



12 April 2023

Annika Hather
Planning Officer – Key Sites Assessments
Department of Planning and Environment

Via NSW Planning Portal

Dear Ms Hather,

Submission regarding SSD-31515622 – Eastern Creek Lot 3 Outlet Centre Detailed Design

I write on behalf of Scentre Group and Dexu, co-owners of Westfield Mount Druitt, to make a submission to the Department of Planning and Environment (DPE) regarding the proposed detailed design for a retail outlet centre (Eastern Creek Quarter (ECQ) Stage 3) on Lot 3 at the Eastern Creek Business Hub.

The co-owners have a number of concerns with the proposed development, including:

1. Premature lodgement of the detailed SSDA when the concept SSDA has yet to be approved.
2. The gross floor area (GFA) proposed for Phase A is higher than that proposed under the yet to be approved concept SSDA.
3. There is still no standard instrument or widely accepted definition of 'outlet retail'. Reliance on a condition of consent to enforce the use will be ineffective at prohibiting traditional retail uses at the site. The potential for creep to traditional retail, which has not been appropriately considered, is high.
4. The Economic Impact Assessment (Macroplan, December 2020) has potentially underestimated the economic impacts of the development by not considering the impacts of traditional retail on the site.
5. Traditional retail uses should be retained in identified local and strategic centres. The unplanned, out-of-centre location of the proposal could reduce the retail primacy of existing strategic centres, such as Mount Druitt.

These concerns largely build upon the concerns previously raised in Scentre's objection to the concept SSDA (SSD-10457) – Eastern Creek Retail Outlet Centre.

The sections below provide more detailed discussion on these points.

1.0 The proposal

Based on the exhibition documentation, we understand the SSDA seeks detailed approval for Phase A of a new retail outlet centre at Lot 3 of the ECQ site comprising:

- the construction and operation of a single storey retail factory outlet centre on Lot 3 of DP31130 with 101 tenancies, the majority of which will accommodate retail factory outlet stores
- the extension of ECQ Social to provide a large multi-purpose outdoor area with play spaces, passive recreation and alfresco dining, including:
 - detailed landscape design that incorporates a multi-purpose sports court
 - signage zones
 - at-grade car parking in the northern portion of the site including 444 spaces
 - basement level car parking including 727 spaces
- external infrastructure upgrades, including the upgrade of the Rooty Hill Road South / Church Street intersection and an upgrade of Church Street including a new shared bicycle pathway.

At the time of writing, the concept SSDA for the retail outlet centre (SSD-10457) is still under assessment by DPE.

2.0 Overview of Westfield Mount Druitt

Scentre Group are co-owners with Dexus of Mount Druitt Westfield and operate 42 Westfield living centres in Australia and New Zealand. The Mount Druitt site comprises a single allotment at 49 North Parade, Mount Druitt (Lot 100/DP 1036517). The site is located immediately north of Mount Druitt Interchange and has a total site area of approximately 15.7ha.

The Mount Druitt Westfield provides a total retail GLA of 60,373sqm, including a range of supermarkets, shops, medical centres, food and drink premises, gyms, etc. The centre's catchment extends to Penrith in the west and to Blacktown in the East, and includes the proposed ECQ Stage 3 as shown below.

