

ITEM 8 DRAFT LOCAL ENVIRONMENTAL PLAN AND INFRASTRUCTURE STUDY – GREEN SQUARE TOWN CENTRE – REPORT ON SUBMISSIONS

FILE NO: 2029203-07

SUMMARY

The Draft South Sydney Local Environmental Plan 1998 (Amendment No 17) – Green Square Town Centre, (the Draft GSTC LEP at **Attachment A** to this report) and the Draft Green Square Town Centre Infrastructure Strategy were exhibited from 21 December 2005 to 27 February 2006. Public exhibition occurred in accordance with sections 66 and 67 of the Environmental Planning and Assessment Act 1979.

The Draft South Sydney Development Control Plan 1997: Urban Design – Green Square Town Centre (Draft GSTC DCP) was exhibited from 16 February to 16 March 2006, and is separately reported to Council.

A total of 27 submissions on the exhibition of Draft GSTC LEP were received from residents, landowners and organisations. Generally, the scheme is recognised as unique and innovative, and its principles and rationale supported, as is the development of a Green Square Town Centre (GSTC). The issues raised are summarised in **Attachment D** and discussed in this report. The report outlines the changes recommended to the Draft GSTC LEP in response to the submissions received and a detailed in-house review.

The scheme ultimately rests upon landowners electing to participate and this is reflected in the Draft GSTC LEP. The provisions of the plan relating to the future development as a town centre are deferred. These provisions should be activated as part of the transition towards the GSTC. The timing of activation should not prejudice the consideration by the Director-General or the Minister of the whole of the Draft GSTC LEP. It is recommended that all of the Town Centre land the subject of the Draft GSTC LEP be deferred, except for the heritage listing of buildings in the former South Sydney Hospital, 3 Joynton Avenue, Zetland.

RECOMMENDATION

It is resolved that:-

- (A) Subject to (C), Council adopt Draft *South Sydney Local Environmental Plan 1998 (Amendment No. 17) – Green Square Town Centre* (known as the draft plan) as shown at **Attachment A** to the subject report;
- (B) The draft plan be submitted to the Director-General of the Department of Planning in accordance with the requirements of section 68(4) of the *Environmental Planning and Assessment Act 1979* (the Act);
- (C) Under section 68(5) of the Act, Council exclude from the provisions of the draft plan all clauses, items, schedules and maps other than those contained in clause 1 *Name of the Plan*, clause 2 *Land covered by this plan*, clause 3(2)(e) *Aims and objectives of this plan*, clause 4 *Amendment of South Sydney Local Environmental Plan 1998*, item [5] *Schedule 1 Definitions*, item [8] *Schedule 1, definition of “heritage item”* and item [10] *Schedule 2 Heritage Items*, being those provisions generally relating to the heritage listing of the former South Sydney Hospital site;

- (D) Authority be delegated to the Chief Executive Officer to make minor drafting amendments to the draft plan, should amendments be required following:
- (i) consideration of the Draft GSTC LEP by the Central Sydney Planning Committee and the Council;
 - (ii) consideration of the Draft GSTC LEP by the Department of Planning in preparing a Section 69 report; and
 - (iii) consideration of the Draft GSTC LEP by Parliamentary Counsel;
- (E) The Draft *Green Square Town Centre Infrastructure Strategy* (known as the draft strategy) be adopted as shown at **Attachment B** to the subject report; and
- (F) Authority be delegated to the Chief Executive Officer to make minor drafting amendments to the draft strategy to reflect any consequential changes to the draft plan.

ATTACHMENTS

Attachment A: *South Sydney Local Environmental Plan 1998 (Amendment No. 17) – Green Square Town Centre* (Draft GSTC LEP) as amended

Attachment B: Draft *Green Square Town Centre Infrastructure Strategy* (Draft GSTC IS) as amended

Attachment C: Resolution of Council and the Central Sydney Planning Committee to exhibit Draft GSTC LEP

Attachment D: Summary of submissions received and assessment response

Attachment E: List of matters addressed and recommended changes to the exhibited Draft GSTC LEP

NOTE: ALL SUBMISSIONS RECEIVED AS A RESULT OF THE PUBLIC EXHIBITION OF DRAFT GSTC LEP HAVE BEEN COLLATED AND WILL BE MADE AVAILABLE ON REQUEST AT THE MEETING.

