

ITEM 7. POST-EXHIBITION: 87 BAY STREET GLEBE - PLANNING PROPOSAL - DRAFT DEVELOPMENT CONTROL PLAN AND DRAFT PLANNING AGREEMENT**FILE NO: S091122****SUMMARY**

Redevelopment of the former industrial buildings at 87 Bay Street Glebe provides an opportunity to facilitate additional housing in a prime location within walking distance of retail services, employment opportunities, education facilities and central Sydney. The site is located opposite Wentworth Park and provides an opportunity to share the Park's amenity. In addition, the Planning Proposal, which will allow the site's redevelopment and provide for much-needed housing outside of heritage conservation areas, protects the amenity and character of residential villages.

Increasing the supply of affordable housing is a key policy priority for Council, with a diversity of housing options vital to a thriving community and economy. This Planning Proposal will deliver 7.5% of residential floorspace on the site as affordable housing to be owned or managed by a NSW-registered Community Housing Provider in perpetuity.

The Planning Proposal seeks to amend the floor space ratio control from 1.5:1 to 3.85:1 (including a potential design excellence bonus) and to amend the height control to allow for buildings up to 33 metres (approximately 9 storeys). These amended controls can only be accessed where 0.75:1 floor space ratio is retained for non-residential purposes, where a rate of 7.5% of all residential floor space is provided on-site as affordable housing, nominated public domain improvements are provided, and where BASIX requirements are exceeded by 25%.

In October 2012, Council and the Central Sydney Planning Committee resolved to seek a Gateway Determination from the Department of Planning and Infrastructure to allow exhibition of the Planning Proposal, alongside the accompanying development control plan and Planning Agreement. After receipt of the Gateway Determination in November 2012, the Planning Proposal was publicly exhibited for a period of 60 days. In response to the public exhibition, a total of 17 submissions were received. The purpose of this report is to provide a summary of the issues raised and to address particular matters raised by the community.

This report recommends no significant changes to the Planning Proposal, Development Control Plan, or Planning Agreement as a consequence of public exhibition. It recommends that Council endorse the Planning Proposal for finalisation and making as a local environmental plan, adopt the Development Control Plan and execute the Planning Agreement.

Parliamentary Counsel's Office will draft the Local Environmental Plan and issue Council with a draft instrument and an opinion that it can be legally made. Once made, it will be forwarded to the Department of Planning and Infrastructure for notification on the NSW Legislation website. The Local Environmental Plan will take effect on notification, as will the Development Control Plan and Planning Agreement.

RECOMMENDATION

It is resolved that the Central Sydney Planning Committee:

- (A) note the matters raised in response to the public exhibition of the '*Planning Proposal: Sydney Local Environmental Plan 2012 - 87 Bay Street Glebe*', '*Sydney Development Control Plan 2012 - 87 Bay Street Glebe*' and '*Planning Agreement – 87 Bay Street Glebe*', as shown at **Attachment A** to the subject report;
- (B) under section 39(1) of the *City of Sydney Act*, approve '*Planning Proposal: Sydney Local Environmental Plan 2012 - 87 Bay Street Glebe*', as shown at **Attachment B** to the subject report, to be made as a local environmental plan under section 59 of the *Environmental Planning and Assessment Act 1979*;
- (C) note the *Draft Development Control Plan*, as amended and shown at **Attachment C** to the subject report; and
- (D) note the '*Planning Agreement - 87 Bay Street Glebe*' shown at **Attachment D** to the subject report.

ATTACHMENTS

Attachment A: Summary of submissions

Attachment B: Planning Proposal - Sydney Local Environmental Plan 2012 - 87 Bay Street Glebe
(Note this attachment will be circulated separately from the Agenda papers and to Central Sydney Planning Committee Members and relevant senior staff only. A copy will be available for viewing on Council's website, and at the One Stop Shop and Neighbourhood Service Centres).

Attachment C: Sydney Development Control Plan 2012 - 87 Bay Street Glebe

Attachment D: Planning Agreement - 87 Bay Street Glebe

Attachment E: Table of proposed amendments

Attachment F: Mission Australia Housing letter of support

BACKGROUND

1. In November 2011, the landowner for the site at 87 Bay Street, Glebe - also known as 2-8 Wentworth Street – submitted a request to amend the planning controls applying to the site. A map of the site is shown at Figure 1.

