

**ATTACHMENT C**

**PUBLIC BENEFIT OFFER EXPLANATORY  
NOTE**

**D/2014/1837**

**18-20 O'DEA AVENUE, WATERLOO**



# ATTACHMENT C

## EXPLANATORY NOTE PURSUANT TO REGULATION 25E OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT AMENDMENT (DEVELOPMENT CONTRIBUTIONS) REGULATION 2005

18-20 O'DEA AVENUE, WATERLOO

### Development Application No. D/2013/2030

#### Background

On 24 December 2013, the City of Sydney Council received a Development Application from Crown W1 Pty Ltd seeking Stage 1 development approval for a mixed use development at 18-20 O'Dea Avenue, Waterloo.

The proposed Stage 1 development comprises of a concept for demolition, four building envelopes ranging from 7 to 20 storeys in height, residential and retail land uses and the provision of public domain infrastructure including construction and dedication of Dunkerley Place, Hatter Lane, O'Dea Ave setback and the Rope Walk park.

On 8 October 2014 the developer submitted a finalised public benefit offer for provision of public domain infrastructure on the site.

The purpose of this explanatory note is to provide a summary to support the notification of a Voluntary Planning Agreement (**Planning Agreement**), under Section 93F of the *Environmental Planning and Assessment Act 1979*.

This explanatory note has been prepared jointly by the parties as required by clause 25E of the *Environmental Planning and Assessment Regulation 2000* (**Regulation**).

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 Crown W1 Pty Limited (**Developer**) and the Council of the City of Sydney (**Council**).

#### 2. Background to the Planning Agreement

The Stage 1 application seeks consent for building envelopes that rely on an additional 0.5:1 of Floor Space Ratio (**FSR**) permitted under section 5.6.1 Floor Space Ratio of the South Sydney DCP 1997. This additional FSR can only be achieved where a development provides a material public benefit to the satisfaction of the consent authority. The Stage 1 application also seeks concept approval for the provision of public open space which is identified in the *City of Sydney Development Contributions Plan 2006*.

The developer made a public benefit offer to construct a series of public domain improvements and dedicate the embellished land to Council. The value of the public domain improvements are proposed to be offset against the total value of the material public benefit obligation arising from the additional FSR, and part of the Section 94 developer contributions arising from the net increase in resident and workforce population.

Subject to a Stage 1 consent being granted, the public domain improvement works would form part of any future staged development application.

#### 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 any future staged Development Application for the site.

The nature of the Planning Agreement is to secure the following public benefits:

- (a) Construction and dedication of the eastern portion of Dunkerley Place (road) along northern edge of the site proposed to be offset against the material public benefit floor space obligation and part of the section 94 obligation;
- (b) Construction and dedication of Hatter Lane (road) along western edge of the site to connect O'Dea Avenue to Dunkerley Place and proposed to be offset against the material public benefit floor space obligation;
- (c) Construction and dedication of the southern section of the Rope Walk (park) along eastern edge of the site including stormwater culvert drain and landscaping and proposed to be offset against the Section 94 obligation; and
- (d) Construction and dedication of O'Dea Ave landscape setback (road) along the southern edge of the site and proposed to be offset against the material public benefit floor space obligation.

#### 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 5(a)(iv) and 5(a)(v) of the Act which is to encourage provision of land for public purposes and provision and co-ordination of community services and facilities. The agreement will provide land dedication and construction of planned public roads, public open space and stormwater infrastructure which will support and service the existing and future population and will contribute to greater amenity in the area.

- (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 the public domain by providing roads, a park and infrastructure in the immediate vicinity of the site and provide critical connections to the broader network planned for the Lachlan Precinct.

**(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 community infrastructure.

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.

In Council's assessment, the concept for additional material public benefit floor space permitted under South Sydney DCP 1997 and delivery of public open space and infrastructure as a Section 94 developer contribution is justified in the context of the benefits which will be afforded to members of the community.

**(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. Pay the Stage B Monetary Contribution prior to the issue of the first Construction Certificate in respect of Stage B of the Development.
- b. Pay the Stage C Monetary Contribution prior to the issue of the first Construction Certificate in respect of Stage C of the Development.

**(ii) An occupation certificate is issued:**

- a. Completion of relevant Stage A Developer's Works and Dedication of the Stage A Contribution Land After Completion and prior to the issue of an Occupation Certificate in respect of Stage A.
- b. Completion of relevant Stage B Developer's Works and Dedication of the Stage B Contribution Land After Completion and prior to the issue of an Occupation Certificate in respect of Stage B.
- c. Completion of relevant Stage C Developer's Works and Dedication of the Stage C Contribution Land After Completion and prior to the issue of an Occupation Certificate in respect of Stage C.

**(iii) A subdivision certificate is issued: Nil**