

# EXPLANATORY NOTE PURSUANT TO REGULATION 205 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT REGULATION 2021

## 4-6 BLIGH STREET, SYDNEY

### Local Environmental Plan 2012 (Amendment No. 49): 4-6 Bligh Street, Sydney

#### Background

The Council of the City of Sydney amended the planning controls that apply to 4-6 Bligh Street, Sydney (**Land**) under *Sydney Local Environmental Plan 2012* (SLEP 2012) to enable an increase in the maximum floor space ratio to 22:1 along with building envelope controls and public benefits including sustainability measures to the development.

At the same time the City entered into a Planning Agreement in relation to that development. The planning agreement provides for a monetary contribution towards infrastructure improvements in the City North Masterplan Area, a monetary contribution towards Affordable Housing in the City of Sydney and achievement of Sustainability Measures for the Hotel and Commercial/Office Components.

At the time the Planning Agreement was negotiated and executed, subject to development approval, the development of the land would have been obliged to provide contributions under section 61 of the *City of Sydney Act 1988*, in accordance with the *Central Sydney Development Contributions Plan 2013*. This would have been in addition to the Monetary Contribution to Central Sydney Infrastructure required under the Planning Agreement. The *Central Sydney Development Contributions Plan 2013* has subsequently been rescinded and replaced with a new contribution plan called the *Central Sydney Development Contributions Plan 2020*, prepared under section 7.12 of the *Environmental Planning and Assessment Act 1979*. With the introduction of the 2020 contributions plan, there has been an increase in the contribution levy rate payable.

The parties to the Planning Agreement have agreed to vary the Planning Agreement, incorporating an additional monetary contribution of 1% of the development cost in line with the contribution rate that would have applied under the *Central Sydney Development Contributions Plan 2013* and excluding the application of s7.12 contributions.

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 2021* (**Regulation**).

The public benefits exclude the developer or owner (as the case may be) from paying monies under 7.12 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 4TO6 Bligh Street Tst Co Pty Ltd (**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 4-6 Bligh Street, Sydney being Lot 1 in Deposited Plan 1244245

#### 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 to the monetary contributions payable in the Planning Agreement.

The nature of the Deed of Variation of Planning Agreement is to add an additional monetary contribution in the Planning Agreement in lieu of contributions payable under Section 61 of the *City of Sydney Act 1988* and section 7.12 of the *Environmental Planning and Assessment Act 1979*.

#### **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 infrastructure in Central Sydney.

**(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 new mixed use commercial and hotel development with indoor recreation facilities.

**(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:** Payment of the Monetary Contributions
- (ii) An occupation certificate is issued:** Nil
- (iii) A subdivision certificate is issued:** Nil.