BACKGROUND

1. The area adjoining and including the Green Square Railway Station was earmarked by the former South Sydney City Council and the State Government for the development of a new town centre during the process of creating the Green Square Redevelopment Area in the 1990s. There is a total of 13.74 hectares in 13 separate ownerships comprising the future GSTC.
2. The development of the GSTC involves rezoning the land to enable higher development potential and encourage high density development and a high quality public domain. Specifically, the urban form, structure and implementation mechanism proposed for the GSTC result from some years of planning, technical investigations, design competitions, design development and consultation.
3. A Draft Local Environmental Plan (LEP), Draft Masterplan and supporting studies and reports were publicly exhibited during June/July 2003. The exhibition included public agency, landowners and industry group briefings and two open days. Fifty-nine submissions were received as a result of that exhibition.
4. The Joint Council and Central Sydney Planning Committee (CSPC) Green Square Taskforce has steered, since November 2004, the City's review of the documents publicly exhibited in 2003.
5. Significant legislative changes on developer contributions (Planning Agreements) and infrastructure and other planning reforms that occurred in 2005, have impacted on the review. As a result, the model for development of land in the GSTC is spelt out in a primary core package of two elements:
 - (a) the Draft GSTC LEP that rezones land within the GSTC in two main zones, one for residential, retail and commercial uses, and the other for public domain/infrastructure purposes to support and serve those uses; and
 - (b) the Draft *Green Square Town Centre Infrastructure Strategy* (Draft GSTC IS) that supports the Draft GSTC LEP and outlines the rationale and methodology for the provision of the requisite land and infrastructure.
6. In addition, the detailed provisions for development in the GSTC contained in the Masterplan were replaced by the Draft GSTC DCP, being reported separately to Council.

The “deferral model”

7. The Draft GSTC LEP and the supporting Draft GSTC IS constitute the package that sets out what type of, and how, development on the GSTC will occur. The procedural basis for this to take place has been described as the “deferral model”.
8. Section 68(5) of the *Environmental Planning and Assessment Act 1979* (the Act), which relates to consideration of submissions by a council following public exhibition of a draft LEP, allows a council to exclude “certain provisions” or “part of the land” from the draft LEP submitted to the Director-General of the Department of Planning. This is referred to in the Act as the “deferred matter”, and subsequently, under section 68(6), a council may activate that “deferred matter”, without having to publicly re-exhibit it. An LEP **cannot** be considered by the Department under section 68 unless the council resolves to proceed with some part of the LEP.

9. In adopting Draft GSTC LEP, it is intended that Council proceed with the LEP in respect of the proposed heritage listing of the former South Sydney Hospital site at 3 Joynton Ave, Zetland. The listing involves an amendment to the Heritage Conservation Map and *Schedule 2 Heritage Items of South Sydney Local Environmental Plan 1998*.
10. Rezoning of any lands within the GSTC should not proceed until Council is satisfied that the provision of the requisite public infrastructure (including land dedication) in accordance with the Draft GSTC IS can be contributed to.
11. The relevant sections of the Draft GSTC LEP will be activated when each individual landowner chooses to participate in the scheme, including costs of provision of the infrastructure, and Council is satisfied through a legal commitment by the landowners that the requisite contribution toward the public infrastructure delivery will be made (either by payment or in-kind works). At this point, and upon the request from a landowner, Council will proceed with un-deferral of the relevant GSTC land, and submit under section 68(6) of the Act the draft GSTC LEP to the Director-General of the Department of Planning, but only in so far as it applies to that relevant GSTC land.
12. The process of activating, or “un-deferring” land is outlined in the Draft GSTC IS (refer to Section 9 of the Draft GSTC IS). The IS anticipates Planning Agreements as the likely mechanism to achieve this outcome.
13. The function of Planning Agreements is to provide both Council and landowners with a level of certainty that the infrastructure will be provided in a manner which responds to the needs generated by the GSTC, and to reflect an equitable participation by each relevant landowner. This approach is now generally recognised in section 93F of the Act.
14. Under the “deferral model” the present zonings of the GSTC land will remain unchanged until the land is “un-deferred” and rezoned under Draft GSTC LEP. The owners will continue to use and develop land as per the current planning controls without being adversely affected by the Draft LEP.

