

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

102-106 DUNNING AVENUE, ROSEBERY

Planning Proposal: 102-106 Dunning Avenue, Rosebery

Background

The purpose of this explanatory note is to provide a summary to support the notification of a Planning Agreement, under Section 93F 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)*; and
- is not to be used to assist in construing the Planning Agreement.

In December 2016 the Council of the City of Sydney received a request to amend the planning controls that apply to 102-106 Dunning Avenue, Rosebery (**Land**) under Sydney Local Environmental Plan 2012 (**SLEP 2012**).

A Planning Proposal has been prepared to:

- rezone the site from B7 Business Park to B4 Mixed Use; alternatively, the same outcomes may be achieved by listing the site on Schedule 1 of Sydney LEP 2012 with an additional permissible use for 'residential accommodation',
- increase the maximum building height from 18 metres up to 29 metres
- increase the FSR from 1.5:1 to 2:1
- require that 10 per cent of any floor area built on the site be for a non-residential use
- identify an 'active street frontage' along Dunning Avenue.

The public benefits do not in any way exclude the developer or owner (as the case may be) from paying monies under s.94, 94A or 94EF of Act.

1. Parties to the Planning Agreement

The parties to the Planning Agreement are Kubis Rosebery Pty Ltd in its capacity as trustee of the Surry Hills Trust (**Owner**) and the Council of the City of Sydney (**Council**).

2. Description of the Subject Land

The Planning Agreement applies to 102-106 Dunning Avenue, Rosebery being Lot 50 in Deposited Plan 1171307 (**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 Planning Proposal for the Land.

The nature of the Planning Agreement is to secure:

- Design, and construction of Affordable Housing Units for transfer to a registered Community Housing Provider
- Provision of car parking spaces for the Affordable Housing Units
- The dedication and embellishment of land for the Jones Lane footway widening

- A monetary contribution for any excess of funds generated from the Planning Gain but not utilised in the Affordable Housing Units

4. Assessment of the Merits of the Proposed Agreement

(a) How the Planning Agreement promotes the public interest and one or more objects of the Act

In accordance with Section 93F (2) of the Act, the Planning Agreement promotes the public interest by allowing Council to ensure that the obligations of the Owner under the terms of the Planning Agreement are secured and therefore satisfied.

The Planning Agreement promotes the Objects of the Act, in particular objects identified in Section 1.3(c), 1.3(d) and 1.3(g) of the Act which are to promote the orderly and economic use and development of land, to promote the delivery and maintenance of affordable housing, 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
- Allowing for the delivery of public benefits at the site including new footway widening
- Providing affordable housing for lower income workers close to local jobs

(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
- (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 affordable housing accessible to local employment, and improved pedestrian circulation around the development.

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 with Council's capital works program.

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

The Planning Agreement ensures the Council is implementing the site specific planning provisions set out in the Planning Proposal for the Land and the site specific DCP, to facilitate development of a mixed use building comprising retail, commercial and residential uses with additional height, which could not be achieved under the existing planning controls.

(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:

- a. Submission of Bank Guarantees for the embellishment of the Jones Lane Footway.
- b. Execute a Contract for Sale with a Community Housing Provider and provide a copy of that executed Contract for Sale to the City of Sydney

(ii) An occupation certificate is issued:

- a. Dedication and embellishment of the Jones Lane Footway
- b. Registration of an Affordable Housing Covenant on the title to each of the allotments of Affordable Housing including car parking spaces

(iii) A subdivision certificate is issued: Nil.