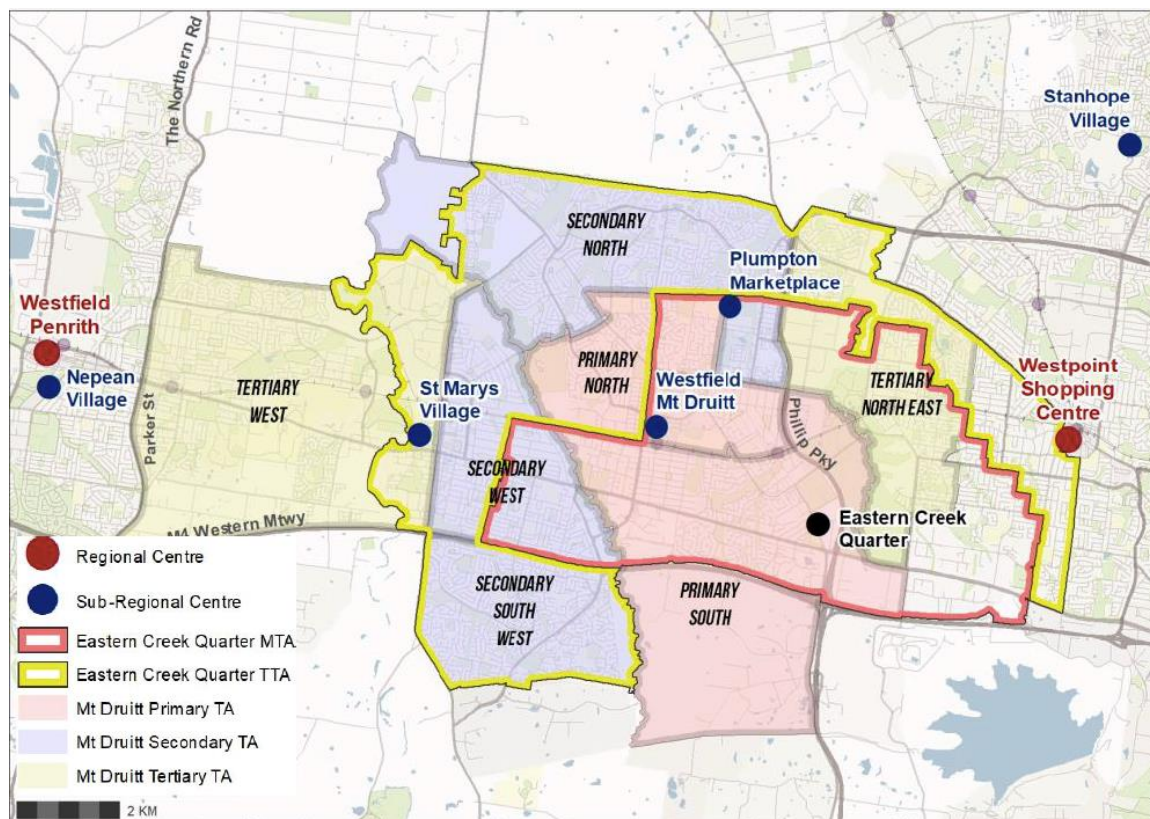


Figure 1: Locational analysis

3.0 Economic analysis

An *Eastern Creek Retail Impact Assessment* was prepared for Scentre Group to assess the potential economic impact of the concept SSDA on the Mount Druitt Westfield shopping centre. This report is confidential and not for public viewing but can be made available to DPE upon request. The findings of the report are still considered relevant for detailed SSDA. Select findings from the report are discussed below.

The assessment considers two development scenarios for the proposed outlet retail centre, differing by the type of retail uses:

- **Development Scenario 1:** A factory outlet centre with approximately 25,000 sqm of retail GLA dedicated to traditional 'outlet-type' tenancies (i.e. excluding bulky goods). The outlet centre would be in addition to the existing Woolworths-anchored Eastern Creek Quarter Centre (~8,000 sqm retail GLA), which opened in June 2020.
- **Development Scenario 2:** A traditional retail centre (i.e. retail shops usually found in neighbourhood, sub-regional and regional centres) providing an additional ~25,000sqm of retail GLA (or ~33,000 sqm including the existing Eastern Creek Quarter Centre anchored by Woolworths). This scenario has been considered to understand the potential impact of an outcome that could possibly eventuate should the outlet centre concept not be fully realised or maintained.

The estimated turnover impact of the outlet centre on the existing Mount Druitt Westfield is summarised in the table below.

Table 1. Estimated turnover impact on Westfields Mount Druitt, 2023		
Development Scenario	Impact (\$ millions)	Impact (%)
Scenario 1: Outlet Centre	-\$30.9m	-8.0%
Scenario 2: Shopping Centre	-\$45.5m	-11.9%

4.0 Key concerns

4.1.1 Premature lodgement of the detailed SSDA

The lodgement of the detailed SSDA (SSD-31515622) whilst the concept SSDA (SSD-10457) is still under assessment is considered premature. Significant economic concerns were raised during the exhibition process of SSD-10457 from a range of stakeholders, including Blacktown City Council and Scentre Group. The objections centred on:

- the lack of a standard definition for 'outlet retail'
- the potential for traditional retail creep
- the lack of strategic merit
- the expected adverse impacts on local and strategic centres, and Westfields Mount Druitt.

