



**STATE ENVIRONMENTAL PLANNING POLICY
(SYDNEY GROWTH CENTRES) 2006
AND THE ENVIRONMENTAL
PLANNING AND ASSESSMENT
(GROWTH CENTRES) REGULATION 2006**

**Submission of the Urban Development
Institute of Australia NSW to the Department
of Planning**

March 2006

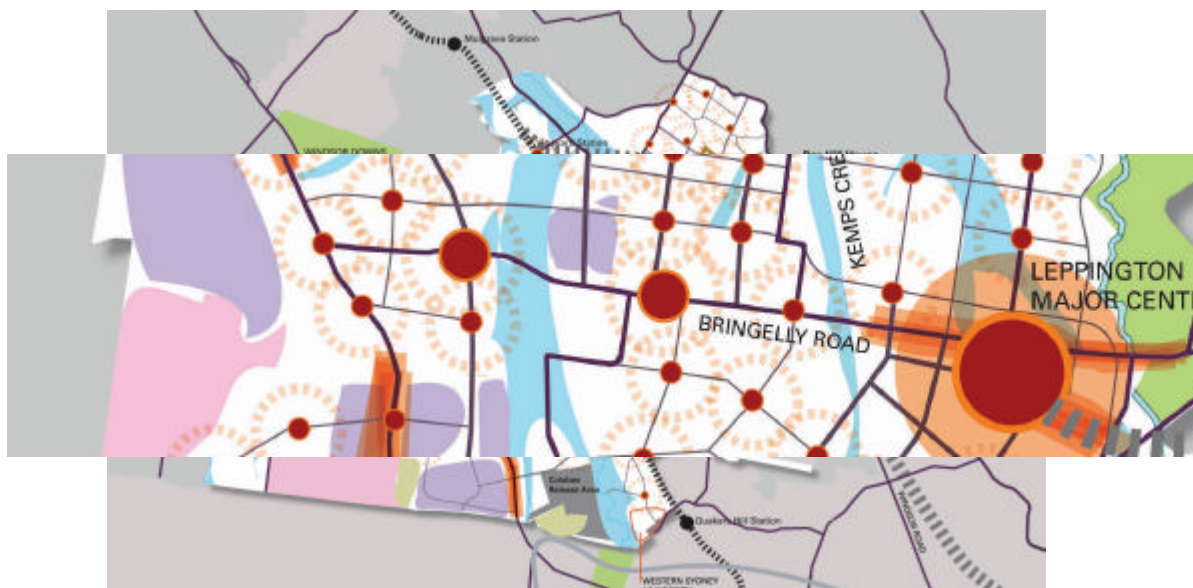


INTRODUCTION

UDIA NSW commends the government on the release of the State Environmental Planning Policy (Sydney Region Growth Centres) 2006 and the associated proposal for the *Environmental Planning and Assessment Amendment (Growth Centres) Regulation 2006*. The Institute is particularly encouraged by the simple and comparatively legible approach used in drafting the documents.

UDIA NSW offers the comments contained below to assist the government in refining the planning instrument and the proposed amendment. Our three principle concerns relate to:

- i. Organisational primacy;
- ii. Precinct planning; and
- iii. Development control.



DISCUSSION

1. Organisational Primacy

The draft SEPP and regulation state that the Minister for Planning receives advice from the Growth Centres Commission and the Department of Planning with regard to precinct approvals. Furthermore, this process is also heavily influenced by the involvement of local government. While UDIA NSW recognises that the Minister for Planning is the ultimate consent authority, the delegation and advisory process has the potential to generate considerable confusion due to a lack of clarity in terms of the first point of contact between multiple agencies.

Essentially, UDIA NSW is seeking some degree of organisational primacy in the precinct planning phase. The SEPP and Regulation should identify the principal point of contact for developers.

UDIA NSW contends that the Growth Centres Commission as the development corporation charged with coordinating the orderly release of land should have primacy and be the first point of contact for developers in addressing precinct planning issues.

