

Environmental Planning and Assessment Regulation 2000

(Clause 25E)

EXPLANATORY NOTE

DRAFT PLANNING AGREEMENT – KOLOTEX SITE, LEICHHARDT

1. Introduction

The purpose of this Explanatory Note is to provide a plain English summary to support the exhibition of a proposed draft planning agreement (**Planning Agreement**) prepared under section 93F of the *Environmental Planning and Assessment Act 1979 (Act)*.

Words which are capitalised in this explanatory note but are not defined take on the meaning given to those words in the Planning Agreement.

2. Parties

The parties to the Planning Agreement are the Minister for Planning and Infrastructure (**Minister**) and KGS (Victoria) Pty Limited (ACN 000 038 719) (**Land Owner**). This explanatory note has been prepared jointly by the parties as required by clause 25E(3) of the *Environmental Planning and Assessment Regulation 2000*.

3. Description of the Subject Land

The Planning Agreement applies to all land known as 22 George St Leichhardt and is formally described in Schedule 3 to the Planning Agreement (**Land**).

4. Description of the change to the environmental planning instrument (EPI Change) and description of the Development

The proposed change to the environmental planning instrument that applies to the Land will rezone the Land to allow for mixed uses and residential uses as well as an increase in the floor space ratio. The proposed development on the Land will be for mixed uses and residential uses including residential flat buildings (**Development**).

5. Summary of Objectives, Nature and Effect of the Planning Agreement

The Land Owner has made an unconditional offer to the Minister to enter into the Planning Agreement with the Minister in connection with the EPI Change and the Development.

The objective of the Planning Agreement is to facilitate delivery of the Land Owner's contribution to an Affordable Housing Provider for Affordable Housing purposes.

To achieve these objectives, the Planning Agreement requires the Land Owner to provide the Transfer Contribution (as identified in Schedule 4 of the Planning Agreement). The Transfer Contribution requires the entry into Sale of Land Contracts for the transfer of seven Affordable Housing Lots to an Affordable Housing Provider. The particulars of the Affordable Housing Lots are outlined in more detail in the Planning Agreement.

The Planning Agreement, and the requirements in it for the Land Owner to provide the Contribution, does not exclude the application of sections 94 and 94A of the Act except that the Affordable Housing Lots are to be disregarded when calculating any payment required under those sections and any payment under those section is limited to a maximum of \$20,000 per lot.

The Land Owner is required to register the Planning Agreement on the title to the Land.

6. Assessment of the Merits of the Planning Agreement

6.1 How the Planning Agreement promotes the objects of the Act

The Contribution required by the Planning Agreement is consistent with and promotes the objects in section 5 of the Act. In particular the Contribution promotes:

- (a) the co-ordination of the orderly and economic use and development of land (section 5(a)(ii)); and
- (b) the provision and maintenance of affordable housing (section 5(a)(viii)).

The Planning Agreement promotes the objects of the Act set out above by:

- (a) encouraging an increase in the residential housing stock in the Sydney region; and
- (b) requiring the Land Owner to make contributions to ensure the availability of affordable housing;

6.2 The planning purpose served by the Planning Agreement

The planning purpose of the Planning Agreement is to ensure that affordable housing is made available as part of the Development. In addition, the Planning Agreement has the following public purposes in accordance with section 93F(2) of the Act:

- (a) the provision of (or the recoupment of the cost of providing) public amenities or public services (section 93F(2)(a)); and
- (b) the provision of (or the recoupment of the cost of providing) affordable housing (section 93F(2)(b)).

The Minister and the Land Owner have assessed the Planning Agreement and both hold the view that the provisions of the Planning Agreement provide a reasonable means of achieving the planning and public purposes set out above. This is because it will ensure that the Land Owner makes appropriate contributions towards the provision of affordable housing and section 94 or 94A contributions.

6.3 How the Planning Agreement promotes the public interest

The Planning Agreement promotes the public interest and will have a positive effect on the public by ensuring that an appropriate contribution is made towards the provision of affordable housing to satisfy needs that arise from the Development.

6.4 Requirements relating to Construction, Occupation and Subdivision Certificates

Schedule 4 of the Planning Agreement specifies that certain requirements of the agreement must be complied with before an occupation certificate is issued. The Planning Agreement does not specify that any requirements of the agreement must be complied with before a construction or subdivision certificate is issued.