We question DPE's ability to assess a detailed SSDA against the provisions of the concept SSDA, when the concept has yet to be finalised and determined. The applicant, as recently as March 2023, has submitted additional economic analysis to support SSD-10457, indicating that DPE is not yet satisfied that the economic impacts of SSD-10457 are acceptable.

Further, we question how DPE can exhibit a detailed SSDA, and expect the community and stakeholders to adequately assess its impacts in order to make a submission, when the concept SSDA that it is being considered against, has yet to be determined.

Until these economic impacts are considered satisfactory, and the concept SSD-10457 is determined in some form, it is considered premature to assess a detailed SSDA. The detailed SSDA should be withdrawn or refused until the concept SSDA is determined. The detailed SSD-31515622 must be re-exhibited if the concept SSD-10457 is varied in any way.

4.1.2 GFA exceedance

The detailed SSDA (SSD-31515622) proposes a slight variation to the GFA proposed for Phase A by the concept SSDA (SSD-10457). SSD-31515622 proposes a GFA of 29,703 sqm, exceeding the 29,500 sqm allocated to Phase A in SSD-10457. Whilst this is under the maximum permissible 39,400sqm for Stage 3, it is imperative that the Phase A exceedance does not creep into Phase B.

Concern is raised with potential creep given the concept SSDA has not yet been approved, and the detailed SSDA is already seeking variances to the proposed staging regime. This ties back to the issues of exhibiting a detailed SSDA when the concept SSDA has yet to be determined.

In accordance with Section 4.24 of the *Environmental Planning and Assessment Act 1979*, the determination of any development application in respect of a site that is the subject of a concept approval 'cannot be inconsistent' with the original consent. The detailed SSDA can therefore not be properly assessed or determined for consistency if the concept SSDA has not been determined. The detailed SSDA must therefore be withdrawn or refused as it cannot be properly assessed.

4.1.3 No standard definition for outlet retail

There is no Standard Instrument definition of 'outlet retail' and no widely accepted definition of the term. Acknowledging this fact, concept SSD-10457 proposed the following definition:

Outlet retail premises means a retail premises which is primarily used for the purpose of selling discounted, factory seconds, direct to outlet, out-of-season, samples or surplus stock. An outlet retail premises does not include a supermarket, food and drink premises or business premises. [emphasis added]

In essence, what is proposed is essentially traditional retail premises that should be located in existing and planned centres such as Mount Druitt Strategic Centre. It is extremely difficult to enforce the retail sale of discounted items for factory seconds, out-of-season samples or surplus stock, particularly as these items are also sold in traditional retail premises.

To enforce the use, SSD-10457 also proposed the following condition of consent:

To ensure the development operates as an outlet centre, the Lessor must ensure that each outlet retail premises operates in accordance with the following:

- *A minimum of 70% of stock for sale in the outlet is discounted from its ordinary retail price or recommended retail price (for reasons including but not limited to being out-of-stock, seconds, samples, discontinued or surplus stock); or*
- *Stock offered for sale is specifically manufactured for sale only in outlet stores; and,*
- *Highly visible signage must be displayed distinguishing the tenancy as a discount outlet.*

We note that Blacktown City Council, who has also objected to the proposal, recommended in its submission dated 3 September 2021, that the following operational condition be imposed to enforce the use of the centre for retail outlet only, if the concept SSDA was approved:

The use of the approved development shall, at all times, be conducted in a manner consistent with the following definition:

Direct Factory Outlet means a retail premises which is primarily used for the purpose of selling discounted, factory seconds, direct to outlet, out-of-season, samples or surplus stock. An outlet retail premises does not include a supermarket, food and drink premises or business premises.

Each lessor is to ensure that future tenancies are operated in accordance with the following conditions:

- a) A minimum of 70% of stock for sale in the outlet is discounted from its ordinary retail price or recommended retail price (for reasons including but not limited to being out-of-stock, seconds, samples, discontinued or surplus stock); or*
- b) Highly visible signage must be displayed distinguishing the tenancy as a discount outlet.*

We have serious concerns that future operators would either circumvent the condition intentionally or else unwittingly fail to comply, offering traditional retail that would compete with established local and strategic centres. This would become a difficult issue to enforce.