RECOMMENDATION 1

That the State Environmental Planning Policy (Sydney Growth Centres) 2006 and the EP&A (Growth Centres) Regulation 2006 identify the Growth Centres Commission as the primary point of contact for developers in preparing and seeking approval for precinct plans.

2. Precinct Planning

Precinct mapping

It appears that the current exhibition material does not identify the precincts earmarked for release in the first stage. The previously exhibited draft structure plan released in July 2005 illustrated precincts for first release. These included:

- North West - North Kellyville, Alex Avenue and Riverstone Precincts
- South West - Oran Park, Badgally Road and Edmondson Park Precincts.

We understand that the precincts for first release will now be identified by recommendation of the Growth Centres Commission. UDIA NSW does not necessarily advocate the above precincts for first release but rather that a coherent, orderly and transparent process be established to assist the Growth Centres Commission and developers identify and phase precinct releases.

UDIA NSW contends that improved guidance from the Growth Centres Commission is required to geographically define precincts. The cooperation of adjoining landowners would be easier to achieve if such landowners are identified within a specific catchment. UDIA NSW therefore recommends that the Growth Centres Commission nominate indicative precinct boundaries based on infrastructure delivery.

That is, UDIA NSW contends that many precincts will be revealed by their ability to share the delivery of trunk services (power, water, regional transport arterials). The realisation of infrastructure opportunities is the key to delivering communities in the release areas. This would not preclude the ability of precincts to leapfrog each other if they are better able to

deliver land in the immediate future. Precincts which respond to and are congruent with discrete infrastructure supply programmes would present an intuitive and effective solution to staging.

RECOMMENDATION 2

That the Growth Centres Commission identify suggested precinct boundaries based on infrastructure catchments.

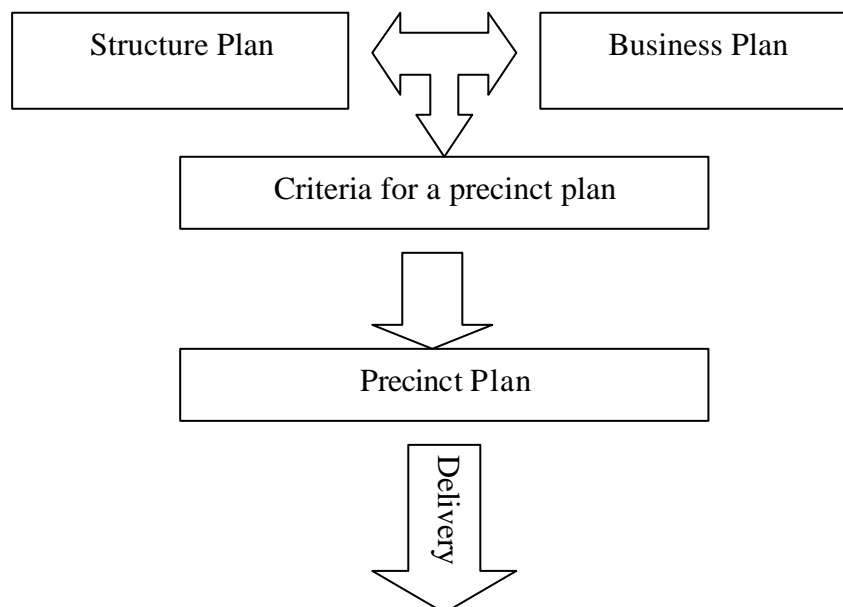
Precinct delivery

It has been established that precinct planning is dependent on the orderly delivery of infrastructure (See precinct mapping). UDIA NSW therefore advocates a planning process which integrates infrastructure supply with precinct planning. UDIA NSW believes that the Growth Centres Commission is central to this process.

