

5



NSW Department of Planning and Infrastructure  
GPO Box 39,  
Sydney NSW 2001

<mailto:thomas.mithen@planning.nsw.gov.au>

Eastern Creek Business Hub - SSD-5175  
Submission in Response to Public Exhibition

**Westfield Development &  
Asset Management**

Level 30, 85 Castlereagh Street  
Sydney NSW 2000  
GPO Box 4004  
Sydney NSW 2001  
Australia

Telephone 02 9358 7000  
Facsimile 02 9358 7241  
Internet [westfield.com](http://westfield.com)

**Introduction**

I am writing to you in respect of the above matter and in Westfield's capacity as part owner and manager of Westfield Mt Druitt, a key stakeholder in the Mt Druitt Potential Major Centre. I have reviewed the proposal and wish to register Westfield's strong objection to the proposal.

**Centres Policy**

Westfield is a strong supporter of a well-defined and robust centres policy as reflected in this instance in Sydney's Metropolitan Strategy 2036, the Draft North West Sub Regional Strategy and at a local level in Part D of Blacktown DCP 2006. This proposal is of a scale and mix that will enable it to perform a sub-regional function yet the proposal is not recognised in centres policy in any of these Planning documents. As such, and as with any out of centre and/or new centre proposal, a strategic justification that assesses the benefits and costs of departure from these policies must form a key part of the assessment of the merits of the proposal.

Unfortunately the proposal simply justifies its appropriateness in economic terms from a narrow retail turnover impact perspective and the potential employment generation. The EIA quantifies the turnover impact on Mt Druitt being in the order of \$42m pa the majority of which will be drawn from the Shopping Centre. This is very significant (> 11% impact), particularly given the lack of strategic land use planning justification of the need for the proposal in this location in the first instance and what this might mean to the longer term impact on the potential for Mt Druitt to evolve into the "potential major centre" as currently planned. Justification that the proposal is consistent with a plan of management for the Western Sydney Parklands is not in our view an appropriate basis to assess the merits of a new out of centre retail facility.

The net community benefit of the implications of departure from existing centres hierarchy has not been addressed and in the absence of known tenants the potential employment numbers are in our view speculative at best. Westfield has a long term commitment to Mt Druitt. Our centre currently employs over 2000 people on a full-time/part-time and casual basis, thereby contributing significantly to the local and sub-regional economy. This proposal along with others currently being decided (e.g. DFO Penrith and Liverpool) creates significant uncertainty in the States planning framework. By virtue of the lax planning framework that

has allowed this proposal to be advocated in the first instance, places us at a competitive disadvantage in our ability to leverage our presence to grow the Mt Druitt Centre in the manner envisaged under existing Centres Policy.

### **Specific Comments on the Proposal**

We have based our comments on a review of the adequacy by which the proposal addresses Director General's Environmental Assessment Requirements (DGRs) issued by the Department on the 19<sup>th</sup> March 2012 and considered relevant to Westfield.

### ***Environmental Planning Instruments***

#### ***State Environmental Planning Policy (Western Sydney Parklands) 2009***

We understand that land use is regulated by the *State Environmental Planning Policy (Western Sydney Parklands) 2009* (the WSP SEPP), whereby the site is unzoned, rendering the proposal permissible with consent. Any development proposal is required to be consistent with a range of matters including:

*any plan of management for the parklands, that includes the Western Parklands, prepared and adopted under Part 4 of the Western Sydney Parklands Act 2006, or*

*any precinct plan for a precinct of the parklands, that includes the Western Parklands, prepared and adopted under that Part,*

Whilst the Plan of Management calls for the establishment of business hubs, it is considered that such hubs should be based on an analysis of retail need and demand in the first instance. This has not occurred. The Plan of Management is essentially **self-serving** and should not be used as a primary tool to justify in planning terms the appropriateness of the proposal.

We also note that the site falls within the Rooty Hill precinct whose desired future character, of which the site is part, is described as:

*Maintain the prominence, and cultural and historical significance of Rooty Hill and its sports facilities and amphitheatre.*

The land use opportunities envisaged for the Precinct are:

*Community facilities; Local active recreation; Local passive recreation; Cultural heritage facilities*

Accordingly there appears to be a misalignment between the Plan of Managements above stated intent for the precinct and the Business Hub concept.

