 7.23 of the LLEP 2008 therefore complies with the Metropolitan Plan in that it specifically permits the amount of retailing in Enterprise Corridor zones to be set locally.

The Metropolitan Plan also outlines a number of Objectives and Actions. Objective B3 – To Plan for New Centres and Instigate a Program for High Quality Urban Renewal in Existing Centres Serviced by Public Transport incorporates Action B3.1 – Plan for new centres in existing urban areas and Greenfield release areas, which states in part that:

*The Department of Planning and councils will use Subregional Strategies, local strategic planning and LEPs to carefully identify opportunities for new centres in existing urban areas that are **distant from existing centres**. This will assist in the urban renewal of places not currently within the walking catchments of existing centres. (p73 - emphasis added)*

The proposed centre at the subject site would be within the 800m walking catchment of the existing B2 – Local Centre at Casula Mall. The establishment of a new centre at the location would therefore contradict the direction of the Metropolitan Plan.

The Draft South West Sub Regional Strategy ("the regional strategy") applies the general strategy of the Metropolitan Plan to the south west sub region (including the Liverpool LGA). The regional strategy defines the role of Enterprise Corridors as providing low-cost accommodation for a range of retail, light industrial and commercial developments that would not easily integrate into centres. It notes that the Standard LEP Template permits the restriction of retailing in Enterprise Corridors, *to maintain economic strength of centres by limiting retailing of food and clothing. (p39)*

Objective B4.1 of the regional strategy requires Council to "concentrate retail activity in centres, business development zones and enterprise corridors." (p67)

Action SWB4.1.1 states that:

*Retail will generally be located in commercial core and mixed use zones in centres... The inclusion of measures to prevent retail activities in other areas will provide certainty for investors in office and retail in centres and ensure that ad-hoc 'out of centre' development does not have additional cost impacts for Government and the community. (p67)*

The regional strategy therefore supports the restrictions imposed by the LLEP 2008 on retail in an Enterprise Corridor (i.e. 'an out of centre' location).

### 3. State Environmental Planning Policy (Competition) 2010 (consultation draft)

The applicant has asserted that the provisions of the draft Competition SEPP support their planning proposal. However, the Competition SEPP does not apply in this case. Clause 10 of the Competition SEPP is entitled "Restrictions on particular types of retail premises" Its provisions state:

*"(1) A restriction in an environmental planning instrument or development control plan on the number of a particular type of retail premises in any commercial development, or in any particular area, does not have effect.*

*(2) This clause applies to a restriction imposed expressly or by necessary implication, but does not apply to a restriction that arises because of development controls relating to the scale of development or any other aspect of development that is not merely the number of particular types of premises. (emphasis added)*

Clause 10(2) makes clear that the provisions of 10(1) do not apply to restrictions on the scale of retail developments as provided by clause 7.23 of the LLEP 2008.

Clause 11 of the Competition SEPP is entitled "Restrictions on proximity of particular types of retail premises". Its provisions state:

*(1) A restriction in an environmental planning instrument or development control plan on the proximity of a particular type of retail premises to other retail premises of that type does not have effect.*

*(2) This clause applies to a restriction imposed expressly or by necessary implication, but does not apply to a restriction that arises because of development controls relating to the scale of development or any other aspect of development that is not merely the proximity of particular types of premises. (emphasis added)*

Clause 11(2) makes clear that the provisions of 11(1) do not apply to restrictions on the scale of retail developments as provided by clause 7.23 of the LLEP 2008.

### 4. Draft Centres Policy 2009

The Draft Centres Policy remains a consultation draft and is not government policy. Nevertheless, it is a guideline which must be considered in the making/amendment of Local Environmental Plans.

