



Appendix A: Public benefit offer letter

17 January 2016

Monica Barone
The General Manager
City of Sydney
GPO Box 1591
SYDNEY NSW 2001

Attention: Tamara Bruckshaw

Dear Ms Barone

**OFFER TO ENTER INTO A PLANNING AGREEMENT
102-106 DUNNING ROAD, ROSEBERRY**

This letter sets out the offer of Kubis Rosebery Pty Limited, a subsidiary of Wilh Wilhelmsen Investment, a Norwegian investment company, to enter into a planning agreement (VPA) with the City of Sydney Council (Council) regarding the planning proposal for 102-106 Dunning Avenue, Rosebery, being the whole of land in Lot 50 in DP 1171307. Kubis Rosebery Pty Limited is the registered owner of the land.

1.0 The Planning Proposal

A Planning Proposal has been submitted to Council seeking to permit residential uses on the site, and increase the FSR from 1.5:1 to 2:1 and the maximum height from 18m to 24m. The Planning Proposal is accompanied by an associated requested amendment to the Sydney Development Control Plan 2012.

The indicative scheme proposed on the site consists of a mixed use building up to 8 storeys in height, with basement car parking. The proposal includes 1000 square metres of commercial/retail uses located at ground level on the corner of Dunning Road and Morley Avenue. It is envisaged the end development will comprise a total of 120 apartments.

2.0 Details of Kubis Rosebery's offer

In recognition of the change sought to the LEP by the Planning Proposal, and as envisaged in Council's Guideline to Preparing Site Specific Planning Proposal Requests in the City of Sydney Employment Lands Investigation Areas (the Guideline), in accordance with section 93I of the Environmental Planning and Assessment Act 1979 (Act), Kubis Rosebery intends to offer to enter into a voluntary planning agreement with the Council on the following terms.

2.1 Calculation of the minimum Public Benefit

The VPA is to contain a quantified 'minimum public benefit'. The minimum public benefit will be expressed as 'affordable housing floor space' that will be delivered in the development as established by the value of the planning gain.

The 'planning gain' will be calculated in accordance with the formula prescribed in the Guideline, subject to CPI, applied to the total GFA (including any Design Excellence floor space) that is achieved on the site. An approximate contribution based on application of the formula to the Planning Proposal scheme excluding the 10% design excellence floor space bonus is provided below.

The market value of floor space for 1 and 2 bedroom units used in the calculation of planning gain will be established by joint valuation.

<i>Applicable R1 rate x current FSR x site area</i>		<i>1100 x 1.5 x 4948</i>
+		+
<i>% residential split x residential R2 rate x additional residential floor space</i>	=	<i>1 x 2400 x 0.5 x 4948*</i>
	=	<i>\$8,164,200 + \$5,937,600</i>
	=	<i>\$14,101,800</i>
	=	<i>\$14,101,800 / 2</i>
<i>Value of public benefit to be provided</i>	=	<i>\$7,050,900</i>

* To be determined using the final proposed development

** Subject to CPI adjustment

2.2 Details of the delivery of the minimum public benefit

Kubis Rosebery proposes that under the VPA it has the following options to deliver the public benefit:

- Provision and Dedication of Affordable Apartments to a CHP
- Alternative Provision of Affordable Apartments (discussed further below)

Under the 'Alternative Provision' option, the total public benefit can be increased (more affordable housing floor space) where the Kubis Rosebery is able to sell the affordable housing units to a CHP for a capped amount. The capped amount is based on recouping the forgone value of the additional floorspace on offer for affordable housing, plus an 'incentive' amount (based on a proportion of the planning gain). The incentive is based on the following sliding scale:

Additional affordable floor space being achieved	Rate (based on 'planning gain')
<50 sqm	0%
50 - 150 sqm	2.5%
150 - 250 sqm	5%
250 - 350 sqm	7.5%
350 - 450 sqm	10%
450 sqm +	12.5%

All affordable apartments will be dedicated to, owned and managed by the CHP in perpetuity. Appropriate documentary evidence of the agreement with the CHP for the ownership and management of the affordable housing will be provided prior to the issue of an Occupation Certificate for any part of the Development, and prior to the occupation of any part of the Development.

In the event that affordable apartments are dedicated to the CHP within the development, any residual amount of public benefit not covered by the physical apartments will be a monetary contribution for the difference.

The contribution or affordable housing is proposed to be provided prior to the issue of an occupation certificate for any part of the Development, and prior to the occupation of any part of the Development.

Car parking spaces, in accordance with Council's car parking rates in LEP 2012 will also be provided and dedicated with the affordable apartments. In the event the development proposes less than the maximum rates in LEP 2012, the spaces

to be provided and dedicated with the affordable apartments will be reduced proportionately with the total car parking provision.

2.3 Dedication of Jones Lane

Kubis Rosebery propose to dedicate a 1.25m wide frontage along Jones Lane to Council free of charge in return for the use of that site area in the calculation of FSR within the development site. The costs associated with the embellishment of Jones Lane will be offset against the public benefit amount calculated under the Guideline.

2.4 The provision of security

Kubis Rosebery proposes that:

- the VPA be registered on title (until such time as Kubis Rosebery has complied with all of its obligations in relation to the contributions); and
 - a bond be provided to Council in relation to the Contribution Works;
- in order to ensure that Council has suitable means to enforce the VPA.

2.5 Exclusion of sections 94, 94A and 94EF

The VPA will not exclude the operation of sections 94, and section 94A and 94EF of the Act.

2.6 Written confirmation of legal fees and associated costs

We confirm that Kubis Rosebery will pay the Council's reasonable legal fees and associated costs of preparing, and notifying, the VPA.

It is intended that should amendment to SLEP 2012 be made generally in accordance with the planning proposal request, this offer will be consolidated and crystallised into a voluntary Planning Agreement with the Council. The agreement will comply with the EP&A Act and Regulations. The Planning Agreement may be registered by the Registrar-General.

It is understood that Council wishes to draft the VPA and accordingly request that following preparation it be provided to Kubis Rosebery's legal representatives, Gadens, for review. Should you have any queries about this matter, please do not hesitate to contact Steve Healy, Partner Gadens Lawyers on 9931 4999.

Yours faithfully,



Rob W Stratford
Director, Kubis Rosebery