

EXPLANATORY NOTE PURSUANT TO REGULATION 25E OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT REGULATION 2000

178-186 GEORGE STREET & 33-35 PITT STREET, SYDNEY

Sydney Local Environmental Plan 2012 (Amendment No. 30): Lendlease Circular Quay site – Alfred, Pitt, Dalley and George Street block, Sydney

Background

The Council of the City of Sydney amend the controls that apply to 174-186 George Street and 33-35 Pitt Street, Sydney (**Land**) under Sydney Local Environmental Plan 2012 (SLEP 2012) to enable a 248m tall commercial office tower, with reconfigured publicly accessible open space along with public benefits.

At the same time the City entered into a Planning Agreement in relation to that development. The planning agreement provides for land dedication and works-in-kind for the creation of new public plaza and laneways, road widening, Public Art, Public Cycle Facility, Business Innovation Space, Community Building, easements and covenants to the commercial tower to deliver commercial floor space, covenants for the protection of fine grain retail adjacent to the laneways, commitment to environmental sustainable development and a monetary contribution for the fitout of the Business Innovation Space

A competitive design process has been completed and the related detailed development applications for the building development and public benefits have been approved. The parties to the Planning Agreement have agreed to vary the Planning Agreement, amending various aspects of the agreement to reflect the design refinement from these processes.

The purpose of this explanatory note is to provide a summary to support the notification of a Planning Agreement, under Section 7.4 of the *Environmental Planning and Assessment Act 1979 (Act)*.

This explanatory note has been prepared jointly by the parties as required by Reg 25E of the *Environmental Planning and Assessment Regulation 2000 (Regulation)*.

The public benefits partially exclude the developer or owner (as the case may be) from paying monies under s.7.11, 7.12 or 7.24 of the Act.

This explanatory note is not to be used to assist in construing the Deed of Variation of Planning Agreement.

1. Parties to the Deed of Variation of Planning Agreement

The parties to the Deed of Variation are Lendlease (Circular Quay) Pty Limited as Trustee for the Lendlease (Circular Quay) Trust (**Developer**) and the Council of the City of Sydney (**Council**).

2. Description of the Subject Land

The draft Deed of Variation to Planning Agreement applies to 33-35 Pitt Street Sydney being Lots 1 & 2 in DP 880891; Lots 181 & 182 in DP 606865 and Lot 7 in DP 629694 and 200 A George Street Sydney being Lots 2 & 3 in DP 1213767. 174-186, 178A, 200A and 200B George Street and 33-35 Pitt Street, Sydney being Lots 1 and 2 in DP 880891, Lot 182 in DP 606865, Lot 181 in DP 606865, Lots 2 and 3 in DP 1213767 and Lot 7 in DP 629694.

3. Background to the Deed of Variation of Planning Agreement

At the time of execution of the Planning Agreement, a detailed design of the development had not been established. Following the completion of a competitive design process and the

assessment of detailed development applications, several aspects of the planning agreement were inconsistent with the desired outcome.

Jacksons on George

The initial intent of the Jackson on George portion of the development site was to remodel the existing building. Through the detailed investigation, the feasibility of utilising the existing building fabric became less favourable than to demolish and re-build the venue. To align the Development Application with the Planning Agreement, it is proposed to amend the current definition in the VPA for Jacksons on George Remodelling to allow demolition and redevelopment of the building.

NABERS Water Rating

The Planning Agreement identifies various ecological sustainable design requirements to be met, including a 4 star NABERS water rating. While the development will be designed to be capable of achieving this rating, the as built rating is only achieved through measuring of the usage. The Planning Agreement should be amended to reflect the design requirement only, as the agreement does not encompass the activities of the occupants once the building is completed.

Business Innovation Space Scope of Works

The Planning Agreement provides for approximately 3,700sqm Net Lettable Area of Business Innovation Space to the City as a “Warm Shell” base building to achieve Grade A commercial office space in the first three floors above ground of the commercial tower. Additionally, the Developer is to provide to the City a monetary contribution for the fitout of the Business Innovation Space in the amount of \$2,200/sqm of Net Lettable Area (approximately \$8,140,000). Further investigation has demonstrated that better value for money will be achieved by accepting a “Cold Shell” base building, than if these items were installed and then had to be removed due to incompatibility with the planned layout. The inclusion of stair voids as part of the base building works were also not anticipated at the time of execution of the Planning Agreement but are the preferred design outcome. Subsequently, an adjustment to the scope of works to the Business Innovation Space and the monetary contribution to be paid is required.

