

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

169-173 DARLINGHURST ROAD, DARLINGHURST

Development Application No. D/2022/911

Background

On 5 September 2022, the Council of the City of Sydney received a Development Application from JC Decaux Australia Pty Ltd seeking approval for removal of the existing LED panel containing digital advertising signage and installation of a new LED panel containing digital advertising signage on the externally illuminated advertising sign, and construction of a new internally illuminated digital advertising sign on the northern wall of the building at 169-173 Darlinghurst Rd, Darlinghurst (**Land**).

A public benefit offer was made by the applicant to enter into a Planning Agreement in relation to the Development Application for one-sixth of the advertising time to be available for use by Council at no cost to display public information, community messages and promotion of council events and initiatives.

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 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 JC Decaux Australia Trading Pty Ltd (**Operator**) PG Wealth Pty Ltd (**Owner**) and the Council of the City of Sydney (**Council**).

2. Background to the Planning Agreement

The Sydney Development Control Plan 2012 (DCP) requires all electronic variable content advertising structures to provide a public benefit in accordance with SEPP 64. The public benefit is to be satisfied by making 10% of the advertising time available free of cost for use by the City to display public information, community messages and promotion of council events and initiatives.

Other public benefits may be provided in lieu of the advertising time depending on the nature of the proposal.

The public benefit is secured and managed through a voluntary Planning Agreement.

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

The objective of the Planning Agreement is to secure and manage public benefits in connection with the Development Application for the Land.

The nature of the Planning Agreement is to provide one-sixth of the advertising time for use by Council at no cost to display public information, community messages and promotion of council events and initiatives.

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 5(a)(iv) and 5(a)(v) of the Act which is to encourage provision of land for public purposes and provision and co-ordination of community services and facilities. The agreement will provide advertising time for public information, community messages and promotion of council events and initiatives at no cost.

(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) engage in long-term strategic planning on behalf of the local community; and
- (iv) 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 provide advertising time for public information, community messages and promotion of council events and initiatives at no cost.

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

The Planning Agreement includes no capital work by Council.

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

The Planning Agreement will serve the planning purpose by securing and managing a public benefit in accordance with the Sydney Development Control Plan 2012 and State Environmental Planning Policy 64.

It is considered that the Planning Agreement provides for a reasonable means by which to achieve this planning purpose 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:** Nil.

- (ii) **An occupation certificate is issued:** Provision of advertising time dedicated to the City for the purposes of community messaging. The allotted advertising time is equal to one sixth of the total advertising time displayed on the sign the subject of the Development Consent to be spread evenly across any given 24 hour period.
- (iii) **A subdivision certificate is issued:** Nil.