4.1.4 Potential for creep to traditional retail

The 70% requirement in the condition would be very difficult to enforce in practice, as would the requirement that the stock be specifically manufactured for sale in outlet stores. Any truly effective compliance program would require extensive ongoing investigation and monitoring, which is likely to be outside the ability and resources of either Council or DPE. It is also difficult to enforce such a condition as it requires knowledge of the market value of items in order to ensure they are discounted and distinguished from traditional retail sales prices.

There is also risk that future operators may utilise the provisions of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* (the Codes SEPP) to transition to traditional retailing. For instance, it is unclear how a future consent for outlet retail, even with a condition of restricting the use, would prevent operators from utilising cl. 2.20A of the Codes SEPP to change an outlet use from a 'shop' to another 'shop' as exempt development. In the absence of a Standard Instrument definition of 'outlet retail', one could reasonably classify an outlet retail shop as a traditional shop for the purposes of the Codes SEPP. Cl. 2.20A requires that the change of use not contravene any existing condition of the most recent development consent relating to 'hours of operation, noise, carparking, vehicular movement, traffic generation, loading, waste management and landscaping', but it does not prohibit contravention of a condition of consent related to use. As such, the cl. 2.20A change of use pathway would appear available even if the recommended condition were in place.

The above suggests that a full and proper economic impact assessment of the proposal as a traditional retail centre needs to be undertaken, and more stringent conditions enforced to control potential retail creep. This is important to ensure the ongoing viability of existing and planned centres such as Mount Druitt Strategic Centre.

4.1.5 Underestimated economic impacts

The *Economic Impact Assessment* (Macroplan, December 2020) submitted with SSD-31515622 concludes the following in relation to impacts on surrounding centres:

The potential impacts from a factory outlet centre at Eastern Creek Quarter are expected to be relatively modest and well within the reasonable bounds of normal competition (Page 48, Macroplan, December 2020). [emphasis added]

Given this is an unplanned out-of-centre retail proposal, it cannot be concluded that it is in the 'reasonable bounds of normal competition'. It represents an unreasonable and undesirable impact on existing and planned local and strategic centres that have been recognised in strategic plans and the retail hierarchy.

The addendum economic assessment conducted by Ethos Urban submitted with SSD-10457 concluded:

I assess that the economic impacts of the current proposal on existing and predicted future trade and potential growth of surrounding retail centres would be mostly consistent with the impact analysis provided in the EIA (and subsequent cumulative analysis) for the Concept Approval (Page 2, Ethos Urban, August 2022).

Further, we maintain that the 'modest' impacts identified in the original Macroplan report are underestimated and highly subjective. Our economic impact assessment considered the estimated impacts of the proposal on Westfields Mount Druitt. As shown in the table below, the Macroplan report identifies significantly more sales in the no-development scenario as well as a far lower estimated impact following the development. We request that DPE engage an independent review of the Macroplan report and subsequent Ethos Urban Addendum to ensure that a proper and thorough assessment of the impacts have been considered before a determination is made of the concept SSDA and detailed SSDA.

We request that the independent review take into consideration the potential for creep to traditional retail in its assessment of economic impacts. Our assessment is that, if the development functioned as traditional retail rather than outlet retail centre, the impacts on Westfield Mount Druitt would be significant (-11.9% as noted in Table 1 above). Without any statutory restrictions in place to prevent traditional retail premises, these impacts will be inevitable and unacceptable.

Table 2. Differences in estimated sales impact on Westfields Mount Druitt

Development scenario	Macroplan 2024 sales	Our economic impact assessment 2023 sales
No development	\$435m	\$384m
With development	\$425m (-2.3%)	\$353m (-8%)

4.1.6 Traditional retail should be retained in local and strategic centres

The concept SSDA emphasises the synergies that would develop between Stages 1, 2 and 3 of the ECQ, effectively creating a one-stop shopping destination:

A factory outlet centre development could potentially synergise with Stages 1 and 2 of the Eastern Creek Quarter development, intensifying the draw of the overall precinct. A factory outlet development co-locating with the Woolworths anchored neighbourhood centre developed in Stage 1 and the specialised retail/large format uses approved in

Stage 2, is likely to form a comprehensive shopping destination with positive flow on effects between the different stages of the development (Page 47, Macroplan, December 2020). [emphasis added]

It is our view that the stated positive flow-on benefits identified by Macroplan naturally have a negative unacceptable flow-on effect on existing and planned centres.