KEY IMPLICATIONS

15. The Draft GSTC LEP and Draft GSTC IS, as amended, are recommended for adoption. Changes have been made to both documents as a consequence of submissions received on the public exhibition.

Main amendments to the exhibited Draft GSTC LEP

16. The Draft GSTC LEP recommended for adoption has the same general structure and is similar in overall content to that which was exhibited from December 2005 to February 2006. A detailed list of changes made to Draft GSTC LEP is included at **Attachment E**.
17. The following outlines the most significant amendments made to Draft GSTC LEP:

- (a) **Clause 2 – Land covered by this plan and Clause 4 – Amendment of South Sydney Local Environmental Plan 1998:** sub-clause (2) of the exhibited Draft GSTC LEP made reference to the “Deferred Matter” in respect of land within the GSTC. As it is intended to proceed with the Draft GSTC LEP only as it applies to the heritage listing of the former South Sydney Hospital site, the clause has been deleted. Sub-clause (b) in Clause 4, has been amended to make specific reference to the provisions of the Draft GSTC LEP that will take effect upon the making of the plan.
- (b) **Clause 21F – Zone 11(a) Green Square Town Centre:** the objectives of this zone were edited where necessary to provide greater clarity of intent.
- (c) **Clause 21G – Zone 11(b) Green Square Town Centre Public Domain:** the objectives have been refined to provide greater clarity of intent.
- (d) **Clause 27KD – Development on sites that have frontage to Botany Road and/or Bourke Street:** A new clause has been inserted after clause 27KC Definitions, to permit development for visitor and tourist accommodation, such as hotels within the residential gross floor area (GFA) allocation for a development site that has frontage to Botany Rd and/or Bourke St. These uses are considered suitable along these busy road frontages, subject to satisfying amenity criteria to protect residential uses permitted within the same development site or on adjoining/abutting sites.

The clause applies to development sites No. 5, 6, 8, 9, 10 and 11, which have more than 70% of their GFA allocated to residential in Schedule 5 Part 2 of Draft GSTC LEP. The clause is intended to allow more flexibility in the type of accommodation that can developed under the residential GFA given to the above sites, having regard to their specific road frontage.

- (e) **Clause 27KG Maximum Height and Height Map:** The definition of height in Clause 27KG(2) has been changed to **exclude** plant and lift overruns from the height measurement. Draft GSTC DCP requires these elements be designed to minimise visual impact and/or integrated within the building design.

The alteration is consistent with the solar access modelling undertaken and the conditional approval in May 2005 concerning airport-related airspace given by the Department of Transport and Regional Services (DoTARS) to the maximum heights proposed for the GSTC.

In response to submissions, the Height Map has been amended to reduce the maximum height permitted on the eastern part of the Green Square station site (Site 1) from RL78.7m to RL 51.7m, to limit this area to a lower form, consistent with the GSTC design intent. In addition, the maximum height permitted along the part of the land that fronts Portman Lane (Sites 5 and 16), has been reduced from RL 32.7m to RL27.7m to provide a better scale transition to this Heritage Conservation area.

- (f) **Zoning Map:** The Zoning Map has been amended to show with red cross-hatching as “Deferred Matter” the lands proposed to be deferred from the operation of the Draft GSTC LEP upon adoption by Council.

- (g) **Heritage Conservation Map:** The Heritage Conservation Map has been amended to show the entire South Sydney Hospital site as Heritage Item, and this is accompanied by a written description of which elements within the site are to be heritage items. This is consistent with *South Sydney Local Environmental Plan 1998*, which the Draft GSTC LEP amends.

