

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

118-130 Epsom Road and 905 South Dowling Street, Zetland

Planning Proposal: PP-2022-2530

Background

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

On 2 March 2023, the NSW Department of Environment and Planning issued Gateway Determination for a Planning Proposal to proceed to allow alternative maximum building heights with additional energy and water sustainability and non-residential floor area requirements and active street frontages at 118-130 Epsom Road and 905 South Dowling Street, Zetland (**Land**).

The purpose of this explanatory note is to support the notification of a draft 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 sections 7.11 or 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 Karimbla Properties (No. 60) Pty Ltd (**Developer**) Investments & Loans Pty Ltd (**Landowner**), and the Council of the City of Sydney (**City**).

2. Description of the Subject Land

The Planning Agreement applies to 118-130 Epsom Road, Zetland being Lot 7 in DP 24134 and 905 South Dowling Street, Zetland being Lot 2 in DP 830870.

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:

- environmental performance initiatives including installation of dual reticulation within future buildings for recycled water, energy and water BASIX scores of at least 5 points above the target for a BASIC Certificate, electric vehicle charging infrastructure to enable all residential parking spaces to be capable of being fitted with an electric vehicle charger and
- the provision of a minimum of 3,696 square metres of non-residential gross floor area within the development to ensure that there is a genuine provision of retail, childcare and other non-residential services provided within the development to serve the day-to-day needs of the local area within a walkable/accessible location and reduce car dependency.

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 environmentally sustainable development through Environmental Performance 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 services to the area, and the future buildings 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.

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

The Planning Agreement does not impact on 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 community services and environmental performance 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:** Submission to the City of BASIX Certificates demonstrating an energy and water BASIX scores of at least 5 points above the target.
- (ii) An occupation certificate is issued:** Design and construct all future buildings in the Development to be capable of providing a dual reticulation system for non-potable recycled water and installation of infrastructure to enable all residential parking spaces in the Development to be capable of being fitted with an Electric Vehicle Charger.
- (iii) A subdivision certificate is issued:** Nil