The applicant refers to the six principles of the policy, and asserts that:

*The planning proposal meets these principles; it is underpinned by a strong market demand, it promotes competition and enables commercial growth through the utilisation of land in an accessible and suitable location, is situated close to local labour markets and to public transport facilities. (MacroPlan p15)*

However, a closer reading of the policy does not confirm the applicant's analysis. Principle 1 – Retail and commercial activity should be located in centres states:

*This policy advocates that retail and commercial activity should be located in centres to stimulate economic activity, ensure the most efficient use of transport and other infrastructure, proximity to labour markets, and to improve the amenity and liveability of those centres.(p2)*



With respect to supermarkets, the policy states that:

*From a planning perspective, supermarkets are classified as 'shops' under the Standard LEP Template definitions and should be accommodated in zones B2–B4 within centres. (p20)*

The Draft Centres Policy stipulates that a Net Community Benefits test should be applied to proposed rezonings. It defines a net community benefit occurring where, "*the sum of all the benefits of a development or rezoning outweigh the sum of all the costs.*" (p24)

The applicant has argued that there will be a net community benefit flowing from the proposed development of the site. Specifically, they site the following:

- the proposed supermarket will create 225 net additional jobs on site, in addition to a further 90 throughout the economy. The construction phase will create 47 additional direct jobs and a further 76 indirect jobs
- additional consumer choice and amenity
- minimal or minor impacts on the viability of the centres hierarchy in Liverpool.
- 

However, the applicant's net community benefit test is inadequate as it fails to weigh-up many of the externalities that would flow from the proposed development of a stand alone full-line supermarket, including:

- the encouraging of single-purpose trips
- limited public transport to the site, particularly bus routes that service local and collector roads in residential neighbourhoods, encouraging more car trips
- the potentially detrimental impact on the existing B2 zoned Local Centre at the Casula Mall.

## 5. Draft Activity Centres Policy 2010

The Draft Activity Centres Policy remains a draft and is not government policy. Nevertheless, it is a guideline which is frequently referenced in the making/amendment of Local Environmental Plans.

The policy defines Activity Centres as:

*A broad range of mixed use centres and to differentiate these centres from "shopping centres" which are often owned and operated by a single owner and which may form part of an activity centre.*

*Activity centres can vary greatly in size from major centres to regional commercial areas to neighbourhood shopping areas or strips. They can also refer to agglomerations of specialist activities such as research and development clusters or bulky goods clusters. (p1)*

The aims of the policy include that it:

*seeks to consolidate commercial, high density residential, community uses and other high trip-generating developments in existing and planned new centres in appropriate locations, utilising existing infrastructure and optimising opportunities for business and community interactions (p2)*

Section 2.3.1 outlines the key principle that, "Commercial development should be located in activity centres", in part because it brings economic benefits including:

*reducing car journeys by co-locating office, business and retail development, with residential, health, education, and community facilities in one location (p3)*

With respect to retail premises to be developed on land zoned B6 – Enterprise Corridor, the policy is cautionary.

*This policy recommends that councils consider permitting retail in enterprise corridors only where*

*(a) the use does not undermine the activity centres, taking into account their wider strategies to accommodate the retail floorspace in their areas. (p25)*

The proposed development far exceeds the 1600sqm maximum floorspace for individual retail premises permitted by the LLEP 2008 on land zoned B6 - Enterprise Corridor. If approved it would risk undermining the nearby Activity Centre known as Casula Mall.

## **6. Liverpool Retail Centres Hierarchy Review**

The Liverpool Retail Hierarchy Review ("the Review") prepared by Hill PDA was submitted to Council at this meeting. The final draft was used as a guideline in this assessment.

Chapter 7 of the Review projects that:

*Liverpool LGA is undersupplied by some 20,500sqm of retail floorspace in 2011. Department and discount department stores accounted for the largest proportion of this undersupply at 8,071sqm (or 40% of total floorspace undersupply). (p54)*

Chapter 8 of the Review, Accommodating Growth, projects that the greatest part of the undersupply of supermarket floor space will exist in that part of the Liverpool LGA which is west of the M7. It also notes that the Cecil Hills/ Green Valley area also exhibits strong growth in demand for additional supermarket facilities. (p56)