Under *South Sydney Local Environmental Plan 1998* Heritage Item boundaries in the Heritage Conservation Map coincide with the property boundary, and the Schedule 2 Heritage Items entry lists the elements within the property considered of heritage significance. Examples are:

- (i) the College of Fine Arts, UNSW, Greens Road, Paddington contains buildings both of heritage significance and of no significance. The Heritage Conservation Map shows the entire property. Schedule 2 identifies two buildings on the site, indicating that the other buildings not mentioned in the listing are not of heritage significance.
- (ii) the former Alexandria Hospital for Children, Pyrmont Bridge Rd, Camperdown, and
- (iii) the former St Margarets Hospital for Women, Bourke St, Surry Hills.

This approach is considered to assist in protecting the curtilage of heritage buildings on a site.

Main contents and structure of Draft GSTC LEP (as amended)

18. The main aspects of Draft GSTC LEP as amended following its public exhibition include:
- (a) **Name of the plan [clause 1]:** Draft GSTC LEP is Amendment No 17 to *South Sydney Local Environmental Plan 1998*.
 - (b) **Land covered by the plan [clause 2]:** Draft GSTC LEP applies to land within the Green Square Town Centre as shown outlined with a heavy green edging in the Zoning Map.
 - (c) **Aims and objectives of the plan [clause 3]:** the aims and objectives seek to encourage redevelopment of the land to establish a significant new town centre, in accordance with the parameters set in the plan (subdivision pattern, land use mix, maximum gross floor area, height, high quality streets and open spaces). The objectives also seek to facilitate conservation of items and areas of heritage significance.
 - (d) **Zone 11(a) Green Square Town Centre and Zone 11(b) Green Square Town Centre Public Domain [clauses 21F and 21G]:** the Zoning Map in the Draft LEP delineates two zones. Zone 11(a) addresses the development sites and Zone 11(b) the areas of public domain (streets, plazas and open space). The objectives and permissible land uses support a mix of commercial, retail and residential land uses which are contained within well-designed buildings of an appropriate scale, and are supported by a structural layout of streets and people-friendly public spaces. The relationship between the two GSTC zones is also stated under each zone, namely that the Public Domain zone provides the appropriate level of amenity to support the intensity of development and activities permitted in the Town Centre zone.

- (e) **Application of SEPP No 1 and SEPP No 4 [Clause 27KB]:** excludes development within the GSTC from the application of *State Environmental Planning Policy No.1 - Development Standards* and *State Environmental Planning Policy No.4 - Development Without Consent*.
- (f) **Definitions of residential, retail and commercial uses [clause 27KC]:** these definitions are provided to interpret the meaning of these terms in the calculations of gross floor area (GFA) for each development site under Schedule 5.
- (g) **Development of sites with frontage to Botany Road and Bourke Street [clause 27KD]:** permits short-term visitor and tourist accommodation, including hotels and motels within the residential GFA allocation for a development site that has frontage to Botany Road and/or Bourke Street, subject to satisfying amenity criteria to protect adjoining residential uses.
- (h) **Architectural design standards [clause 27KE]:** this clause seeks to pursue the vision for the GSTC by requiring high standard of quality in building design, in terms of architectural design, and the appropriate use of materials and detailing. Ultimately the development should improve the overall amenity in terms of built form and its external appearance should contribute in a positive manner to the public domain.
- (i) **Provisions for quantum of gross floor area and land use mix [clause 27KF]:** requires development to be in accordance with the GFA and percentage mix outlined in Schedule 5. Under the clause this is described as “conforming development”.

Clause 27KE(2) contains provisions to allow for some flexibility in the quantum of GFA (up to 10% of total) to respond to specific site circumstances, and subject to thorough urban design analysis. Within the total quantum of GFA proposed for a development site, a variation of up to 5% of the GFA of a land use is permissible under clause 27KE(3) where a development site has been allocated “nil” in that land use type.