### *Draft Competition SEPP*

The NSW Government Review of competition through the planning system which lead to the draft "Competition" SEPP 2010.

The Competition Review made some clear points regarding the need for the planning system to provide a 'level playing field' for entrants to the market to provide equal opportunity to compete with existing businesses. This also relates to existing Centres, in that new retail formats or centres operate under similar conditions and do not receive a 'leg up' or unfair advantage in their establishment or ongoing operation. This proposal challenges Centres policy without any strategic justification and is working to distort the market by giving preferential treatment for future operators within the proposal, when much of it can be comfortably located within or adjacent to existing centres including Westfield Mt Druitt's large land holding, adjacent land owners large holdings and existing space.

This distortion of planning policy unless soundly justified is clearly anti-competitive in so far as it prejudices established centre operators, who reasonably rely on the policy setting to provide a level of certainty regarding future retail expansion proposals. This anti-competitive approach is inconsistent with the draft 'Competitive SEPP' which aims to "*remove anti-competitive barriers in environmental planning and assessment*".

### *Policies Guidelines and Planning Agreements*

#### *Metropolitan Strategy 2036*

The proposal is at odds with the Metropolitan Strategy 2036 which states that "*a centres approach has been and continues to be a defining characteristic of Sydney's urban planning....The key elements of our centres approach continue to be: concentrating activity in accessible centres, managing out of centre development to maximise economic and social activities of clustered activity... and planning for new centres to emerge in appropriate locations*"(p.60)

These elements necessitate a need for a compelling rational and logic from a land use planning perspective to justify new centres at the expense of existing centres. Hence we consider that for a credible assessment of alternatives as required by the EPA Regulation should consider whether the uses contained within the proposal are not better located within existing Centres. The EIS only looks at alternative sites for business hubs within the Parklands itself. Whilst this is an action called up by the Plan of Management, it is not a strategic land use planning based approach that addresses the wider issue of centres planning. Based on the scale and functions of the uses within the proposed Hub, in planning terms there needs to be an analysis of why for example they cannot be better located within the Mt Druitt Potential Major Centre given its proximity and the large amount of available land and existing space.

### *Draft North-West Region Sub-Regional Strategy*

The NWRSSRS provides a finer level of planning analysis and establishes the Sub-Regional Centres hierarchy with a clear emphasis on aligning private sector investment with the state's investment priorities in the higher order centres in this instance in Blacktown and Mt Druitt. It reinforces metropolitan centres planning by citing a number of actions including B4 which is to "*concentrate activities near public transport*". Under this broad action area, the SRS makes a number of important points, including "*in developing out of centre retail, ..... it will be important to ensure that these areas complement rather than compete with centres ..... the net community benefit criteria and specific criteria relating to bulky goods retail outlets included in The Right Place for Business and Services will continue to apply as a merit based test for major development applications*". (p.73)

In our view this issue has not been addressed at all in the proposal and accordingly fails to satisfy the requirements of DGRs

### *Blacktown City Commercial Centres Strategy*

The EIA document includes an assessment against a proposed Blacktown Commercial Centres Strategy 2012. Westfield questions the status of this document as according to the EIA this is still a draft. If this is the case then it is inappropriate for the proponent to be partly justifying the proposal against this document.

Irrespective of this, it is our understanding that Council's Commercial Centres Strategy is effectively represented in Part D of Council's DCP 2006. As stated under s.89H of the Act, assessment of the proposal must have regard to the provisions of s.79C of the Act which includes need to consider the provisions of "any development control plan". Unfortunately by virtue of clause 6A of SEPP WSP, the ability for these provisions to be taken into account cannot be considered in a statutory sense, thereby undermining the statutory weight that is applied to any development that seeks develop within the existing Council hierarchy. This is unfair and a poor response to established planning policy.

