

21 October 2011

**Mr Neil McGaffin**  
**Executive Director, Planning Operations**  
**GPO Box 39, Sydney NSW 2001**

Dear Mr McGaffin

Thank you for your reply dated 6 September 2011 (your reference 11/13356) to my letter addressed to the Director General of Planning dated 25 July 2011.

Unfortunately your reply does not answer the key question in our original correspondence:

- Is the Department able to arbitrarily set aside the requirements of the section 117 rural lands directive?

1. The objective of the Section 117 directive referred to is to "protect the agricultural production value of rural land". In part (5), it sets out circumstances in which a draft LEP may be inconsistent with it. *None of the points put forward in your letter to justify the decision to reduce the minimum lot size in the former rural 1(a) area fall within those circumstances.*

2. Points similar to those put forward in your letter to justify the decision could just as easily be raised in regard to other so-called 'rural' areas. For example, the minimum lot size could be reduced to 2 hectares along the ridges in Glenorie and Kenthurst, with justification being that this land:

- Already has town water to many properties;
- Was the subject of a 1992 council decision to reduce the minimum lot size to 2 hectares that was never fully implemented;
- Has adequate infrastructure to support 2 hectare lots, and is close to services and centres at Dural and Glenorie;
- Is already surrounded by and interspersed with many lots that are smaller than the existing 10 hectare minimum.

What we see is a process that lacks integrity. Both your Department and the Hills Council have repeatedly told us that the minimum lot size in our area cannot be reduced unless justified by studies and a strategy. Many studies have been carried out, but although the majority of land in the area is unsuitable for agriculture and is predominantly used for large-lot residential purposes, the strategy incongruously focusses on 'preserving agricultural land'. Finally the minimum lot size is reduced, but in the very area most suitable for 'preserving agricultural land' – Maraylya, Box Hill, and Nelson – with agricultural zoning applied over the areas least suited to it!

Furthermore, the requirement to quarantine at least half any property from development under the proposal for cluster subdivision defeats the agricultural objectives of the zone. It cannot be argued on the one hand that our area should be zoned for agriculture, while only permitting it to be developed in such a way as to exclude at least half the property from agricultural use. It would be far more sensible and reasonable to remove the 1.0 hectare maximum allowable lot size for development lots in the cluster subdivision proposal, as suggested by our group and others.

We see this as one arbitrary and inconsistent decision after another. Basic errors of reason are met with a metaphorical shrug of the shoulders, or with random 'justifications', most of which do not withstand a moment's scrutiny.

As owners of the land in question, we deserve better. It isn't acceptable for the Department or the Council to put forward criteria that must be satisfied before reducing minimum lot sizes, then arbitrarily set aside those criteria for some, but not others. It is neither just nor democratic.

What we are seeking is nothing special. We are not asking for a handout or benefit at someone else's cost. We simply want to be able to do what most landowners around the world expect to be able to do with their property – carry out development in accordance with market demand – and in such a way that it will have minimal side-effects beyond those resulting from any form of development. As pointed out in our submission, there is no need to carry out further studies or strategies. Vast amounts of time and money have already been wasted over this – it is now time for common sense, reason and justice to prevail.

In the interests of restoring confidence and integrity to the planning system, **we ask that you rectify the anomalies we and others have identified**, so we can develop our properties the same way that those in Maraylya, Box Hill, and Nelson will be able to, through simply reducing the minimum lot size to 2 hectares or an equivalent dwelling density without making Community Title mandatory.

Yours sincerely,

**Alex Davidson**  
**President**