

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

28-34 O'CONNELL STREET, 44-48 HUNTER STREET AND 37 BLIGH STREET, SYDNEY

Planning Proposal: 28-34 O'Connell Street, 44-48 Hunter Street, and 37 Bligh Street Sydney NSW 2000

Background

This explanatory note supports the notification of a draft Planning Agreement.

In June 2022, the Council of the City of Sydney received a request to amend the planning controls that apply to 28-34 O'Connell Street, 44-48 Hunter Street, and 37 Bligh Street Sydney NSW 2000 (**Land**) under Sydney Local Environmental Plan 2012 (**SLEP 2012**).

A Planning Proposal has been prepared to enable new over-station development including commercial and retail uses on the site.

The purpose of this explanatory note is to support the notification of a Planning Agreement, under section 7.4 of the *Environmental Planning and Assessment Act 1979 (Act)* by meeting the statutory requirements of regulation 205 of the *Environmental Planning and Assessment Regulation 2021 (Regulation)*.

This explanatory note has been prepared jointly by the parties.

The public benefits set out in the Planning Agreement do not in any way exclude the developer or owner (as the case may be) from paying monies under section 7.12 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 Sydney Metro (**Developer**), and the Council of the City of Sydney (**City**).

2. Description of the Subject Land

The Planning Agreement applies to 28-34 O'Connell Street being Lot 1 in DP 536538, Lot 1 in DP 217112 & Lot 1 in DP 1107981; 44-48 Hunter Street being Lot 1 in DP 59871 & Lot 2 in DP 217112; and 37 Bligh Street being SP58859.

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 Planning Proposal for the Land.

The nature of the Planning Agreement is to secure:

- Payment of the 3% Infrastructure Contribution on or before the date of issue of the first Construction Certificate for the development excluding any Construction Certificate issued for demolition of existing structures on the Land, early works or works below ground level; and
- Environmental Performance Initiatives of 6 star Green Star Buildings V1 Certified Rating (or relevant current standard if standard is updated, 6-star NABERS Energy for Offices rating (Base building) Commitment Agreement without Green Power, and 4.5 star NABERS water for office rating.

The effect of the proposed Agreement is for the public benefits to be delivered in a timely manner with the development of the Land (as set out in the Planning Agreement).

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 Planning Agreement promotes the objects of the Act by:

- providing improved community infrastructure which will support and service the existing and future population and will contribute to greater amenity and infrastructure in the locality; and
- providing improved environmental sustainable development through Environmental Excellence Initiatives.

(b) How the Planning Agreement promotes the elements of the Council's charter and objects under the Local Government Act 1993

The Planning Agreement promotes a number of elements of the Council's charter under section 8 of the *Local Government Act* 1993 (NSW) consistent with the guiding principles for Councils under that Act. 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) in its capacity as the custodian and trustee of public assets, 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 by providing improved infrastructure to the area, and the building will achieve improved environmental performance. In this way the Planning Agreement promotes the public interest.

This Planning Agreement is in accordance with the relevant provisions of the Planning Proposal and site-specific development control plan for the Land.

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

Yes. The Planning Agreement conforms to Council's capital works program.

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

The Planning Agreement will serve a planning purpose by enhancing the public domain and local infrastructure to reflect the changing nature of the area and the needs of the needs of the growing residential and workforce population within Central Sydney.

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

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

- (i) A construction certificate is issued:** Payment of the Monetary Contribution, submission of the Environmental Performance Commitment.
- (ii) An occupation certificate is issued:** Confirmation that the project is a Green Star registered project; and that the project is on track to comply with the Green Star rating proposed.
- (iii) A subdivision certificate is issued:** Nil