

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

67-77 EPSOM ROAD, ROSEBERY

Development Application No. D/2008/102 and D/2015/624

Background

On 30 July 2010, consent was granted for a Stage 1 Development Application for five residential buildings and one mixed use building, all with associated basement levels and public domain works at 67-77 Epsom Road and 95 Dalmeny Avenue, Rosebery (**Land**).

On 21 March 2016, consent was granted for a Stage 2 Development Application for the construction of a part 6 and part 13 storey mixed use building, containing 267 residential units, 49 services apartments, 17 ground floor retail tenancies and two levels of basement parking for 283 vehicles (**Building A**). The consent for Building A has subsequently been modified to allow 266 residential units, 71 serviced apartments and 13 ground floor retail tenancies.

Conditions of the Stage 1 and Stage 2 development consents required the upgrade of the Epsom Road / Link Road intersection from a roundabout to a signalised intersection (**Intersection**) be completed prior to the issue of any Occupation Certificate for Building A.

In April, the Council of the City of Sydney received requests to modify the development consents from Toplace Pty Ltd seeking to delete or delay the requirement to signalise the Intersection until after the issue of an Occupation Certificate for Building A.

A public benefit offer was made by the property owner to enter into a Planning Agreement in relation to the Development Application for the upgrade of the Intersection within 16 months of the issue of the first Occupation Certificate for Building A.

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 Toplace Pty Ltd (**Developer**), Jolyn Place Pty Ltd (**Landowner**) and the Council of the City of Sydney (**Council**).

2. Background to the Planning Agreement

The upgrade of the Epsom Road / Link Road Intersection relies on the cooperation of three separate landowners for the dedication of land and construction of the works. Negotiation with the other landowners have resulted in an agreement for Toplace Pty Ltd to deliver the intersection works on their behalf. The planning agreement is being exhibited on the basis that a Deed of Agreement is entered into. If the Deed of Agreement is not entered into, the City will not enter into the planning agreement following the exhibition period.

The Council agrees that the delivery of the intersection should not impede the issue of the Occupation Certificate for the residential units in Building A, subject to the commitment by the Developer and Landowner to delivering the Intersection within 16 months of the date that the planning agreement is signed by both parties.

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 Epsom Road / Link Road intersection from a roundabout to a signalised intersection.

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:** Nil
- (ii) An occupation certificate is issued:** Installation and commissioning of traffic signals and associated signage and linemarking, prior to the issue of any Occupation Certificate for any Serviced Apartments, and completion of the Developer's Works prior to the issue of any Occupation Certificate for the retail tenancies
- (iii) A subdivision certificate is issued:** Nil.