

# EXPLANATORY NOTE PURSUANT TO REGULATION 205 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT REGULATION 2000

## 2-38 BAPTIST STREET AND 397-399, 399A CLEVELAND STREET, REDFERN

**Planning Proposal: 2-38 Baptist Street and 397-399, 399A Cleveland Street, Redfern**

### Background

The Council of the City of Sydney amended the planning controls that apply to 2-38 Baptist Street and 397-399, 399A Cleveland Street, Redfern (**Land**) under Sydney Local Environmental Plan 2012 (SLEP 2012) to enable an increase in maximum building heights to the development of up to 18 metres in Marriot Street, 22 metres in Cleveland Street and 25 metres in Baptist Street along with public benefits including sustainability measures to the development, new road reserves and a public park.

At the same time the City entered into a Planning Agreement in relation to that development. The planning agreement provides for land dedication and embellishment of footway widening to Marriot Street, land dedication and embellishment of a partially pedestrian/cyclist only and part shared zone laneway, land dedication and embellishment of a new public park, sustainability measures, and the provision of a community bus for the duration of the construction of the retail component of the development.

The parties to the Planning Agreement have agreed to vary the Planning Agreement, amending the use and embellishment of the shared zone to pedestrian and cycling only.

The purpose of this explanatory note is to provide a summary to support the notification of a Deed of Variation of 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 205 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 of Planning Agreement are Surry Hills Project Pty Ltd in its capacity as trustee of the Surry Hills Trust (**Owner**) and the Council of the City of Sydney (**Council**).

### 2. Description of the Subject Land

The Deed of Variation of Planning Agreement applies to 2-38 Baptist Street and 397-399, 399A Cleveland Street, Redfern being Lots 1 in DP 1107252, Lot 1 DP 72567, Lot 2 in DP 112938 and Lot 31 DP 1223099.

### 3. Summary of the Objectives, Nature and Effect of the Proposed Deed of Variation

The objective of the Deed of Variation of Planning Agreement is to facilitate a change of use of the public benefit referred to as the Laneway Land in the Planning Agreement.

The nature of the Deed of Variation of Planning Agreement is to amend the use and embellishment of the Laneway Land to pedestrian and cyclist only by removing the shared zone component.

#### **4. Assessment of the Merits of the Proposed Deed of Variation**

**(a) How the Deed of Variation of Planning Agreement promotes the public interest and one or more 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 Deed of Variation of 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
- (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 by providing improved pedestrian and cyclist circulation around the development, and reducing vehicle movements immediately adjacent to the new park..

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

Yes. The 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 ensures the Council is implementing the site specific planning provisions set out in the site specific DCP, to facilitate development of a mixed use building comprising of retail, commercial and residential uses with additional height, than could be achieved under the existing planning controls.

**(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 Pedestrian Cycle Way Works
- (ii) An occupation certificate is issued:** Dedication and embellishment of the Pedestrian Cycle Way prior to the first Occupation Certificate
- (iii) A subdivision certificate is issued:** Nil.