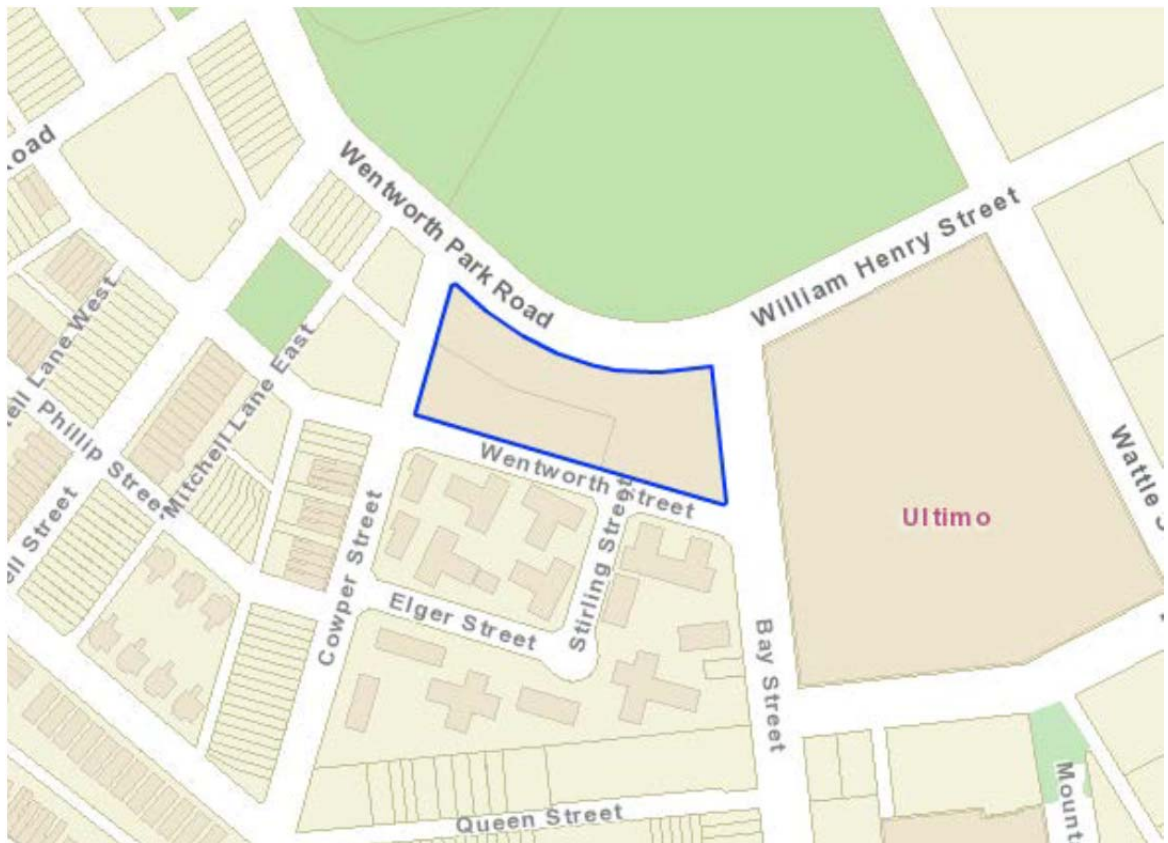


Figure 1: Location of subject site, edged in blue

2. The purpose of the requested amendments was to enable the redevelopment of existing commercial buildings with residential flat buildings of up to 9 storeys in height, along with commercial and retail uses on the ground and first floors. The landowner was seeking a total floor space ratio of 4.5:1.
3. The Proposal was developed with reference to an earlier Hill Thallis Feasibility and Design Study (2009) undertaken in response to Sustainable Sydney 2030. The Hill Thallis Study undertook an urban design analysis of this site within a wider precinct and recommended potential development controls to allow for a future built form that responded to a Local Government Area-wide demand for additional and diverse housing.
4. The Proposal was refined during discussions with City staff, to produce a built form outcome more in keeping with proposed development at the adjacent Housing NSW site and the recommendations of the Hill Thallis Study. The total floor space ratio in the Proposal was reduced to a maximum of 3.85:1, including a potential design excellence bonus. The landowner offered to enter into a Planning Agreement with the City to ensure that the increase in development potential was accompanied by a commensurate public benefit.