### *Blacktown Planning Strategy*

The Blacktown Planning Strategy 2036 reinforces the Council's longer term planning vision set in the earlier Blacktown 2025 Vision document. Both documents reinforce as a key priority the delivery of *Vibrant Commercial Centres*

*To deliver two major CBDs (Blacktown City and Mount Druitt) as well as supporting town and neighbourhood centres strategically located throughout the City's residential areas. All centres are accessible, vibrant, safe and meet the needs of the community.*

The 2036 Strategy sets a broad Urban Structure Plan for the LGA which clearly does not envisage a new sub-regional scaled centre within the Parklands. The EIA fails to address the broader social and economic considerations that have informed this Structure except to again state that "*a new Blacktown Commercial Centres Strategy is expected to be prepared. The*

*Strategy is likely to identify a retail hierarchy to inform Council's responses and decisions to future retail developments."* In other words the EIA appears to be directing Council to complete a new Centres Strategy that acknowledges this proposal, thereby justifying its establishment.

### ***Concept Proposal Built Form and Urban Design***

Westfield acknowledges the inclusion of design guidelines in the proposal however these guideline are as much self-serving to ensure that the development itself is workable. They are not of a nature that retail proposals within centres are increasingly confronted with in terms of mandated street activation zones and built form relationship to public domain and architectural treatments. To Westfield, this again serves to place development in existing centres at a competitive disadvantage as compared to the proposal.

### ***Economic Impact***

The EIA states that this proposal will generate turnover impacts on Mt Druitt in the order of \$42m per annum. While we do not challenge this number and recognise that competition is a natural part of business, it is very significant (>11%) and it should not come at the expense of undoing sound planning policy which our current and future investment decisions in Mt Druitt are partly based. The EIA identifies a trade catchment that reinforces the sub-regional function of this proposal. For this reason any sound assessment of the proposal should look in the first instance at the opportunity to accommodate these uses within existing centres so that they complement the facilities already offered in those centres.

### ***Contributions***

The issue of contributions is addressed on Page 59 of the EIA. Westfield is concerned that a number of the items under "*site specific public benefits*" are not in themselves benefits and in our view appear to be the types of works that would normally be associated with any contemporary centre. Likewise many of the "*adjacent and nearby public works*" appear to be works that would need to be undertaken in order to mitigate impacts of the proposal. It is noted that the EIA contains an error by failing to state net increase in the traffic impacts in the Great Western Highway and Rooty Hill Road Intersections, (see reference to "xx%"). The only significant public benefit is the proposed offsetting of threatened vegetation. There is no detail however of this offsetting will occur that would give the public any confidence that it will actually take place.

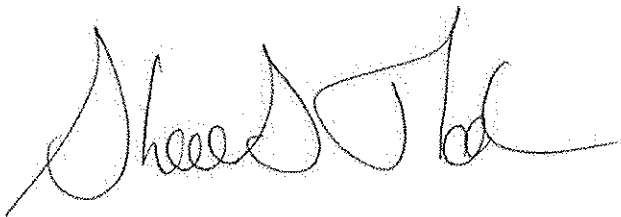
In essence therefore this proposal effectively bypasses the contributions and VPA frameworks that would otherwise normally be applied to such significant development proposal if they were to occur within Centres or if they were to be properly planned new centres. By way of example Westfield recently incurred a significant s.94A contribution for a reducing the size of its Liverpool shopping centre.

When compared to the proposal at Eastern Creek, Westfield (and any other developer within the Liverpool CBD) are effectively being taxed for complying for a decision to invest in an existing / planned centre.

### **Summary**

Westfield are strongly opposed to this proposal. It is poorly conceived in that fails to properly consider the wider social and economic effects that any new centre must have regard to when seeking to challenge the existing sub-regional and centres hierarchy as this proposal does. In the absence of any known end users, and without a clear commitment to demonstrate and provide wider planning benefit (as opposed to commercial benefit to the Parklands) it seems opportunistic and poorly conceived. It also of a scale that has the potential to undermine the sub-regional and local centres hierarchy whose impacts have greatest immediate effect will be on Mt Druitt.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Shane Thompson', with a stylized, cursive script.

**Shane Thompson**  
**Asset General Manager**  
**Development and Asset Management**  
**Westfield Limited**



# Political donations disclosure statement



NSW GOVERNMENT  
Department of Planning

Office use only:

Date received: \_\_\_\_/\_\_\_\_/\_\_\_\_

Planning application no. \_\_\_\_\_

This form may be used to make a political donations disclosure under section 147(3) of the *Environmental Planning and Assessment Act 1979* for applications or public submissions to the Minister or the Director-General.