- (j) **Maximum height [clause 27KG]:** maximum heights are shown in the Height Map in Draft GSTC LEP and range from RL 78.7m at the Green Square Station to RL 27.7m at Portman Lane. Height is measured to the highest point of a building, excluding plant and lift overruns, communication devices and architectural roof features.
- (k) **Flood water management [clause 27KH]:** seeks to protect the area and the safety of people and their property setting out criteria in relation to flooding that Council must be satisfied have been met prior to development consent being granted. Sub-clause (2) includes special provisions for development at the Green Square station site (Site 1) which currently operates as floodway. The sub-clause stipulates a number of requirements to minimise the material and safety risk of flooding before consent can be granted to a development application. The Zoning Map identifies this land with grey hatching.
- (l) **Heritage listings within the former South Sydney Hospital site [Schedule 2]:** *Schedule 2 Heritage Items* in *South Sydney Local Environmental Plan 1998* will be amended to add item No. 555A listing the heritage items at 3 Joynton Avenue, Zetland. The Heritage Conservation Map in Draft GSTC LEP shows the property where the items are located.

- (m) **Other provisions:** existing affordable housing provisions under *South Sydney Local Environmental Plan 1998* are extended to apply to the two GSTC zones 11(a) and 11(b) to ensure development in the GSTC proportionally contributes to the Green Square Affordable Housing Scheme.

Main contents of the Draft GSTC Infrastructure Strategy (as amended)

- 19. The Draft GSTC IS is almost identical to the exhibited document. The Draft GSTC IS outlines:
 - (a) the infrastructure required to support the GSTC development, its total current anticipated cost and funding sources;
 - (b) the planning nexus between the infrastructure and the GSTC development; and
 - (c) the methodology for the equitable share of infrastructure delivery between landowners, and how landowners may meet infrastructure provision.
- 20. The GSTC IS recognises that the land within the GSTC is only reasonably capable of the proposed rezoning under Draft GSTC LEP if:
 - (a) Appropriate services are available;
 - (b) Sufficient public domain has been realised to allow the appropriate level of amenity for the relevant land; and
 - (c) Council is reasonably satisfied the owner has, or will, participate in the costs of the provision of the infrastructure in an equitable way.
- 21. The GSTC IS clearly states that it is anticipated that the Council of the City of Sydney will enter into Planning Agreements with landowners for:
 - (a) The dedication to Council of the owner's land identified in Draft GSTC LEP within the Public Domain Zone, and at no cost to Council;
 - (b) The payment of a contribution, calculated in accordance with the principles set out in the Draft GSTC IS; and
 - (c) Any other public benefits reasonably relating to the particular development proposed or required by the Act (for example, section 94 payments may be "wrapped up").
- 22. The Draft GSTC IS has been amended to make a correction to section 7 – *Costs of Provision of Infrastructure (for the year 2005)*. This section itemises the infrastructure works and costs. Some items have been clarified in the description of works, without impacting on the total cost of infrastructure, as they had already been accounted for.
- 23. The corrections relate primarily to Heritage Park (South Sydney Hospital site) and the two through-site-links on development sites 14 and 15 which are part of Zone 11(b) Public Domain in Draft GSTC LEP. These elements have been added to the list of "subdivision works" in section 7 of the Draft GSTC IS; the total cost of infrastructure remains at \$103,214,000, as exhibited.

24. The Draft GSTC IS requires that the value of development rights contributions for retail, commercial and residential development be linked to the cost of essential infrastructure. The cost of infrastructure under the strategy is to be reviewed annually. A further amendment to the draft strategy has been made to allow for development rights contributions to be proportionately amended in line with the cost of essential infrastructure.