Business Innovation Space Early Access

The Planning Agreement requires the Developer to use best endeavours to procure early access by the City to the premises for the purposes of carrying out the Business Innovation Space fit out, but no earlier than 6 weeks prior to Practical Completion (PC) of the commercial tower. The detailed lease terms in the Planning Agreement also state that the lease will commence 6 weeks after the date the Occupation Certificate is issued for the commercial tower. Any early access would be subject to restrictions in regard to the type of works that could occur due to the need to commission the building during this period. As an alternative, Lendlease will provide the City with unimpeded access to the premises for the purposes of carrying out the fit out once PC is achieved. The lease will commence 12 weeks after the PC is achieved. This will allow a more efficient approach to the delivery of the fitout.

Design and Bank Guarantee Milestones

The Planning Agreement provides for consistent milestones for the lodgement of design documentation and bank guarantees across all public benefits. Due to the separate appointment of architects of the commercial tower from the community building and the additional design development required, the design programme for the Community Building, Public Art and the George Street Plaza diverged from the overall project programme. To accommodate these concurrent programmes, it is proposed that the final design of the Developer’s Works and the Bank Guarantee for the Community Building, Public Art and the George Street Plaza be required prior to the issue of the relevant construction certificate for Developer’s Works. It is noted that the completion of these public benefits is still required prior to the issue of the first Occupation Certificate for the Commercial Tower. To assist in managing these design and construction programmes, the reduction of the City’s review

period of the Final Design of Developer's Works (Plaza Building, Art Canopy and George Street Plaza is to be reduced from 60 to 30 Business Days.

4. Summary of the Objectives, Nature and Effect of the Deed of Variation

The objective of the Deed of Variation is to facilitate adjustments to the scope of works that were not contemplated in the original Planning Agreement.

The nature of the Deed of Variation is to amend the definition of the Jacksons on George Remodelling, the obligations for NABERS Water Rating, the scope of the Developer's Works to the base building of the Business Innovation Space and increase of the monetary contribution, the timing of access by the City to the Business Innovation Space, the design and bank guarantee milestones for the Community Building, Public Art and George Street Plaza.

The effect of the Deed of Variation is that the works will be delivered in a more timely and cost effective manner.

5. Assessment of the Merits of the Proposed Agreement

(a) How the Deed of Variation of Planning Agreement promotes the public interest and one or more of the objects of the Act

The Deed of Variation of Planning Agreement promotes the objects of the Act, in particular objects identified in Section 1.3 (c) and 1.3(g) of the Act which is to promote the orderly and economic use and development of land and to promote good design and amenity of the built environment. The agreement will provide a contribution towards community infrastructure which will support and service the existing and future population and will contribute to greater amenity and infrastructure of those areas.

(b) How the Deed of Variation of Planning Agreement promotes the elements of the Council's charter

The Deed of Variation of Planning Agreement promotes a number of elements of the Council's charter under section 8 of the *Local Government Act 1993* (NSW). In particular, the Planning Agreement through the delivery of the public benefits allows Council to

- (i) provide directly or on behalf of other levels of government, after due consultation, adequate, equitable and appropriate services and facilities for the community and to ensure that those services and facilities are managed efficiently and effectively;
- (ii) exercise community leadership;
- (iii) properly manage, develop, protect, restore, enhance and conserve the environment of the area for which it is responsible, in a manner that is consistent with and promotes the principles of ecologically sustainable development;
- (iv) bear in mind that it is the custodian and trustee of public assets and to effectively plan for, account for and manage the assets for which it is responsible;
- (v) engage in long-term strategic planning on behalf of the local community; and
- (vi) keep the local community and the State government (and through it, the wider community) informed about its activities.

(c) The impact of the Deed of Variation of Planning Agreement on the public or any section of the public

The Deed of Variation of Planning Agreement will benefit the public and local community as it will improve the cost effectiveness of the delivery of community infrastructure in the commercial core of the City.

(d) Whether the Deed of Variation of Planning Agreement conforms with Council's capital works program

Yes. The Deed of Variation of Planning Agreement conforms with Council's capital works program.

(e) The planning purpose or purposes of the Deed of Variation of Planning Agreement

The Deed of Variation of Planning Agreement will serve the planning purpose by implementing the site specific planning provisions set out in the Planning Proposal for the Land and the site specific DCP, to facilitate development of a commercial tower in an alternative configuration with additional height, than could be achieved under the existing planning controls.

It is considered that the Deed of Variation of Planning Agreement provides for a reasonable means by which to achieve these planning purposes given the extent of the statutory tools that are available to Council by which it can deliver the proposed public benefits.

(f) Compliance of certain requirements prior to issue of construction, occupation or subdivision certificates.

The following requirements of the Deed of Variation of Planning Agreement must be complied with before:

- (i) A construction certificate is issued:** Submission of bank guarantees for the Community Building, Public Art and George Street Plaza for the relevant construction certificate
- (ii) An occupation certificate is issued:** Completion of the Developers Works and payment of the monetary contribution.
- (iii) A subdivision certificate is issued:** Nil.