Please read the following information before filling out the Disclosure Statement on pages 3 and 4 of this form. Also refer to the 'Glossary of terms' provided overleaf (for definitions of terms in *italics* below). Once completed, please attach the completed declaration to your planning application or submission.

## Explanatory information

### Making a planning application or a public submission to the Minister or the Director-General

Under section 147(3) of the Environmental Planning and Assessment Act 1979 ('the Act') a person:

- (a) who makes a *relevant planning application* to the Minister or the Director-General is required to disclose all *reportable political donations* (if any) made within the *relevant period* to anyone by any person with a *financial interest* in the application, or
- (b) who makes a *relevant public submission* to the Minister or the Director-General in relation to the application is required to disclose all *reportable political donations* (if any) made within the *relevant period* to anyone by the person making the submission or any *associate of that person*.

### How and when do you make a disclosure?

The disclosure to the Minister or the Director-General of a *reportable political donation* under section 147 of the Act is to be made:

- (a) in, or in a statement accompanying, the relevant planning application or submission if the donation is made before the application or submission is made, or
- (b) if the donation is made afterwards, in a statement of the person to whom the relevant planning application or submission was made within 7 days after the donation is made.

### What information needs to be included in a disclosure?

The information requirements of a disclosure of reportable political donations are outlined in section 147(9) of the Act.

Pages 3 and 4 of this document include a Disclosure Statement Template which outlines the information requirements for disclosures to the Minister or to the Director-General of the Department of Planning.

Note: A separate Disclosure Statement Template is available for disclosures to councils.

**Warning:** A person is guilty of an offence under section 125 of the *Environmental Planning and Assessment Act 1979* in connection with the obligations under section 147 only if the person fails to make a disclosure of a political donation or gift in accordance with section 147 that the person knows, or ought reasonably to know, was made and is required to be disclosed under section 147.

The maximum penalty for any such offence is the maximum penalty under Part 6 of the *Election Funding and Disclosures Act 1981* for making a false statement in a declaration of disclosures lodged under that Part.

Note: The maximum penalty is currently 200 penalty units (currently \$22,000) or imprisonment for 12 months, or both.

## Glossary of terms (under section 147 of the *Environmental Planning and Assessment Act 1979*)

**gift** means a gift within the meaning of Part 6 of the *Election Funding and Disclosures Act 1981*. Note. A gift includes a gift of money or the provision of any other valuable thing or service for no consideration or inadequate consideration.

Note: Under section 84(1) of the *Election Funding and Disclosures Act 1981* gift is defined as follows:

**gift** means any disposition of property made by a person to another person, otherwise than by will, being a disposition made without consideration in money or money's worth or with inadequate consideration, and includes the provision of a service (other than volunteer labour) for no consideration or for inadequate consideration.

**local councillor** means a councillor (including the mayor) of the council of a local government area.

**relevant planning application** means:

- a) a formal request to the Minister, a council or the Director-General to initiate the making of an environmental planning instrument or development control plan in relation to development on a particular site, or
  - b) a formal request to the Minister or the Director-General for development on a particular site to be made State significant development or declared a project to which Part 3A applies, or
  - c) an application for approval of a concept plan or project under Part 3A (or for the modification of a concept plan or of the approval for a project), or
  - d) an application for development consent under Part 4 (or for the modification of a development consent), or
  - e) any other application or request under or for the purposes of this Act that is prescribed by the regulations as a relevant planning application,
- but does not include:
- f) an application for (or for the modification of) a complying development certificate, or
  - g) an application or request made by a public authority on its own behalf or made on behalf of a public authority, or
  - h) any other application or request that is excluded from this definition by the regulations.

**relevant period** is the period commencing 2 years before the application or submission is made and ending when the application is determined.

**relevant public submission** means a written submission made by a person objecting to or supporting a relevant planning application or any development that would be authorised by the granting of the application.

