

# Explanatory Note

Environmental Planning and Assessment Regulation 2000

(Clause 25E)

## **Explanatory Note – St Leonards South Precinct Planning Agreement, Clause 25E *Environmental Planning and Assessment Regulations 2000***

### **Explanatory Note for Draft Voluntary Planning Agreement**

13, 15, 17 and 19 Canberra Avenue, St Leonards

#### **Summary**

The purpose of this Explanatory Note is to provide a plain English Summary to support the notification of a draft Voluntary Planning Agreement (“**the Planning Agreement**”) under Section 7.4 of the *Environmental Planning and Assessment Act 1979* (“**the Act**”) and *Environmental Planning and Assessment Regulation 2000* (Clause 25E) (“**the Regulation**”).

This explanatory note explains what the planning agreement is proposing, how it delivers public benefit and whether it is an acceptable means of achieving the proposed planning outcomes.

In preparing the explanatory note, the planning authority must consider any relevant practice note prepared by the Planning Secretary under clause 25B(2). The Planning Secretary has published *Planning agreements: Practice note – February 2021*. It has been considered by the parties in the course of preparing this explanatory note as required by clause 25E(2) of the Regulation.

#### **Parties**

The parties to this planning agreement are:

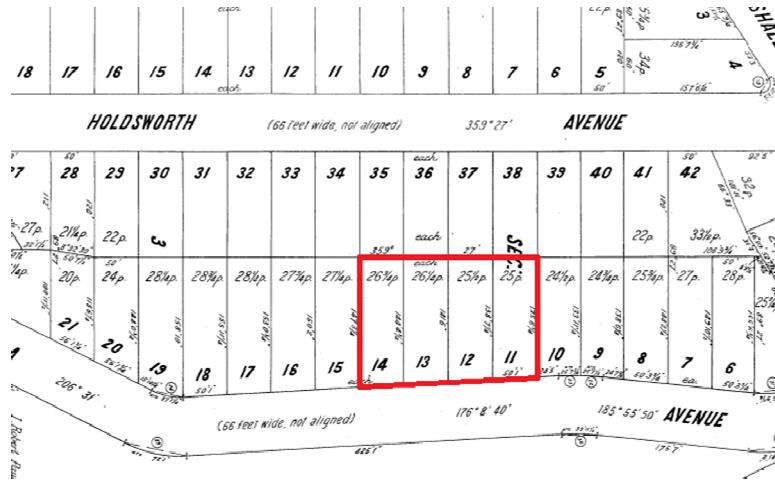
- Lane Cove Council as the planning authority; and
- SLS Five Pty Ltd as trustee for SLS Five Trust.

#### **Description of subject land**

- Lot 11 in Section 3 in DP7259 known as 13 Canberra Avenue, St Leonards
- Lot 12 in Section 3 in DP7259 known as 15 Canberra Avenue, St Leonards
- Lot 13 in Section 3 in DP7259 known as 17 Canberra Avenue, St Leonards; and

- Lot 14 in Section 3 in DP7259 known as 19 Canberra Avenue, St Leonards,

(collectively referred to as the “**the Land**”), depicted in the map shown below:



This planning agreement will be registered on the subject land titles.

#### **Description of the Development to which the Planning Agreement applies**

1. The “**Development**” on the Land comprises any development of the Land that exceeds the maximum building height or maximum floor space ratio (or both) set under clause 4.3 and clause 4.4 of the *Lane Cove Local Environmental Plan 2009* respectively.
2. At the date of this Agreement Part 7 of the *Lane Cove Local Environmental Plan 2009* provides a pathway to exceed either or both of these standards.

#### **Summary of Objectives, Nature and Effect of the Planning Agreement**

##### **Objectives**

The objective of the Planning Agreement is to provide non-monetary contributions for public amenities and services beyond those likely to be required by a Contributions Plan.

In terms of monetary contributions, the objective is to provide for monetary contributions that reflect either an existing draft contributions plan or the final contributions plan (if the rates are lower).

##### **Nature**

The Planning Agreement will be a voluntary Planning Agreement under section 7.4 of the EPA Act.

A Planning Agreement of this kind may require a Developer to dedicate land free of cost, pay a monetary contribution, or provide any other material public benefit to be used for or applied towards a public purpose.

In this particular case, the Planning Agreement provides for:

- the dedication of land free of cost; and
- monetary contributions

towards public purposes.

### **Effect**

Subject to the granting of development consent for the Development, the Planning Agreement provides for:-

1. the payment of monetary contributions equivalent to the section 7.11 Development Contributions proposed for the St Leonards South Precinct in the Draft Lane Cove Council, St Leonards South Contributions Plan, pending its support by the Independent Pricing and Regulatory Tribunal;
2. the dedication of land for use as a publicly accessible pedestrian an east-west link; and
3. the dedication of a parcel of land, limited in height and depth (which may be a Strata Lot) comprising a community hall, child care centre and associated outdoor play area.

### **How the agreement promotes the public interest**

#### The Planning Agreement Promotes the Objects of the Act

The draft Planning Agreement promotes the following objectives of the *Environmental Planning and Assessment Act 1979*:

- (a) *the facilitation of ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment;*
- (b) *the promotion and co-ordination of the orderly and economic use and development of land, and*
- (c) *the promotion of good design and amenity of the built environment.*

The Planning Agreement promotes the objects of the Act set out above by facilitating development of the Land in accordance with Lane Cove LEP 2010 and Lane Cove Development Control Plan, Part C – Residential Localities - Locality 8.

#### How the Planning Agreement otherwise promotes the public interest

The Planning Agreement promotes the public interest by making monetary contributions (equivalent to s7.11 Developer Contributions) and where applicable provides infrastructure to support the future population of the St Leonards South Precinct, as determined by Council in the St Leonards South Masterplan. The making of monetary contributions will also provide for infrastructure and facilities appropriate to the current and future needs of the wider community.

The Planning Agreement also promotes the public interest by providing for the dedication of land, in circumstances where such dedications are not anticipated as part of a contributions plan.

The Planning Agreement promotes the objects of the *Local Government Act 1993*

The Planning Agreement promotes the objects of the *Local Government Act 1993* by facilitating engagement with the local community by the Council and demonstrating and giving effect to a system of local government that is accountable to the community and that is sustainable, flexible and effective.

The Planning Purposes served by the Planning Agreement and whether the Planning Agreement provides a reasonable means of achieving those purposes

The Planning Agreement provides for the following public purposes, in accordance with section 7.4 of the Act:

- i. the provision of (or the recoupment of the cost of providing) public amenities or public services;
- ii. the provision of (or the recoupment of the cost of providing) infrastructure relating to land.

It is considered that the Planning Agreement provides for a reasonable means by which to achieve these planning purposes as it secures the provision of the agreed contributions by the Developer to Council by way of registration on title, and requirements for performance before occupation of the new buildings proposed in the Development.

Whether the Planning Agreement conforms with the Council's Capital Works Program

This agreement conforms with the Capital Works contemplated in Lane Cove Development Control Plan, Part C – Residential Localities - Locality 8 and the Draft St Leonards South Precinct Development Contribution Plan Schedule of Works.

(e) Requirements of the agreement that must be complied with before a construction certificate, occupation certificate or subdivision certificate is issued

In the event of the Developer obtaining development consent for the Development, the Voluntary Planning Agreement requires that the agreement be registered on title prior to the issue of first construction certificate for the Development.

In the event of the Developer obtaining development consent for the Development, the Voluntary Planning Agreement requires that all contributions must be provided to Council within seven days of the issue of first occupation certificate for the Development.