FINANCIAL IMPLICATIONS

25. The *Development Rights Model* is a central part of the Draft GSTC IS. It is a method of relating the amount of floor space for each site to the contribution required towards the essential infrastructure (i.e. the developer contributes for the additional floorspace rights in order to fund the infrastructure requirements).
26. The general approach is to recognise that the land currently has a potential for redevelopment, and without participation in the scheme. These uses are lower order (eg. industrial); strict analogies should be approached with caution. However, the general principle is that a minor level of development should not result in contribution.
27. For that floor space above a floorspace ratio of 1.5:1, landowners are required to make a contribution towards the essential infrastructure. A developer may physically provide the works-in-kind and/or contribute to funding for their provision. The calculation for the essential infrastructure contribution rate is based on the type of floor space (ie commercial, retail or residential) multiplied by the total floor area above a floorspace ratio of 1.5:1.
28. A report by the Director Corporate Services on the financial implications of the GSTC *Development Rights Model* and delivery of essential infrastructure, and the proposed management and funding arrangements, was considered by Council in December 2005. These matters are expected to be further reported to Council by the City's Corporate Services Division, as developer/landowners within the GSTC commit to participating in the *Development Rights Model* and infrastructure delivery arrangements are progressed.
29. A number of submissions have compared various factors of the scheme and have noted the distribution of components (built form, open space and floorspace) is not uniform. This is correct. In order to produce an appropriate urban form and a legible open space network, there are noticeable variations. However, the scheme as a whole is considered to operate in a fair and reasonable manner, and particularly as (in a "deferral model") owners may or may not elect to participate.

RELEVANT LEGISLATION

30. The *Environmental Planning and Assessment Act 1979*.
31. The *Environmental Planning and Assessment Regulation 2000*.

CRITICAL DATES / TIME FRAMES

32. It should be noted that the Draft GSTC DCP is being reported separately to Council for approval, to meet the new legislative requirements for DCPs that will come into effect on 1 May 2006.

PUBLIC CONSULTATION

33. Public consultation on the Draft GSTC LEP satisfied statutory requirements for the plan preparation process established by the Act and the *Environmental Planning and Assessment Regulation 2000* (the Regulation).
34. A summary exhibition brochure was distributed to households and businesses within the Green Square Redevelopment Area, and adjoining areas of Rosebery, parts of Alexandria and Redfern.
35. The Draft GSTC LEP was placed on public exhibition from Wednesday 21 December 2005 to Monday 27 February 2006. Under section 13, Division 3 of the Regulation, a draft LEP must be exhibited for at least 28 days. The public exhibition included:
 - (a) An update of the City's website;
 - (b) Notice boards at the City's One Stop Shop, Redfern and Erskineville Neighbourhood Service Centres, Waterloo Library and the Green Square Railway Station concourse;
 - (c) Full exhibition packages available at the City's One Stop Shop, Redfern Neighbourhood Service Centre, Waterloo Library and the Totalisator (Tote) Building in Victoria Park, Zetland.
 - (d) A public notice in accordance with section 66 of the Act and section 12, Division 3 of the Regulation was placed in local newspapers and the *Sydney Morning Herald*.
36. In addition to this:
 - (a) Landowners were briefed on the planning controls for the GSTC. These briefings occurred over late January/early February 2006; and
 - (b) A community forum for the Green Square Area was held on Saturday 18 February 2006 where the planning for the GSTC was discussed.
37. Twenty-seven (27) submissions were received on the Draft GSTC LEP from organisations, residents and GSTC landowners. Internal submissions and comments were also received from the City of Sydney. The submissions are summarised with comments in response at **Attachment D**.

MAIN ISSUES RAISED IN SUBMSSIONS

38. The following major issues were raised as a result of the public exhibition of Draft GSTC LEP:
 - (a) **The interface of the GSTC with surrounding areas.** This issue was raised by local residents and primarily related to the areas on Portman Lane (to the north-east) and Tosh Lane (to the south). The primary concerns were overshadowing, loss of privacy and in general the incompatibility between the built form of the two areas, having regard to the adjoining heritage conservation area.

Comment: Solar access testing undertaken during the urban design review of the 2003 GSTC Masterplan has shown that there will be no loss of solar amenity as a result of the development of the GSTC. This issue is also discussed in the separate report on the Draft GSTC DCP, which includes solar access testing diagrams. Changes have been made to both the Draft GSTC LEP to include a new height notation to create a gradation in heights towards Portman Street, and to the DCP to include a new setback control on Portman Lane to ensure that these interfaces are treated sympathetically. The draft DCP as exhibited also included a 2.75m setback on Tosh Lane.

- (b) **Cumulative traffic impacts of growth in the Green Square Town Centre and need for improved public transport:** this issue was raised by a number of submissions.

