

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

## 118-130 Epsom Road and 905 South Dowling Street, Zetland

### Planning Proposal: PP-2022-2530

#### Background

This explanatory note supports the notification of an amended draft Planning Agreement.

On 2 March 2023, the NSW Department of Environment and Planning issued Gateway Determination for a Planning Proposal at 118-130 Epsom Road and 905 South Dowling Street, Zetland (**Land**).

In conjunction with the Planning Proposal, the City received a public benefit offer from the proponent to enter into a Planning Agreement. A draft Agreement was prepared and exhibited with the Planning Proposal to secure:

- Dual water reticulation in the buildings for future recycled water use,
- A minimum 3,696sqm of non-residential GFA in the development,
- Exceedance of BASIX targets for water and energy and
- Installation of infrastructure to provide for future installation of electric vehicle charging.

On 16 June 2023, the proponent made a revised public benefit offer to include the delivery of an affordable housing building, to be dedicated to a Community Housing Provider and used for affordable housing in perpetuity.

On 26 June 2023, Council resolved to prepare and exhibit an amended draft Planning Agreement, to be prepared in accordance with the revised public benefit offer to secure the affordable housing building.

The purpose of this explanatory note is to support the notification of an amended draft Planning Agreement, under section 7.4 of the *Environmental Planning and Assessment Act 1979 (Act)* by meeting the statutory requirements of regulation 205 of the *Environmental Planning and Assessment Regulation 2021 (Regulation)*.

This explanatory note has been prepared jointly by the parties.

The public benefits set out in the Planning Agreement do not in any way exclude the developer or owner (as the case may be) from paying monies under sections 7.11 or 7.12 of the Act.

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

#### 1. Parties to the Planning Agreement

The parties to the Planning Agreement are Karimbla Properties (No. 60) Pty Ltd (**Developer**) Investments & Loans Pty Ltd (**Landowner**), and the Council of the City of Sydney (**City**).

#### 2. Description of the Subject Land

The Planning Agreement applies to 118-130 Epsom Road, Zetland being Lot 7 in DP 24134 and 905 South Dowling Street, Zetland being Lot 2 in DP 830870.

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

The objective of the Planning Agreement is to secure public benefits in connection with the Planning Proposal for the Land.

The nature of the Planning Agreement is to secure:

- dual water reticulation in the buildings for future recycled water use,
- a minimum 3,696sqm of non-residential GFA in the development,
- exceedance of BASIX targets for water and energy
- installation of infrastructure to provide for future installation of electric vehicle charging and
- design, construction and fit-out of an affordable housing building and transfer to a Community Housing Provider.

The effect of the proposed Agreement is for the public benefits to be delivered in a timely manner with the development of the Land (as set out in the amended Planning Agreement).

#### **4. Assessment of the Merits of the Proposed Agreement**

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

The 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 Planning Agreement promotes the objects of the Act by:

- providing improved community infrastructure which will support and service the existing and future population and will contribute to greater amenity and infrastructure in the locality; and
- providing improved environmentally sustainable development through Environmental Performance Initiatives.

##### **(b) How the Planning Agreement promotes the elements of the Council's charter and objects under the Local Government Act 1993**

The Planning Agreement promotes a number of elements of the Council's charter under section 8 of the *Local Government Act 1993* (NSW) consistent with the guiding principles for Councils under that Act. 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) in its capacity as the custodian and trustee of public assets, 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 Planning Agreement on the public or any section of the public**

The Planning Agreement will benefit the public and local community by providing

improved services to the area, and the future buildings will achieve improved environmental performance. In this way the Planning Agreement promotes the public interest.

This Planning Agreement is in accordance with the relevant provisions of the Planning Proposal.

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

The Planning Agreement does not impact on Council's capital works program.

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

The Planning Agreement will serve a planning purpose by enhancing community services and environmental performance to reflect the changing nature of the area and the needs of the needs of the growing residential and workforce population within Central Sydney.

It is considered that the 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 with certain requirements prior to issue of construction, occupation or subdivision certificates.**

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

**(i) A construction certificate is issued:**

Submission to the City of BASIX Certificates demonstrating an energy and water BASIX scores of at least 5 points above the target.

Execute a Community Housing Provider Agreement that meets the requirements set out in the Planning Agreement.

**(ii) An occupation certificate is issued:**

Design and construct all future buildings in the Development to be capable of providing a dual reticulation system for non-potable recycled water and installation of infrastructure to enable all residential parking spaces in the Development to be capable of being fitted with an Electric Vehicle Charger.

Design, construction and fit-out of the Affordable Housing Building as part of the Development, being of approximately 2,194m<sup>2</sup> (Gross Floor Area).

Registration of the Affordable Housing Restriction on the Affordable Housing Building, and transfer of the Affordable Housing Building to the Community Housing Provider

Payment of any monetary contribution for that part of the Affordable Housing GFA that does not form part of the Affordable Housing Building.

**(iii) A subdivision certificate is issued: Nil**