It is noteworthy that the Review does not predict significant need for additional supermarket facilities in the Casula area. In its summary of the submissions made to the Review by third parties, it specifically notes the proposal to rezone land at 607-611 Hume Highway, Casula, to permit the construction of a 4300sqm supermarket, and argues that:

*for the Casula Mall trade area there is limited undersupply of supermarket and grocery store expenditure in 2011. Thus there is insufficient need for 4,200sqm supermarket as sought in this submission. The limited undersupply of supermarket and grocery store expenditure which does exist is likely to be met to some extent by the development of the Costco which will sell a range of food and grocery items.*

*Beyond 2026 there is a need for an additional supermarket in the Casula area at which time rezoning of the site may be appropriate if no alternative sites are available to accommodate a supermarket in Casula Mall or in other existing centres in the surrounding area. (p66)*

The applicant takes issue with the recommendations of the Review, particularly the Hill PDA report's reliance on an assumed retail turnover density (RTD) for supermarkets of \$11,000 per square metre. The applicant argues that:

*If an RTD of \$9,000/m<sup>2</sup> is applied then, using Hill PDA's own numbers, this would equate to an additional 8,500m<sup>2</sup> of supermarket demand within the LGA. This equates to more than two 4,200m<sup>2</sup> supermarkets. (p17)*

The applicant presents an Economic Impact Assessment of the proposed Woolworths Casula development. Using an RTD of \$9000/sqm the applicant concludes that a "supermarket gap" of 4610sqm existed in the Casula area in 2012, and that this shortfall will grow to 9,412sqm by 2026 (MacroPlan, Economic Impact Assessment, Executive Summary).

The applicant, however, specifically excludes from their consideration, any allowance for the proposed Costco development at the Crossroads Centre, stating:

*We disagree also with the suggestion that Costco, a member base retail warehouse that serves a trade area of 500,000 to 1 million persons, could be considered to meet some of the localised market gap for convenience based retail.(p17)*

In Additional Modelling provided to Council Hill PDA defend the use of an assumed retail turnover density of \$11,000 per square metre. In defence of the \$11,000 figure, they state that:

- *Woolworths Annual Report 2011 page 86. Woolworths at the beginning of the 2010-11 FY had 823 supermarkets in Australia with an average floor area of 2,676sqm (Footnotes state that it includes Dan Murphy stores but excludes BWS stores and petrol outlets). Sales per square metre = \$15,895/sqm which was a 9% increase from 2007 (\$14,571/sqm).*
- *ABS Retail Survey in 1998-99 had supermarkets trading at an average of \$7,666/sqm across Australia. To June 2011 CPI growth has been 45.8%. Hence based on 2011 dollars average sales were \$11,176/sqm.*

Hill PDA's justification for the user of an assumed turnover density of \$11,000/sqm would therefore appear to be reasonable and well-supported. Without being able to rely on the assumed turnover density of \$9000/sqm, the applicant's argument that a "supermarket gap" exists in the Casula area for two 4300sqm supermarkets fails.

#### **Potentially detrimental impact on existing Casula Mall centre**

The applicant does acknowledge that the proposed development will have a significant economic impact on the existing Casula Mall centre. The applicant's Economic Impact Assessment predicts a comparative fall of \$16.3M in turn over during 2014/15 at the Casula Mall centre (see Table 5.3, MacroPlan, Economic Impact Assessment), should the proposed development proceed. This equates to a 9% impact on turn over at the centre.

In addition the Liverpool Cumulative Economic Impacts Study, prepared for Liverpool City Council by Hill PDA in July 2012 notes that the proposed Costco development would cause a 7.2% decline in turnover at the Casula Mall local centre in 2016 (Liverpool Cumulative Economic Impacts Study, p18).

The combined impacts of the proposed Costco at Crossroads along with the proposed development at the subject site have not been considered by the applicant in any determination of the overall net community cost/benefit of the proposed development. The

combined impact of the proposed development in concert with the planned Costco store at Crossroads may be as large as a drop in turnover of 16.2%. Such a reduction is considered to be substantial.