5. The public benefit offer to be captured by a voluntary Planning Agreement includes:
 - (a) 7.5% of all residential floorspace (or of all floorspace above a floor space ratio of 1.5:1) to be provided as affordable housing, on-site and in perpetuity, to be controlled by a NSW-registered Community Housing Provider;
 - (b) public domain improvements including a 1.5 metre setback along Wentworth Park Road dedicated to Council for footpath widening, and for a through-site link between Wentworth Street and Wentworth Park Road; and
 - (c) sustainability measures of a further 25% improvement in energy and water reduction targets under the BASIX scheme.
6. Following an assessment by Council staff, the Central Sydney Planning Committee and Council resolved, in October 2012, to endorse for concurrent public authority and community consultation:
 - (a) *'Planning Proposal: Sydney Local Environmental Plan 2012 – 87 Bay Street Glebe'*;
 - (b) *'draft Sydney Development Control Plan 2012 – 87 Bay Street Glebe'*; and
 - (c) *'draft Planning Agreement – 87 Bay Street Glebe'*.
7. Council resolved to exhibit the above for a minimum 60 day public exhibition period, including one public meeting, to aid community understanding of the Proposal and allow for appropriate input.

Public exhibition and consultation

8. A Gateway Determination was issued on 21 November 2012 from the Department of Planning and Infrastructure to allow consultation to take place. Owing to the Christmas/New Year and school holiday period, and for negotiations to finalise the draft planning agreement, the public exhibition was delayed until March 2013.
9. Public agency consultation was undertaken in accordance with the Gateway Determination. Six of the nominated agencies responded, with four raising no issues with the Proposal and two providing general support for Council's efforts on affordable housing provision.
10. The 60 day public exhibition period commenced on 26 March 2013 and continued until 24 May 2013. Exhibition materials were made available for viewing at the One Stop Shop and Glebe Library, and on the City's website.
11. At the start of the exhibition period, Council officers attended meetings of the Glebe Society and the Coalition of Glebe Groups to present an overview of the Proposal and discuss concerns with their members.
12. The City letterbox dropped 1,600 surrounding addresses providing notification of the public exhibition, and again prior to the public drop-in session.

13. A public drop-in session was held on 1 May 2013, with approximately 40 people attending. A total of 17 community submissions were received over the course of the 60 day exhibition, mostly from nearby residents and local residents' groups, including three template submissions and eight completed feedback forms from the meeting on 1 May.
14. Submissions from residents and residents' groups raise concerns about potential local impacts, including neighbourhood character, excessive height and density, and traffic congestion. A submission on behalf of the landowner requests that the minimum amount of non-residential floor space be reduced. A submission from a Community Housing Provider raises concerns about the affordable housing contribution. The submissions are dealt with in detail at the relevant section of this report and at **Attachment A**.
15. No significant changes are proposed as a result of matters raised in submissions. Some minor changes to the wording of the Development Control Plan are proposed to strengthen its intent. The minor changes are identified at **Attachment E**.

Issues arising from public exhibition

Neighbourhood character

16. The most common concern is that the new development would not be sympathetic to the established neighbourhood character of the surrounding streets. The area to the west of the site is largely one and two-storey residential development with an established character and heritage significance. Submissions expressed concern that the height and density that would be allowed under the Proposal would erode the heritage character of Glebe. Some submissions suggested that the allowable density on the site should be consistent with other residential development in Glebe.
17. The proposed controls set a building envelope to ensure future development does not compromise the character of the adjacent areas. It sets higher development towards the northern boundary, furthest from existing neighbourhoods and low-scale streets, and to the eastern boundary, closest to non-residential uses and furthest from Glebe. At the nearest point to existing dwellings on Cowper Street, future development would step down to between six and four storeys. Development would be required to go through a competitive design process, which will ensure that neighbourhood character is fully considered in any future development application. Applying a similar set of density controls to those that exist in existing residential areas of Glebe would not make appropriate use of the opportunity to provide new housing outside of existing conservation areas.
18. The site is not located within a heritage conservation area and it is not within the vicinity of any buildings that are heritage items. The street trees in Cowper Street are listed as heritage items in Sydney Local Environmental Plan 2012, but the proposed building envelopes will not adversely impact on the street trees.