This framing of the development as a comprehensive shopping destination is contrary to the argument put forth in Macroplan's concept SSDA report that the development's estimated small economic impacts are largely due to the 'particular nature of factory outlet developments, which serves a wide-ranging trade area with small impacts dispersed across a broad area'.

A review of the Eastern Creek Quarter website confirms the store offerings are similar to that of a traditional shopping centre, including supermarkets, services, childcare centres, food and drink, health and beauty, newsagency, services and lifestyle offerings. The retail outlets proposed in the subsequent detailed SSDA would further bolster the appeal of the centre for shoppers.

Clearly, the vision for the development is for much more than outlet retail as described in the EIS. The centre has the potential to draw a significantly higher number of shoppers from not only the Mount Druitt Strategic Centre, but other local centres including Rooty Hill and Doonside.

From a strategic planning perspective, it is imperative that existing local and strategic centres maintain their traditional retail dominance and viability. By comparison, any planning proposal to rezone land for a retail use would need to satisfy the strategic merit, including consistency with strategic plans and Ministerial Directions. This site has no strategic merit in that it is not recognised in the Central City District Plan or Blacktown Local Strategic Planning Statement (LSPS) as a retail centre.

Under the Central City District Plan, Eastern Creek is not nominated as either a local or strategic centre. Instead, it forms part of 'Major urban parkland' within the 'Greater Penrith to Eastern Creek Growth Area' given that it is located in the Western Sydney Parklands. Strategic planning for the area does not envision significant traditional retail premises at this location, which is what the SSDA would potentially provide. It is therefore inconsistent with the District Plan.

The Blacktown LSPS establishes a number of directions to provide for investment and growth within existing strategic and local centres, bolstering these centres and improving general liveable for residents. The key planning priorities include:

- LPP6: Creating and renewing great places and centres
- LPP7: Delivering integrated land use and transport planning and a 30-minute city
- LPP8: Growing mixed use, investment, business and job opportunities in Strategic Centres.

The development of land identified in strategic planning documents as 'parkland' for a significant shopping destination is inconsistent with key planning priorities for the LGA and will seriously threatens the vibrancy, viability and investment opportunities within existing local and strategic centres. On this basis it would not meet the strategic merit test for a planning proposal, which is why it should not be considered for approval as a SSDA.

Furthermore, the \$1.49 billion Mount Druitt CBD planning proposal has recently been approved by the State Government. The planning proposal is expected to generate up to 15,000 jobs associated with new cafes, restaurants, retail outlets and commercial space. Scentre has also recently invested approximately \$55 million worth of upgrades to the Mount Druitt centre, which included a rooftop dining, entertainment, and lifestyle precinct.

Development of an unplanned 'comprehensive shopping destination' at ECQ Stage 3 will negatively affect potential investment and job creation in the planned Mount Druitt CBD, detracting the commercial primacy of the Mount Druitt Strategic Centre and viability of the Mount Druitt Westfields.

Conclusion

This submission has raised several concerns on behalf of Scentre Group and Dexus (co-owners) regarding the proposed ECQ Stage 3 SSDA including:

- The premature lodgement of the detailed SSDA when key economic concerns raised in the concept SSDA are yet to be resolved.
- The EIS documentation fails to consider the potential for 'creep' towards traditional retail, whereby outlet uses may convert to traditional retail over time through various means.
- There still significant concerns that the supporting economic analysis for the outlet retail development has underestimated the economic impact of the 'comprehensive shopping destination'.
- The development as part of ECQ will ultimately function as a traditional retail centre, which would threaten the primacy, viability and vibrancy of identified strategic centres, such as Mount Druitt, and local centres, including Rooty Hill and Doonside.

To properly consider these concerns, we request that DPE engage a consult to undertake an independent assessment of the economic impacts on the proposal on existing local and strategic centres from the unplanned comprehensive traditional retail shopping destination at ECQ. We believe the potential trade impacts on surrounding retail centres, in particular Mount Druitt Strategic Centre, are not fully appreciated by the EIS documentation and should be further investigated. We request that the independent assessment be made available for review.

The co-owners are open to further engagement should your wish to discuss the points raised in more detail.

Thank you for considering this submission. If you would like to discuss these matters further, please do not hesitate to contact me at 0419 711 114 or acoburn@mecone.com.au.

Yours sincerely,



Adam Coburn
NSW State Director