

COUNCIL SUPPLEMENTARY REPORT

Application Number	2017SNH013 (LDA2016/0378)
Proposed Development	Demolition of all buildings & structures on the site and construction of a mixed use development.
Street Address	152 to 190 Rowe Street, and 3 to 5 Rutledge Street, Eastwood (Eastwood Shopping Centre)
Applicant/Owner	YUHU Property (Australia) Pty Ltd
Date of Lodgement	30 August 2016
List of all documents submitted with this report	Voluntary Planning Agreement
Report prepared by	Tony Collier Senior Coordinator Major Development
Report date	12 June 2019

PURPOSE OF THIS REPORT

The purpose of this supplementary report is to:

- a) Update the Sydney North Planning Panel (the '**Panel**') of Council's decision to enter into a Voluntary Planning Agreement (**VPA**) with Development (YUHU Property (Australia) Pty Ltd) (**Developer**) regarding LDA2016/0378.
- b) Advise the Panel that, because the VPA excludes s.7.11 contributions and reinstates them via monetary payment under the VPA, the Panel is required to be a Party to the VPA.
- c) Provide the Panel with a process and timeframe for the finalisation of the VPA.

BACKGROUND

On 13 January 2018, the Developer submitted a written offer to enter into a VPA with Council in association with Development Application LDA2016/378 (the '**DA**').

The DA seeks consent for the demolition of the existing buildings on the property known as 152 to 190 Rowe Street and 3-5 Rutledge Street, Eastwood (Eastwood Shopping Centre) (**Land**) and the subsequent construction of:

- (a) Seven (7) buildings on the Land accommodating the following uses:
 - (i) Retail and commercial uses at Lower Ground and Ground Levels, including a major supermarket, mini-major supermarket, specialty retail, fresh food, slow and fast food, kiosks, pharmacy, medical centre, gymnasium and commercial office space.

- (ii) Shop top housing: 409 residential apartments across the upper levels of all buildings.
 - (iii) Four (4) levels of commercial office space (including ground level) within a buildings.
 - (iv) Four levels of basement car parking and loading to service all activities on the site;
 - (v) Two (2) new open air through site pedestrian links between Rowe Street and Rutledge Street and a publicly accessible market hall, supported by active frontages, outdoor seating and pedestrian amenities and public domain works on Rowe St Mall.
 - (vi) New vehicle access arrangements for residents, visitors, retail patrons and service vehicles; and
 - (vii) Landscape works on the Land.
- (b) Site preparation works including demolition, remediation and rehabilitation and bulk earth works on the Land.

At its meeting on 28 May 2019, Council resolved as follows [my emphasis added in **bold**] as to the offer by the Developer to enter into the VPA:

- (a) *That Council accept the Voluntary Planning Agreement detailed in ATTACHMENTS 3 to 9 as agreed with YUHU Property (Australia) Pty Ltd, being made in accordance with their Letter of offer dated 13 January 2018 in relation to Development Application LDA2016/378 at 152-186 Rowe Street and 3-5 Rutledge Street, Eastwood.*
- (b) **That Council delegate authority to the General Manager to:**
 - (i) **Negotiate and authorise** any changes to the Voluntary Planning Agreement (including the Functional Brief) resulting from its public exhibition, provided that those changes do not diminish the value or nature of the public benefits to be delivered as identified in the Planning Agreement and a larger water feature.
 - (ii) **Subsequently enter into the Voluntary Planning Agreement on behalf of Council.**
- (c) *That upon transfer of ownership to Council of the key worker housing apartments at 152-186 Rowe Street and 3-5 Rutledge Street, Eastwood, public notification of the intention to classify the land as operational, in accordance with Section 34 of the Local Government Act 1993 be undertaken.*
- (d) *That the key worker housing apartments at 152-186 Rowe Street and 3-5 Rutledge Street, Eastwood, be classified as operational land, subject to no objecting submissions during the notification period.*
- (e) *That the detailed design be provided to Council for endorsement prior to its finalisation.*

(f) That YUHU Property (Australia) Pty Ltd be informed of Council's decision.

Under the VPA the Developer is required to deliver the following contributions at its cost and risk:

- i. Rowe Street Mall Upgrade Works to value of no less than \$5,060,587 and to an agreed scope of works generally in accordance with the concept plans provided in Attachment 3 to this report.*
- ii. 5 x 1 bedroom Affordable Housing Apartments to a value of no less than \$3,900,000 with the location of the apartments to be agreed between the parties.*
- iii. Civic and Urban Improvement as Works-in-Kind in surrounding streets (other than Eastwood Mall) to a value of no less than \$4,225,091 as per works detailed in Attachment 4 of this report.*

The VPA requires the Developer to provide security to Council, in the form bonds or bank guarantees for the monetary contribution and the public domain works including Eastwood Plaza. Additionally, the Developer is to provide Council with the documentation required to register the VPA on the title of the land.

The VPA was exhibited for a period of 28 days from 30 January 2019 to 27 February 2019. Several submissions were received during the exhibition period and Council considered the matters raised in the submissions at its Ordinary Meeting of 28 May 2019. After considering the matters raised in the submissions, Council granted delegation to the General Manager to enter into the VPA on their behalf (as provided above).

The DA is yet to be determined by the Panel.

Once the VPA is finalised, a supplementary report will be prepared and sent to the Panel to determine the DA electronically.

DISCUSSION

The Panel is a Party to the VPA by virtue of Section 7.4(3A) of the EP&A Act 1979, which requires that the 'consent authority' to the related development application must be a party to a VPA when s.7.11 or s.7.12 contributions are being excluded by the VPA.

NEXT STEPS

Because the VPA will need to be signed by multiple parties and within a defined timeframe, the following procedure will occur:

1. An agreed version of the VPA, already signed by the Developer, is referred to the Panel Secretariat for review by the Department's legal team (see attached). Council's General Manager will also sign the document in the meantime.

2. Should any changes be required to be made by the Department's legal team, the VPA will be referred back to the General Manager (CoR) and the Developer (YUHU) for resigning if necessary.
3. The final version of the VPA signed by the Developer and Council will be produced to the Panel on 26 June 2019 for their final execution.



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