Comment: Traffic impacts derived from development of the GSTC and the need for improved public transport have been addressed through a number of strategic planning exercises that are being or have been undertaken by the City including:

- (i) The Zetland Area Traffic Study and related strategies, considered by Council on 11 April 2005;
- (ii) A review of strategic public transport corridors, being undertaken;
- (iii) The review of zones in the Green Square Redevelopment Area, being undertaken;
- (iv) A review of the Draft *Green Square Public Domain Plans*, being undertaken; and
- (v) A review of the Section 94 Contributions Plan, being undertaken.

- (c) **Equity, certainty and incentive for landowners:** The submission by Waverley and Woollahra Councils, in particular, argued that the scheme as proposed does not sufficiently improve the underlying land economics of the land within the GSTC to create the incentive for landowners to participate, and that there is inequity in the allocation of GFA and contribution to the public domain. More certainty in respect of the *Development Rights Scheme* should be provided and Council should guarantee a forward funded commitment.

Comment: Draft GSTC LEP seeks to achieve a design vision that has evolved from many years of planning for the GSTC, driven by the State Government, the City and Landcom. The vision is based on a number of factors including urban design aspects, utilisation of infrastructure and the appropriate density and mix of land use around core infrastructure (the Green Square station). The fact that the result benefits and burdens to individual allotments differently, does not mean this vision is flawed.

Ultimately, it is a matter for the particular landowners as to whether they want to participate in the scheme and when that owner elects to participate. The assessment for participation by any landowner will relate in particular to the financial benefit, but may also relate to other factors (eg. satisfaction with current uses, alternative location, etc). Associated with that is the cost of participation in the scheme. The scheme is voluntary. The fact that other landowners may receive more or less open space, height, floor area or other factors is directly related to urban outcomes. A comparison does not materially assist.

The scheme is not designed to provide an equal or uniform distribution of benefits. It is designed to provide an appropriate urban form for the broader community. The GSTC *Development Rights Model* is considered fair to all landowners and the authorities because it does not impose an unequal burden on any particular participant.

It is acknowledged that some outcomes result in lower floor space than other sites. Equally those sites contribute less to the global infrastructure required to support all the floorspace proposed in the GSTC. Landowners that contribute land to public domain do not forfeit any floor space potential.

- (d) **The land use (GFA and mix) requirements in the LEP (and DCP):** a number of landowners considered the land use mix and GFA to be too restrictive. The opposite premise (the controls are too generous) was raised by planners and one submission (on behalf of Waverley and Woollahra Councils) sought to make some of the GFA and mix standards mandatory.

Comment: It is considered the Draft GSTC LEP contains a reasonable level of flexibility to vary land use requirements in Schedule 5. This is allowed under the provisions of clause 27KE as explained in the description of the structure of Draft GSTC LEP in this report (a 10% variation to GFA and land use mix, and if a particular use is not permitted, a 5% inclusion of that use into the land use mix). The draft DCP gives further guidance on the land use location that is required by Draft GSTC LEP. (Refer to comments in main issues raised within the Draft GSTC DCP report.)

In addition new clause 27KD relating to development for short-term accommodation on Botany Road and/or Bourke Street allow for further variation on a number of sites.

The suggestion to make the GFA and mix permitted variation non-discretionary is made as a means of increasing certainty for the development consent process. However, such approach is not favoured as it is likely to have some practical difficulties in the context of complex developments that are likely to occur within the GSTC, and for which the permitted flexibility in the application of development standards is preferable.

- (e) **Airspace protection associated with Sydney Airport:** Proposed developments are likely to result in intrusions into the prescribed airspace for Sydney Airport, and therefore are considered 'controlled activities' and require assessment under Federal regulation, by the airport operator, Sydney Airport Corporation Ltd (SACL). An approval for GSTC heights was given by DoTARS in March 2005. Future development proposals in the GSTC will require further SACL approval.

SACL submitted that Clause 27KF of Draft GSTC LEP does not refer to aviation standards such as the "Obstacle Limitation Surface", which the buildings in the development will penetrate.

Comment: Federal Government legislation does not need to be reiterated in a LEP. A reference to the need for SACL approval is included in Draft GSTC DCP regarding airspace protection requirements. For the wider Green Square Redevelopment Area, this type of reference has worked successfully for development proposals.