## PLANNING CONSIDERATIONS

### 1. Zone B6 – Enterprise Corridor

The subject land is zoned B6 – Enterprise Corridor. As one avenue to permit the development of a 4300sqm supermarket at the site, the applicant has suggested that Schedule 1 of the LLEP 2008 could be amended to provide an extra use for the subject site, such that "Development for the purpose of commercial premises is permitted with consent up to a maximum of 4300sqm". The site would retain its zoning of B6 – Enterprise Corridor.

Commercial premises (which include supermarkets) are permitted with consent on land zoned B6, however, the size of commercial premises is constrained by clause 7.23 of the LLEP 2008 which limits the size of retail premises to no more than 1600sqm.

Council has consistently utilised the B6 - Enterprise Corridor zoning for land along major roads leading to the Liverpool city centre including along the Hume Highway, Hoxton Park Road, Elizabeth Drive and Orange Grove Road. In all cases the variety of business, retail and industrial uses developed in these areas complement the role of the existing centres rather than undermining them.

As part of the process of considering the amendment, Council commissioned an assessment from Hill PDA, "Liverpool LEP Proposed Amendments to B6 Zoning Study". Part 7 of the report dealt with the retail impact of the amendment. Part 7.1 – Implications of Zoning Amendment, made the following comments in support of the amendment:

*The role of enterprise corridors is to support the role of centres by accommodating retail which may not be able to locate within centres or may not be suitable for centres. The aim of this retail premises threshold therefore is to restrict the extent to which retail in B6 zones competes with established centres and prevent retail uses such as larger supermarkets or comparison goods outlets from operating in such zones.*

*...  
A 1,600sqm limit would continue to exclude larger retailers, in particular large-format full-line supermarkets and department stores, from opening stores in the B6 Enterprise Corridor zone. (p36)*

The purpose of clause 7.23 of the LLEP 2008 in restricting individual retail premises established on B6 - Enterprise Corridor land is therefore to allow such sites to support commercial activity while concentrating large scale/anchor retailing (such as full-line supermarkets) in centres.

## 2. B2 – Local Centres

The applicant has requested that the subject site be rezoned from B6 – Enterprise Corridor to B2 – Local Centre, such that the restriction imposed by clause 7.23 of the LLEP 2008 not apply to the site, and that a 4300sqm supermarket would be permitted with consent.

A detailed explanation of the purpose/use of Local Centre zones is provided by the Draft Centres Policy, which emphasises the local character of the Local Centre zone as follows: *For example, a local centre will be expected to have low traffic impacts and could serve a largely walkable catchment and have retail that serves daily and weekly convenience shopping needs.* (p7)

The B2 – Local Centre zone is intended to serve the needs of a local community, and a primarily walkable catchment. Yet, as noted above, the proposed development site would be situated within the walkable catchment of an already existing local centre known as the Casula Mall.

The applicant has stated that part of the focus of the proposed development is to serve the local area, but that a significant part of the trade for the proposed supermarket will also be provided by through-traffic on the Hume Highway. Indeed, the applicant notes that the proximity of the Hume Highway is "pivotal to the success of the proposal". (MacroPlan, p18)

It should also be noted that the proximity of the Hume Highway to the site itself isolates pedestrian movement from the south of Casula, significantly reducing the pedestrian permeability of the site.

The site and its surrounds (retail and other commercial development along the Hume Highway) as described by the applicant, would best be characterised as an Enterprise Corridor according to the definitions in state policy as described above, with a high reliance on the passing traffic of the highway and a limited reliance on pedestrian or other local trade which would characterise a local centre.