Traffic and Parking

19. Some submissions contend that additional development would add to local traffic congestion and some refer to the combined traffic with the adjacent Housing NSW site, and that this cumulative impact should be subject to detailed traffic modelling. Another concern is that not enough parking spaces have been allowed for, and there will be a loss of on-street parking on Wentworth Street.
20. As part of the Proposal, the landowner provided a detailed traffic impact assessment report, which included micro-simulation intersection modelling of the anticipated traffic impacts of future development. This modelling also included the cumulative impact of the proposed development on the Housing NSW site. The modelling indicated that while the traffic generated by both developments would lead to a local increase in traffic, it would only lead to very minor impacts on intersection performance and local traffic conditions. Any future development on the site will be required to comply with the on-site parking rates in *Sydney Local Environmental Plan 2012* which aim to reduce traffic congestion

Overshadowing

21. Another concern is that the taller buildings allowed under the Proposal would cause overshadowing to the low-rise dwellings on Cowper Street and to the proposed dwellings on the Housing NSW site to the south, and that apartments within any future development on the site would themselves be overshadowed.
22. Testing shows that the overshadowing caused by the higher building elements would not cause any overshadowing to the existing dwellings on Cowper Street, when measured at 21 June between 10am and 2pm. The dwellings on the site, and those on the adjacent Housing NSW site, would satisfy the amenity objectives of the Residential Flat Design Code, with at least 70% receiving a minimum of three hours direct sunlight in mid-winter.

Flooding and Stormwater Management

23. Some submissions are concerned that the site is flood-prone, and that development will exacerbate the situation and potentially pose a danger to residents.
24. The Flood and Stormwater Study accompanying the Proposal has assessed the suitability of the site and recommended planning controls to ensure that risks to property and life are minimised. As the Site is currently fully covered with buildings and hard surfaces, it plays no role in local flood management and its future development would have a negligible effect on flooding in the area. Further, any development application will have to demonstrate compliance with the flood management controls in *Sydney Local Environmental Plan 2012*, and other complementary controls in *Sydney Development Control Plan 2012*.

Lack of open space in the Proposal

25. Some submissions argue that open space should be provided as part of the development.

26. The site is directly opposite Wentworth Park, a regional park, and any new open space provided on-site would add little to the amenity of the public domain. The Proposal and Planning Agreement include provision for a 1.5m strip of private land along the Wentworth Park Road frontage to be transferred to Council to allow for a wider footpath with street tree planting, completing an avenue of large trees along that portion of the road. There is also the provision for a 6 metre through-site link to connect through the site. In combination, these two initiatives will provide for a significant improvement in local connectivity and in the amenity of the public domain.

Process

27. Some submissions raise concern that this Proposal follows closely on the finalisation of the City Plan and the publication of *Sydney Local Environmental Plan 2012*, and that Council has already approved the Proposal and Planning Agreement prior to public exhibition.
28. Council has responded to the first concern by conducting a longer public exhibition period of 60 days and holding a community drop-in session during that exhibition period to allow for a full understanding of the Proposal and to inform community submissions. In response to the second concern, it is noted that Council has consulted with the community at the earliest opportunity afforded to it under the legislated planning proposal process.

Additional issues

29. Other issues raised include the distance to, and relative inaccessibility of, public transport and other local amenities and the relatively poor amenity that would be afforded future development due to the location along busy roads and in proximity to Council's depot at Bay Street.
30. The site is located within a short distance of bus routes along Broadway linking to both Parramatta Road and King Street, across Wentworth Park from a light rail stop, and within one kilometre of Central Station. It is also directly across from Wentworth Park and within 250 metres of a regional shopping centre at Broadway. Amenity of future residential development will be comparable to existing developments along roads elsewhere in the City, with negative aspects of the roads balanced by positive aspects, as described above. The affordable housing units are proposed for the south-west corner of the site, furthest from both Bay Street and Wentworth Park Road.

Minimum non-residential component

31. A submission from the landowner has requested that the minimum non-residential component of any future development be amended from the current 0.75:1 floor space ratio in the Proposal, to a minimum of 0.35:1 floor space ratio. The submission contends that there is not sufficient market demand for commercial floor space in CBD-fringe locations, such as the subject site, and that reducing the minimum non-residential floor space amount would give greater flexibility in development options.