Overall conditional approval for the heights proposed for the GSTC has been given by DoTARS. No additional heights are proposed, although there have been some slight reconfigurations of building massing in response to solar issues. It is acknowledged that individual approvals will need to be sought as per the statutory obligations.

- (f) **Issues relating to the site coverage requirement in the draft DCP:** A number of landowner submissions raised concerns over the site coverage requirements in the draft DCP and its relationship with land use mix in Schedule 5 of Draft GSTC LEP. The DCP requirements stipulate the percentage of land that can be covered by a building footprint.

Comment: Site coverage falls under Draft GSTC DCP, however, it interplays with land use allocation for development sites in Draft GSTC LEP. The issue has been considered and it was decided to remove the site coverage controls. Other provisions in the draft DCP are considered to give adequate control over the bulk and scale of buildings.

- (g) **Land dedication:** A number of submissions raised the issue of compensation. Overall, the model is premised on public domain being dedicated without additional payment. This is reflected in the overall heights and FSR. There is one parcel at the corner of O'Riordan and Bourke Road, which is shown as public domain, to allow for the intersection realignment. This property, owned by RM Constructions, does not benefit from up-zoning of land in the broader GSTC.

A masterplan and Draft LEP amendment was submitted by RM Constructions in August 2005. The submission relates to various parcels of land at this location (including the GSTC parcel) comprising about 11,900 sq.m., and proposes redevelopment and dedication of the small corner parcel located within the GSTC. The LEP amendment seeks a variation to the land use mix in the 10(d) Mixed Uses zone applying to the land.

The landowner has submitted that if this proposal is approved by Council, RM Constructions does not object to the Draft GSTC LEP. The landowner requests the rezoning application/masterplan be considered at the same time as the planning for the GSTC, and that it continue to be assessed and processed.

Comment: The rezoning application is being carefully considered by Council officers as part of the *Mixed Uses Zone Review* project, a component of the *City Plan Review*, being undertaken by the City. RM Constructions' application seeks a 40% non-residential/60% residential split in land use mix. A split of similar nature is considered complementary to the GSTC mix of land uses. The *Mixed Uses Zones Review* is due for reporting to Council and Central Sydney Planning Committee in May 2006, and the landowner has been advised accordingly.

It should be noted the site area considered for the purposes of the calculation of total floorspace on the site subject to the rezoning/masterplan application includes the small corner site proposed to be rezoned 11(b) Public Domain under Draft GSTC Centre LEP.

Under the current "deferral model", the public domain zoning is not activated and does not disadvantage this owner.

- (h) **Issues relating to public domain infrastructure:** It was pointed out that Heritage Park is not referred to as an item of Infrastructure nor are the areas of public domain within development sites 14 and 15. In addition, there was a concern that the size of Boulevard Park was not mandated.

Comment: Heritage Park (South Sydney Hospital site) and the two through-site-links on development sites 14 and 15 are part of Zone 11(b) Public Domain in Draft GSTC LEP. These elements, although omitted, had been accounted for in the costs of infrastructure works. They have been added to the list of “subdivision works” in section 7 of the Draft GSTC Strategy; the total cost of infrastructure remains at \$103,214,000, as exhibited. The minimum size of Boulevard Park has been added to the Draft GSTC DCP, as well as some additional provisions to improve the future amenity of the park.

- (i) **Proposed Heritage Items listing:** The City of Sydney Property Management Unit submitted that the Esme Cahill building (1938 section of former Nurses Home) in the South Sydney Hospital site, may be considered for removal from the proposed heritage listing as its merit as a heritage item may be questioned. A report prepared by consultant Colin Brady of Architecture + Planning was submitted.

Comment: On advice from Council’s Heritage Specialist, it is considered the Esme Cahill building should be retained in the proposed listing of the Hospital group. While the 1938 section of the building may be of lesser significance than the other hospital buildings proposed for heritage listing, it is still considered to reach a threshold level of heritage significance warranting listing. Its listing does not of itself preclude change to the building, but requires responsible consideration of the impact of the change.

CATHERINE HART

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