In addition, the applicant's justification for the rezoning the site B2 – Local Centre is self-contradictory. On the one hand the applicant claims that "Centre activity is already happening at the site and along the Hume Highway – the mix includes retail, business and outlets selling a variety of products and services such as liquor, tax accounting, veterinary services, hardware, and leisure activities"(MacroPlan, p18), while on the other hand it is claimed that, "The B6 zoning that is currently applied at Casula has not altered the scattered nature of development and has failed to establish a sense of presence intended for the 'enterprise corridor'." (MacroPlan, p19)

The area of the Hume Highway in the vicinity of the subject site does not currently function as a local centre, providing "a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area" (Draft Activity Centres, p24), but rather conforms to the existing zoning of the site as B6 – Enterprise Corridor as defined by a mix of "business, office, retail and light industrial uses"... "along key corridors entering Liverpool city centre, major local centres or retail centres". (B6 zone objectives, LLEP 2008).

### 3. Traffic

As part of the Development Application (DA-1349/2012) lodged by the applicant concurrently with the rezoning application, a Traffic Report for proposed supermarket, 609-611 Hume Highway Casula as prepared by Fabcot Pty Ltd was submitted to Council.

Specific issues that arise from the traffic report include:

- A proposed undersupply of parking spaces: Under the Liverpool Development Control Plan 2008 205 spaces are required while the applicant proposes only 189 spaces (a shortfall of 16 spaces or approximately 8%). (Traffic Report, p10)
- The assessment of the impact of the proposed development on traffic congestion on the Hume Highway and adjoining roads is predicated on the installation of traffic lights at the proposed intersection of Ingham Road and the Hume Highway, despite the fact that the applicant acknowledges that "Council ... has not been able to provide new traffic signals" (Traffic Report, p13) at the site.

### CONCLUSION

Were Council to approve the application for the rezoning of the subject site to B2 – Local Centre, it would risk undermining the existing B2 Local Centre at the Casula Mall (and the application of the B2 - Local Centre zone across the Liverpool LGA), breach the State centres policy as outlined in the Metropolitan Plan and contradict the recommendations of the Liverpool Centres Hierarchy Review, as discussed above.

On analysis of the relevant state and local policies, it is to be concluded that the subject site is not suitable for rezoning as B2 – Local Centre. The current zone of the site as B6 – Enterprise Corridor should be maintained. The current limitation on the size of retail premises in Enterprise Corridors of 1600sqm is consistent with the parameters of state government policy and supported by local research. Consequently, it is also concluded that the applicant's request to amend schedule 1 of the LLEP 2008 to permit the development of a 4300sqm retail premises on the subject site should not be supported.

### FINANCIAL IMPLICATIONS:

There are no financial implications for Council resulting from refusal of this application.

Support for this application as proposed would require land acquisition and the installation of traffic signals.

Costs for land acquisition for Council have been estimated at between \$200,000 and \$240,000. Costs for road construction have been estimated at \$1,042,000, while costs for construction of traffic signals as proposed by the applicant have been estimated at \$400,000.

Section 94 contributions plans that applied previously for the project (when a four-way intersection was intended) have collected \$128,960 for land acquisition and \$723,669 for construction of the road and intersection. The proposed works would be for a three-way


intersection, necessarily only because of the proposed development. It is therefore questionable whether existing Section 94 funds should be applied to the works.

Assuming that the Section 94 contributions could be applied to the revised project, the total potential financial liability to Council in approving the rezoning would be \$829,371, consisting of \$111,040 for land acquisition and \$718,331 for the construction of the new road and traffic signals. Were the Section 94 contributions not applied, Council's total liability would be \$1,682,000.

**RECOMMENDATION:**

That Council:

1. Refuses the application to amend the Liverpool Local Environmental Plan 2008 to rezone land at 607-611 (Lots 5-7 DP 15667) Hume Highway, Casula from B6 - Enterprise Corridor to B2 Local Centre.
2. Refuses the application to amend the Liverpool Local Environmental Plan 2008 to add a clause to Schedule 1 to allow and additional permitted use for 607-611 (lots 5-7 DP 15667) Hume Highway, Casula, being that, "Development for the purpose of commercial premises is permitted with consent up to a maximum of 4300sqm."
3. Writes to the applicant outlining Council's resolution in this regard.

**SIGNED BY:**

Milan Marecic  
Director  
City Planning

Attachment: Planning Proposal prepared by MacroPlan Dimasi (under separate cover)