32. The original request in November 2011 to change the planning controls included a minimum non-residential component of 1.5:1 at the suggestion of the landowner. This was decreased to 0.75:1 following further representation made by the landowner in October 2012, and after careful consideration of the effects on the built form that would follow from a change to the development mix. Commercial development does not have the stringent separation and apartment depth standards that are applied to residential development and, as a consequence, fills a building envelope more efficiently.
33. The building envelope for the site described in the Development Control Plan at **Attachment C** has been configured to protect the amenity of proposed development to the south of the site, while providing flexibility in the detailed design and the location of taller building elements that would be required to achieve design excellence. The submission on behalf of the landowner contends that the full development potential of the site can be realised within the building envelope in the Development Control Plan even with a reduced commercial floor space component.
34. The Design Report submitted by the landowner in support of the Proposal describes a built form outcome that has a predominant street wall of 6 storeys to Wentworth Park Road, with a number of taller 9 storey elements oriented in a north-south direction. This is the Proposal that was placed on public exhibition and displayed to the community at the public drop-in meeting. It would reflect the built form recommended in the Hill Thallis Study, intended to produce a co-ordinated built form outcome across the precinct, and also the proposed development on the adjacent Housing NSW site. It would allow light and views through the site, breaking up what could otherwise be an overbearing street wall to Wentworth Park.
35. The landowner's submission indicates that to realise the full development potential, while replacing commercial floor space with residential, would require a 9-storey street wall for the 110 metre length of the Wentworth Park Road frontage, and to a significant portion of Bay Street and Cowper Street. This 9-storey street wall is not consistent with the recommendations of the Hill Thallis Study, not consistent with the landowner's Design Report and other materials submitted to support the Proposal's exhibition, not consistent with the proposed built form of adjacent development, and would not allow for an outcome with a high standard of architectural expression. This is a significant variation in the built form and is not supported.
36. The requirement of a minimum floor space ratio of 0.75:1 to be used for non-residential purposes is also consistent with the City's policy of securing an adequate supply of employment-generating floorspace. The City has to demonstrate that it can meet the targets set under the previous Metropolitan Strategy in terms of jobs growth. We do this through planning controls, such as land use zoning and floor space ratio controls, which ensure delivery of sufficient floorspace for employment uses.
37. It is proposed that the Development Control Plan be amended to ensure that the principle of a lower street wall interspersed with taller elements, central to both the Hill Thallis Study and the landowner's Design Report, is carried through to the implementation of the Proposal. The proposed amendments are included in the Table of Amendments at **Attachment E** and are also shown in the Development Control Plan at **Attachment C**, with deletions shown as ~~strike through~~ and additions as *italics*.

Public Benefit of the Affordable Housing Contribution

38. A submission from St George Community Housing suggests that the provision of affordable housing through the planning agreement should not be considered a public benefit, as it would need to be partly financed through funding from a Community Housing Provider, that the affordable housing contribution is therefore not achieved as a direct result of the uplift in development capacity of the subject site, and that the developer should be required to dedicate the affordable housing free of charge to a Community Housing Provider.
39. It is acknowledged that not all of the cost of providing the affordable housing is borne by the landowner. The *Environmental Planning and Assessment Act 1979* establishes what constitutes material public benefit for the purpose of planning agreements. It notes that material public benefit, to be used towards a public purpose, can include 'the provision of (or recoupment of the cost of providing) affordable housing'. The proposed model for affordable housing involves the recoupment of some of the costs involved in the provision of affordable housing, and so should properly be considered a public benefit. If the affordable housing was to be dedicated free of charge, a much lower number of units would be provided, if any at all.

Planning agreement

40. The St George Community Housing submission raises concerns about the provision of affordable housing being 'in perpetuity', and the use of a public positive covenant to maintain a restriction on the Affordable Housing Building so that it can only be used for affordable housing purposes. The submission contends that an on-site interpretation of the term 'in perpetuity' raises asset management risks that affect the business model used by Community Housing Providers. The submission is concerned that the delivery model proposed will not be workable or an attractive proposition to potential operators.
41. Having the affordable housing on-site and in-perpetuity is appropriate and will provide a local public benefit commensurate with any additional local impacts from the increase in allowable development. Since the public exhibition, the landowner has continued discussions with other Community Housing Providers, who are supportive of the delivery model put forward in the Planning Agreement. A letter from Mission Australia Housing, a NSW-registered Community Housing Provider and the operator of the Common Grounds project, in support of the proposed delivery model is shown at **Attachment F**.
42. Having regard to the matters above, the proposed affordable housing model is both appropriate and achievable.

Integration with the adjacent Housing NSW Development D/2013/412

43. The 87 Bay Street site is adjacent to the Housing NSW Glebe Affordable Housing Project, which is the subject of a current development application. To achieve a positive planning outcome, a degree of integration between the two sites will be required to ensure they sit comfortably next to each other and with surrounding development.

