

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

56-76, 82-106 & 110-122 OXFORD STREET, DARLINGHURST

Development Application No. D/2020/1071 & D/2020/1072

Background

On 12 October 2020, the City received two development applications (D/2020/1071 and D/2020/1072) from AM Darlinghurst Investment Pty Ltd seeking development approval at 56-76, 82-106 & 110-122 Oxford St Darlinghurst (**Land**).

The proposed development comprises the alterations and additions to the existing buildings for mixed use development and associated signage strategy. The proposed uses include a 75 room hotel, retail premises, food and drink premises, and tenancies for cultural and creative uses on the lower ground and ground levels, and commercial offices on the levels above. (**Development Applications**).

A public benefit offer was made by the Developer to enter into a Planning Agreement in relation to the Development Applications for the installation of road paving, traffic signage, line marking, footway continuations, kerb and gutter, and lighting to convert the existing roadway of Foley Street between Crown Street and Taylor Square into a shared zone.

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 Clause 25E of the *Environmental Planning and Assessment Regulation 2000* (**Regulation**).

The public benefits will be an offset to the monies otherwise payable under s.7.11 of the Act.

The public benefits do not in any way exclude the developer from paying monies under s.7.12 or 7.24 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 AM Darlinghurst Investment Pty Ltd (together the **Developer**) and the Council of the City of Sydney (**Council**).

2. Background to the Planning Agreement

In 2013, the City of Sydney prepared a design for the upgrade of Foley Street into a shared zone. The first stage only between Burton Street and Crown Street was completed in 2015.

A public benefit offer was made by the Developer on 21 June 2021 to enter into a Planning Agreement in relation to the Development Applications to provide public domain improvement works to convert the remainder of the roadway of Foley Street between Crown Street and Taylor Square into a shared zone. The works include the installation of road paving, traffic signage, line marking, footway continuations, kerb and gutter, and lighting.

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 upgrade of the existing roadway of Foley Street between Crown Street and Taylor Square into a shared zone. (**Developer's Works**).

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 Planning 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.

(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:** Nil
- (ii) An occupation certificate is issued:** Completion of the Developer's Works
- (iii) A subdivision certificate is issued:** Nil.