

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

413-415 Sussex Street & 82-84 Dixon Street, Haymarket

Development Application No. D/2020/1386

Background

On 21 December 2020 the City received a development application (D/2020/1386) from Elegant Dixon Property Pty Ltd (**Owner**) seeking approval for works at 413-415 Sussex Street and 82-84 Dixon Street, Haymarket (**Land**).

The proposed development comprises of the demolition of existing building at 413-415 Sussex Street and construction of a 17-storey mixed use development with two basement levels and a communal rooftop garden. The proposal includes 306 student boarding rooms and four levels of retail provision together with conservation works to the existing building at 82-84 Dixon Street.

A public benefit offer was made by the property owner to enter to enter into a Planning Agreement in relation to the Development Application to secure public access to the upper levels of the heritage building.

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 Elegant Dixon Property Pty Ltd and the Council of the City of Sydney (**Council**).

2. Background to the Planning Agreement

The building at 82-84 Dixon Street is known as the former Kwong War Chong & Co building and was listed as a heritage item by Council in 2020. The listing includes the building interiors and the contents of 84 Dixon Street.

In July 2021, Council granted a deferred commencement approval for the site subject to:

- A Planning Agreement in accordance with the public benefit offer by Elegant Dixon Property Pty Ltd dated 15 April 2021 be exhibited, executed and submitted to Council and
- The Planning Agreement, as executed, must be registered on the title of the land.

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 the following public benefits:

- Preparation and implementation of a Plan of Management for the ongoing use of Levels 1 and 2 of the former Kwong War Chong & Co building for a public purpose including the display, management and maintenance of the heritage assets;
- Developer's works required to enable Levels 1 and 2 to be used for a public purpose in accordance with the Plan of Management, including the provision of public access, and access for people with disability;
- Creation and registration of a Positive Covenant on the title of the former Kwong War Chong & Co building to secure the ongoing public purpose; and
- Creation and registration of an Easement on title to secure ongoing public access.

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 agreement will secure public access to an important heritage building and ensure the curation and public display of its heritage contents.

(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 secure public access to an important heritage building and ensure the curation and public display of its heritage contents.

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

The Planning Agreement provides for developer's works on the Land and does not require any work by Council under its capital works program.

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

The Planning Agreement will serve the planning purpose by securing public access to an important heritage building and ensure the curation and public display of its heritage contents consistent with the recent heritage listing.

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:** Provision of the guarantee.
- (ii) An occupation certificate is issued:** Preparation and implementation of a Plan of Management, developer's works to provide public access including access for people with a disability and creation and registration of an easement and positive covenant.
- (iii) A subdivision certificate is issued:** Nil.