

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

## 37-57 PITT STREET, 6-8 UNDERWOOD STREET, 6 DALLEY STREET AND 8-14 DALLEY STREET, SYDNEY

### Planning Proposal: 55 Pitt Street, Sydney

#### Background

The purpose of this Explanatory Note is to provide a summary to support the notification of a draft Planning Agreement.

On 19 December 2019 the Council of the City of Sydney received a request to amend the planning controls that apply to 37-57 Pitt Street, 6-8 Underwood Street, 6 Dalley Street and 8-14 Dalley Street, Sydney (**Land**) under Sydney Local Environmental Plan 2012 (**SLEP 2012**).

A Planning Proposal has been prepared to facilitate the development of a 70,000 square metre commercial office tower up to 232 metres in height, with a 45m high podium, creation of a through-site link widening and connecting Queens Court to Underwood Street, a retail activated pedestrian colonnade along Underwood Street to improve pedestrian connections and upgrades to the Telstra and Ausgrid utility buildings.

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 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 Mirvac Capital Pty Ltd as trustee for the Mirvac Pitt Street Trust and Mirvac Commercial Sub SPV Pty Ltd as Trustee for Mirvac Pitt Street Trust No.2 (**Owner**) and the Council of the City of Sydney (**Council**).

#### 2. Description of the Subject Land

The Planning Agreement applies to:

- 37-57 Pitt Street, Sydney being Lot 1 DP 513109, Lot 7 DP 110046, Lot 4 DP 524306, Lot 6 DP 75338, Lots 1 and 2 DP 1112308, and Lots 2 and 3 DP 1092;
- 6 – 8 Underwood Street, Sydney being Lot 501 DP 714847
- 8-14 Dalley Street, Sydney being Lot A and B 104160
- 6 Dalley Street, Sydney being Lot 1 DP 787946
- Queens Court

#### 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:

- A monetary contribution of \$12,988,080 to community infrastructure in Central Sydney
- A monetary contribution to affordable housing in the local government area
- The provision of public art on the site to a value of \$750,000
- The dedication in stratum of land for the Underwood Street footway widening
- The construction of
  - the Underwood St footway widening
  - the Through Site Link incorporating Queens Court
  - improvements to the Telstra building colonnade
  - Public Art to the Through Site Link (if required)
- The creation of easements for public access to
  - the north-south via the Through Site Link
  - Telstra colonnade
- Environmental Performance Initiatives of
  - a minimum 6 star Office Green Star V1.3 Design and Construct rating
  - a minimum 5.5 star rating on operation under the NABERS energy scheme
  - a minimum 4-star rating in operation under the NABERS water scheme.

The effect of the proposed agreement is for the public benefits to be delivered in a timely manner with the development of the Land.

#### **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
- Providing contributions to be used for affordable housing for lower income workers close to local jobs
- 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, affordable housing in the local government 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 (site specific DCP) 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 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 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 Community Infrastructure Monetary Contribution and Affordable Housing Monetary Contribution and submission of Guarantee to secure the Developer's Works
- (ii) **An occupation certificate is issued:** Completion of the Developer's Works in clause 1 of Schedule 3, transfer of Transfer Land to the City, registration of the instruments to reflect easements and public positive covenants and achievement of the Environmental Performance Initiatives except for the NABERS Operation Rating
- (iii) **A subdivision certificate is issued:** Completion of the Developer's Works on the Transfer Land.