It is recommended that the Growth Centres Commission link the Structure Plan to the proposed Business Plan to inform the precinct planning process. The Structure Plan identifies those areas which are potentially able to be developed and illustrates infrastructure requirements to realise such communities. The business plan documents funding available to supply the infrastructure using forecast government and developer contributions and accounts for available resources and personnel to manage the tasks.

From these two documents a set of criteria can be established. The criteria nominate the preconditions for the implementation of precinct plans in terms of contributions and infrastructure delivery to satisfy the terms of the business plan and structure plan.

This will improve transparency and accountability for the government while providing greater certainty for developers. Essentially, the criteria document would identify matters to be satisfied as part of a precinct plan in order to gain approval to proceed.



RECOMMENDATION 3

That the Growth Centres Commission nominate and publish criteria for precinct plan approval, which satisfy the requirements of a linked structure plan and business plan.

Part Precincts

Clause 13 of the Draft Regulation provides for the declaration of *part* of a precinct by the Minister and Clause 16 provides for the preparation of a precinct plan by the Commission or a landowner on behalf of the Commission. Numerous landowners have commenced comprehensive planning of their lands, many independently of the other landowners in the same precinct. Conversely, many landowners in areas subject to fragmented land ownership will not be in a position to undertake comprehensive precinct planning. It is therefore reasonable to enable those landowners with the means to plan and deliver land production to proceed without being delayed by neighbouring fragmented areas within the same identified precinct. Alternatively, cooperation between small landowners should not be deterred if a large landholder within the same precinct wishes to defer development for particular commercial reasons.

Accordingly UDIA NSW therefore advocates that the relevant clauses regarding precinct plans within the Regulation be amended to provide for the preparation of a plan for *part* of a precinct consistent with clause 13 which allows the Minister to declare part of a precinct as a release area.

RECOMMENDATION 4

That the relevant clauses regarding precinct plans within the Regulation be amended to provide for the preparation of a plan for part of a precinct.



Levy Credit

UDIA NSW understands that it has yet to be determined whether the Commission or landowners will ultimately take carriage of the preparation of the precinct plans. To date, considerable investment has been made by landowners with large landholdings in professional fees and investigations. Anecdotal information suggests that the amount expended by private investors already exceeds \$5 million in the NW and SW growth centres and continues to rise as precinct planning gains momentum.

This is a significant investment and will be ultimately borne by either the Commission or the landowner. Reference to the table in the Draft Infrastructure Plan in the previous Exhibition material in July 2005 suggests that these costs will be borne by Government and included and recovered in the Special Infrastructure Levy applicable to each lot.

The Growth Centres Commission currently lacks both the resources and finance to undertake all precinct planning and it is questionable whether following business planning, it will have the finance and resources in the future.

UDIA NSW is also concerned about the potential for duplication where competing precinct plans are prepared. UDIA NSW understands that a precedent for this occurred with 300ha at Eastern Creek under SEPP 59. This would be needless waste of resources.

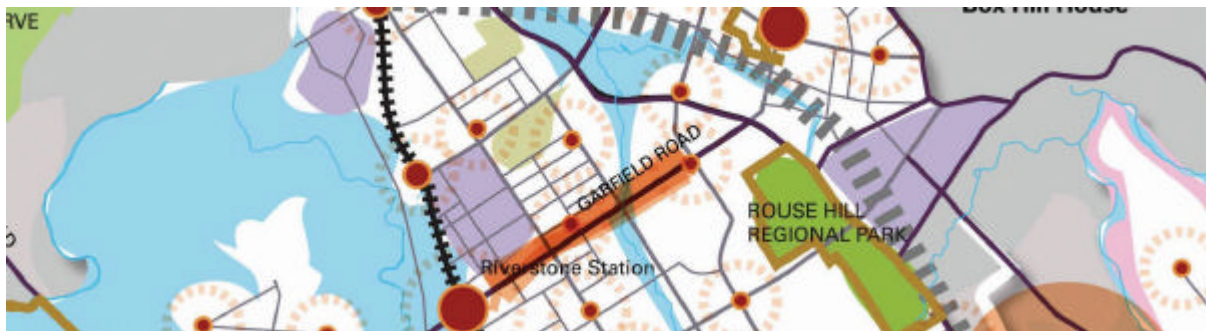
Accordingly, UDIA NSW recommends, that where landowners underwrite the cost of a precinct plan on behalf of the government, the Growth Centres Commission acknowledge that contribution by recording credits toward the payment of the infrastructure levy. Furthermore, it is suggested that Growth Centres Commission focus its precinct planning activities and resources in areas of highly fragmented land ownership.