44. Future development at 87 Bay Street will be required to undergo a competitive design process in accordance with *Sydney Local Environmental Plan 2012*. Future development will have to demonstrate how it responds to, and integrates with, its surroundings, including the public domain, streetscapes and other developments. The competitive design process will be an opportunity to ensure that the necessary integration can be achieved.
45. Notwithstanding that, each proposal must be considered on its individual merit.

KEY IMPLICATIONS

Strategic Alignment - Sustainable Sydney 2030 Vision

46. *Sustainable Sydney 2030* is a vision for the sustainable development of the City to 2030 and beyond. It includes 10 strategic directions to guide the future of the City, as well as 10 targets against which to measure progress. This report is aligned with the following strategic directions and objectives:
 - (a) Direction 4 - A City of Walking and Cycling. The SDCP 2012 amendment accompanying the Proposal would see improved connectivity to surrounding development in the form of a through-site link and greater legibility of the built form, increasing the potential for passive surveillance and community safety.
 - (b) Direction 6 - Vibrant Local Community and Economies. The ability to achieve bonus floor space ratio is linked to the retention of all floor space ratio up to at least 0.75:1 set aside for commercial purposes. Therefore, the Proposal would retain local employment generating activity. The expansion of ground floor commercial development along Wentworth Park Road and Bay Street would also link with retail uses on the ground floor of the Housing NSW site facing Bay Street.
 - (c) Direction 8 - Housing for a Diverse Population. The Proposal would enable an increase in residential development in an area well serviced with infrastructure, including public transport, shops, parks and employment opportunities. This residential growth is consistent with the broader strategic housing strategies of the *Metropolitan Strategy*, draft *Sydney Subregional Strategy* and Ministerial Directions. Introducing residential uses would complement existing residential developments, including the Housing NSW proposal directly to the south, as well as large scale infill developments in Ultimo and lower scale residential neighbourhoods in Glebe. Affordable housing units would be provided on site, consistent with the City's strategy.

- (d) Direction 9 - Sustainable Development, Renewal and Design. The Proposal would redevelop buildings that provide little flexibility to optimise the site and revitalise the area. The distribution of heights and specific building envelope controls are contained in the *Sydney Development Control Plan 2012* amendment. Other planning controls, like *State Environmental Planning Policy 65 - Design Quality of Residential Flat Development*, would ensure any overshadowing and overlooking is minimised in approved building designs and configurations, protecting the amenity to both surrounding properties and this development. A design competition would be required to ensure that a high architectural quality is achieved and the built form achieves compatibility with the character of surrounding development. The Proposal's BASIX requirement would improve the site's environmental performance by reducing greenhouse gas emissions and potable water use, leading to a more sustainable development in comparison with the site's existing ageing buildings and infrastructure.

Social / Cultural / Community

47. Generally, the provision of additional housing will provide increased housing opportunities in a location with good access to transport, employment and local amenities. The provision of affordable housing in situ will provide essential, and undersupplied, affordable housing stock for key workers in the area.

Environmental

48. The Proposal will result in future development that exceeds BASIX targets for residential, and so will deliver energy and water savings of 25% beyond the standard requirement for residential development. There are no adverse environmental impacts to prevent the Proposal from proceeding.

Economic

49. The construction of new housing will provide a number of new construction jobs. It is likely that future development would bring additional residents to the area, providing a significant boost to local businesses. The provision of retail premises within a future development may help to encourage a clustering of retail and other active uses at the southern end of Bay Street. The scale of proposed retail would be very minor and would not impact on existing or other planned retail offerings.

BUDGET IMPLICATIONS

50. There are no budget implications. Capital works of both the through-site link easement and additional road reserve will be paid by the developer. Maintenance of the through-site link is the responsibility of the landowner, and any ongoing costs for maintaining the additional road reserve will be minor.

RELEVANT LEGISLATION

51. *Environmental Planning and Assessment Act 1979; Environmental Planning and Assessment Regulation 2000.*

CRITICAL DATES / TIME FRAMES

52. The Gateway determination requires the Local Environmental Plan to be completed by 28 November 2013.
53. The Council is required to provide public notification of any approval of a new Development Control Plan within 28 days of its adoption.
54. The Council is required to provide a copy of the Planning Agreement to the Minister within 14 days of its being entered into.

GRAHAM JAHN, AM

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