

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

158 BOTANY ROAD & 158 WYNDHAM STREET, ALEXANDRIA

Development Application Nos. D/2023/1012 & D/2024/803

Background

On 7 November 2023, the Council of the City of Sydney received a concept development application (D/2023/1012) from Blueshore Development Group seeking concept approval for a commercial development on land at 158 Botany Road Alexandria and the commitment of land for a future laneway at 158 Wyndham Street Alexandria (**Land**).

On 20 September 2024, the Council of the City of Sydney received a detailed development application (D/2024/803) from Blueshore Development Group seeking detailed development approval for a residential development on land at 158 Wyndham Street Alexandria.

The proposed developments comprised concept envelopes up to 35m in height, land dedication for the extension of Botany Lane at the rear of the land and footpath widening to Botany Road on land at 158 Botany Road Alexandria, and site preparation and construction of a 6 storey residential flat building and land dedication for the extension of Botany Lane at the rear on land at 158 Wyndham Street Alexandria. (**Development Applications**).

A public benefit offer was made by the property owner to enter into a Planning Agreement in relation to the Development Applications for the dedication and embellishment of a footway widening to Botany Road and future laneway extension of Botany Lane, and a monetary contribution towards community infrastructure in the Green Square Urban Renewal Area.

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 205 of the *Environmental Planning and Assessment Regulation 2021 (Regulation)*.

The public benefits do not in any way exclude the developer or owner (as the case may be) from paying monies under s.7.11, 7.12 or 7.24 of 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 Denning Real Estate Pty Ltd (**Landowner**), Blueshore Development Group Limited as trustee for the Blueshore Development Group Trust (**Developer**) and the Council of the City of Sydney (**Council**).

2. Background to the Planning Agreement

The Sydney Local Environment Plan 2012 (**LEP**) limits the Floor Space Ratio (**FSR**) on the site. Clause 6.14 of the LEP allows an additional FSR where a development provides community infrastructure.

The Development Guidelines - Providing Community Infrastructure in Green Square (December 2012) states that public benefit works within Green Square for community infrastructure to a value of \$475/m² for the additional residential floor space, \$275/m² for the additional retail floor space and \$200/m² for other non-residential floor space should be provided.

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 Development Application for the Land.

The nature of the Planning Agreement is to secure land dedication and embellishment works to a footway widening to Botany Road and temporary landscaping to the future extension of Botany Lane at the rear of the properties, and a monetary contribution of \$123,447 for community infrastructure to the Green Square Urban Renewal Area including but not limited to roads, drainage systems, utility services, parks, plazas and other public facilities.

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 the 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 Planning Agreement promotes the elements of the Council's charter

The 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 Planning Agreement on the public or any section of the public

The Planning Agreement will benefit the public and local community as it will improve community infrastructure in the immediate vicinity of the site as part of the Green Square urban renewal area.

(d) Whether the 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 Planning Agreement

The Planning Agreement will serve the planning purpose by enhancing the public domain and local infrastructure to reflect the changing nature of the area and the needs of the anticipated incoming population.

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 of certain requirements prior to issue of construction, occupation or subdivision certificates.

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

- (i) A construction certificate is issued:** Payment of each monetary contribution and submission of each bank guarantee prior to the issue of the first construction certificate for the respective Development.
- (ii) An occupation certificate is issued:** Transfer of the TfNSW Transfer Land prior to the first occupation certificate for the Botany Road Development, and completion of the Developer's Works (Embellishment Works) and creation of an easement for access benefitting the Future Laneway Land for each respective Development prior to the first occupation certificate for that Development
- (iii) A subdivision certificate is issued:** Nil