RECOMMENDATION 5

Where landowners underwrite the cost and prepare a precinct plan on behalf of the Commission, the Growth Centres Commission should acknowledge that contribution by recording credits toward the payment of the Infrastructure Levy.

RECOMMENDATION 6

That Growth Centres Commission focus its precinct planning activities and resources in areas of highly fragmented land ownership.



3. Development control

The following observations are offered for discussion with regard to development control:

Consistency

As the draft SEPP provides for development controls to be defined by the precinct plan there is a need to ensure consistency between future controls, in particular zones. Consistency of planning controls is an important element in streamlining the planning process.

The State Government initiative of reforming the planning system in NSW included an investigation into standardising provisions in local environment plans and produced a

working paper entitled *Standard Provisions for LEPs in NSW working paper* (2003). The paper stated that the purpose of the planning reforms in NSW is to "*simplify the 'practice' of statutory plan making by reducing layers of planning instruments and by ensuring that the LEP is easier to use and understand*". It identified a number of areas where it is possible to achieve standardisation, including definitions and zone categories with a 'common core' of land uses or types of development (DoP, 2003).

The draft SEPP in effect provides for spot rezoning. To support the planning reform initiative to 'simplify' statutory planning, future zones and definitions proposed in the precinct plans should be co-ordinated to achieve a standard approach of the statutory provisions. Ideally, this would be addressed in the Development Code. This would allow for greater integration with future LEPs and importantly contribute to a planning system that is easily understood by the community and developers.

The proposed zones included in the draft SEPP are not consistent with proposed zones previously exhibited in draft *Standard Instrument (Local Environmental Plans) Order 2005*. The proposed objectives of the Environment Conservation Zone and the Public Recreation - Local Zone vary from the objectives in the recently exhibited draft Order 2005. Variations between environmental planning instruments contribute to a complex system.

A common set of provisions would facilitate better communication between government, the industry and the community and would reduce the scope for misinterpretation of terms and provisions. This in turn could preclude Land and Environment Court challenges.

RECOMMENDATION 7

The SEPP where practicable should be consistent with the spirit and objectives of the Standard Instrument (Local Environmental Plans) Order 2005 and adopt the model template zones and definitions where applicable.

Flood

Flood prone land is defined in the draft SEPP by the 1 in 100 year flood limit. The present flood prone land is insufficiently illustrated on the maps. UDIA NSW seeks assurances that authorities and in particular, councils will not apply the probable maximum flood as the limit.

Furthermore, UDIA NSW believes that flood prone land presents recreational (eg school playing fields, equestrian, cycling), agricultural and service corridor opportunities beyond its potential biodiversity values. For example, at Marsden Park the flood lands are up to three kilometres wide and comprise 1100 ha.

UDIA NSW recognises that development of flood prone land has not been unilaterally disqualified but will be subject to further study. UDIA NSW contends that access to some areas of the flood prone land for residential development should be considered as it would expand the development footprint at no additional cost to infrastructure through limited and strategic reclamation of the flood plain.

RECOMMENDATION 8

That the SEPP emphasise that the flood plain is defined by the 1 in 100 year flood and that this will be maximum extent of the constraint on potentially developable land. That this be accurately mapped and that no further allowance beyond the 1:100 year limit will be sought.