**reportable political donation** means a reportable political donation within the meaning of Part 6 of the *Election Funding and Disclosures Act 1981* that is required to be disclosed under that Part. Note. Reportable political donations include those of or above \$1,000.

Note: Under section 86 of the *Election Funding and Disclosures Act 1981* reportable political donation is defined as follows:

### 86 Meaning of "reportable political donation"

- (1) For the purposes of this Act, a reportable political donation is:
  - (a) in the case of disclosures under this Part by a party, elected member, group or candidate—a political donation of or exceeding \$1,000 made to or for the benefit of the party, elected member, group or candidate, or
  - (b) in the case of disclosures under this Part by a major political donor—a political donation of or exceeding \$1,000:
    - (i) made by the major political donor to or for the benefit of a party, elected member, group or candidate, or
    - (ii) made to the major political donor.
- (2) A political donation of less than an amount specified in subsection (1) made by an entity or other person is to be treated as a reportable political donation if that and other separate political donations made by that entity or other person to the same party, elected member, group, candidate or person within the same financial year (ending 30 June) would, if aggregated, constitute a reportable political donation under subsection (1).
- (3) A political donation of less than an amount specified in subsection (1) made by an entity or other person to a party is to be treated as a reportable political donation if that and other separate political donations made by that entity or person to an associated party within the same financial year (ending 30 June) would, if aggregated, constitute a reportable political donation under subsection (1). This subsection does not apply in connection with disclosures of political donations by parties.
- (4) For the purposes of subsection (3), parties are associated parties if endorsed candidates of both parties were included in the same group in the last periodic Council election or are to be included in the same group in the next periodic Council election.

**a person has a financial interest** in a relevant planning application if:

- a) the person is the applicant or the person on whose behalf the application is made, or
- b) the person is an owner of the site to which the application relates or has entered into an agreement to acquire the site or any part of it, or
- c) the person is associated with a person referred to in paragraph (a) or (b) and is likely to obtain a financial gain if development that would be authorised by the application is authorised or carried out (other than a gain merely as a shareholder in a company listed on a stock exchange), or
- d) the person has any other interest relating to the application, the site or the owner of the site that is prescribed by the regulations.

**persons are associated with each other** if:

- a) they carry on a business together in connection with the relevant planning application (in the case of the making of any such application) or they carry on a business together that may be affected by the granting of the application (in the case of a relevant planning submission), or
- b) they are related bodies corporate under the *Corporations Act 2001* of the Commonwealth, or
- c) one is a director of a corporation and the other is any such related corporation or a director of any such related corporation, or
- d) they have any other relationship prescribed by the regulations.



# Political Donations Disclosure Statement to Minister or the Director-General

If you are required under section 147(3) of the Environmental Planning and Assessment Act 1979 to disclose any political donations (see Page 1 for details), please fill in this form and sign below.

## Disclosure statement details

Name of person making this disclosure

Westfield Limited

Planning application reference (e.g. DA number, planning application title or reference, property address or other description)

Eastern Creek Business Hub 555-5175

Your interest in the planning application (circle relevant option below)

You are the APPLICANT

YES / NO

OR

You are a PERSON MAKING A SUBMISSION IN RELATION TO AN APPLICATION

YES / NO

## Reportable political donations made by person making this declaration or by other relevant persons

\* State below any reportable political donations you have made over the 'relevant period' (see glossary on page 2). If the donation was made by an entity (and not by you as an individual) include the Australian Business Number (ABN).

\* If you are the applicant of a relevant planning application state below any reportable political donations that you know, or ought reasonably to know, were made by any persons with a financial interest in the planning application, OR

\* If you are a person making a submission in relation to an application, state below any reportable political donations that you know, or ought reasonably to know, were made by an associate.

Name of donor (or ABN if an entity)	Donor's residential address or entity's registered address or other official office of the donor	Name of party or person for whose benefit the donation was made	Date donation made	Amount/ value of donation
No reportable political donations made from 8/1/10 - 8/1/12				

Please list all reportable political donations—additional space is provided overleaf if required.

By signing below, I/we hereby declare that all information contained within this statement is accurate at the time of signing.

Signature(s) and Date

Name(s)

Shane Morrison

9th November 2012

SHANE MORRISON