Bushfire

There is no mention in the SEPP or Regulations of the “*Regulations of the Planning for Bushfire Protection – 2001*” or the “*Rural Fire Services Act 1997*” (bushfire mapping is mentioned in Part 1 of Annexure B to the Regulations). The current process for identifying, approving and providing Asset Protection Zones is one of the most contentious aspects of urban development in NSW. The present approval process is inconsistent with recent planning reforms with regard to concurrences. Furthermore, UDIA NSW believes that the current approval regime imposes major delays, significantly reduces dwelling yield and is contrary to good planning and walkable neighbourhoods.

Furthermore, APZ’s are in conflict with the spirit and possibly the intent of Part 6 which seeks to limit the clearing of vegetation. Industry experience suggests that APZ’s will be required after each stage requiring significant clearing and this will have a considerable impact especially in transitional areas.

UDIA NSW requests that the government clarify the role of the Rural Fire Service in the approval process and limit the impact of APZ’s on the effective design of walkable neighbourhoods.

RECOMMENDATION 9

That the government clarify the role of the Rural Fire Service in the approval process and limit the impact of APZ’s on the effective design of walkable neighbourhoods.



CONCLUSION

The issues of principle concern to UDIA NSW and its members are presented below. UDIA NSW recommends:

1. that the State Environmental Planning Policy (Sydney Growth Centres) 2006 and the EP&A (Growth Centres) Regulation 2006 should identify the Growth Centres Commission as the primary point of contact for developers in preparing and seeking approval for precinct plans.
2. that the Growth Centres Commission identify suggested precinct boundaries based on infrastructure catchments.
3. that the Growth Centres Commission nominate and publish criteria for precinct plans to meet the requirements of a linked structure plan and business plan in order to gain approval to proceed.
4. that the relevant clauses regarding precinct plans within the Regulation be amended to provide for the preparation of a plan for part of a precinct; and
5. where landowners underwrite the cost and prepare a Precinct Plan on behalf of the Commission, the Growth Centres Commission should acknowledge that contribution by recording credits toward the payment of the Special Infrastructure Levy.

UDIA NSW believes that the SEPP is a valuable and constructive step in the delivery of the growth centres. With the structure plan and SEPP complete, the opportunity exists to significantly reduce the time taken to deliver new communities. The current LES/LEP process can expend approximately two to three years. The Department of Planning has indicated that the adoption of the principal planning instruments will enable the precinct planning process to take less than 18 months from start to finish. UDIA NSW trusts that the Department and the Growth Centres Commission will retain sufficient resources to achieve this objective.

UDIA NSW again endorses the establishment of the Growth Centres Commission and is convinced that an effective development corporation will be pivotal to delivering new communities in an increasingly complex regulatory and market environment.

In conclusion, UDIA NSW would like to thank the government for its continued consultation on this matter and looks forward to assisting with implementation of the above recommendations.

RECOMMENDATIONS

UDIA NSW therefore presents nine recommendations to facilitate the orderly and efficient delivery of new communities in the growth centres. These include:

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RECOMMENDATION 2

That the Growth Centres Commission identify suggested precinct boundaries based on infrastructure catchments.

RECOMMENDATION 3

That the Growth Centres Commission nominate and publish criteria for precinct plan approval, which satisfy the requirements of a linked structure plan and business plan.

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That the relevant clauses regarding precinct plans within the Regulation be amended to provide for the preparation of a plan for part of a precinct.

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Where landowners underwrite the cost and prepare a precinct plan on behalf of the Commission, the Growth Centres Commission should acknowledge that contribution by recording credits toward the payment of the Infrastructure Levy.

RECOMMENDATION 6

That Growth Centres Commission focus its precinct planning activities and resources in areas of highly fragmented land ownership.

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The SEPP where practicable should be consistent with the spirit and objectives of the Standard Instrument (Local Environmental Plans) Order 2005 (Order 2005) and adopt the model template zones and definitions where applicable.

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