

Explanatory Note

Voluntary Planning Agreement

575-583 Pacific Highway, St Leonards

Environmental Planning & Assessment Regulation 2000 (clause 25E)

Planning Agreement

The purpose of this Explanatory Note is to provide a plain English Summary to support the notification of a draft voluntary Planning Agreement (**Planning Agreement**) under Section 93F of the *Environmental Planning and Assessment Act 1979 (Act)*.

The Planning Agreement will require the payment of a monetary contribution and the provision of publicly accessible areas of the land in connection with a proposed change to provisions of the *North Sydney Local Environmental Plan 2013 (LEP 2013)* that will affect land at 575-583 Pacific Highway, St Leonards.

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

This Explanatory Note is not to be used to assist in construing the Planning Agreement.

Parties

Rozene Pty Ltd and Rosemate Pty Limited (**Developer**) made an offer to North Sydney Council (**Council**) to enter into a Planning Agreement, in connection with a Planning Proposal and the proposed future mixed use development (**Development**) of the subject land.

Description of subject land

The land to which the Planning Agreement applies is described as follows:

- The property located at 575-583 Pacific Highway, St Leonards (being lot A in Deposited Plan 431687, Lot 10 in Deposited Plan 660453 and Lot 1 in Deposited Plan 772247) (**Land**).
- The Land is 1,350sqm in area and has frontages to Albany Street, Pacific Highway and Clarke Lane.

Description of the Planning Proposal to which the Planning Agreement applies

The Planning Proposal seeks to amend the LEP 2013 to:

- (a) increase the maximum height limit for the Land from 26 metres to 56 metres consistent with the St Leonards / Crows Nest Planning Study; and
- (b) include a maximum Floor Space Ratio for the Land of 7.0:1.

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Summary of Objectives, Nature and Effect of the Planning Agreement

Monetary Contribution

The Planning Agreement sets out the developable gross floor area for the Land in accordance with LEP 2013. The Planning Agreement then requires the Developer to pay to Council the amount of \$991 per square metre of additional floor space approved for any development on the Land above the current permissible gross floor area (as a consequence of the amendment to the Height of Buildings Map and Floor Space Ratio Map) which is currently 5,021sqm.

The monetary contribution will be used to acquire, embellish and maintain public open space in the North Sydney Local Government Area.

Building Setbacks

The Planning Agreement seeks to facilitate the provision of a 3 metre building setback from the Pacific Highway frontage, except where significant features of the Marco building already exist. The Planning Agreement requires the design and construction of the setback area in accordance with the Council's *Development Control Plan 2013* and *Public Domain Style Manual and Design Code*.

The building setback aims to:

- improve pedestrian circulation;
- encourage 'active' street frontages at ground level; and
- improve the amenity of the public domain.

The building setback will apply to all future development. The agreement to provide the building setback will be a relevant consideration for any consent authority when determining future applications relating to the site. An easement permitting public access over the setback area will also be registered against the title to the Land.

Building Height

The Planning Agreement contains height restrictions on the development of part of the Land fronting Albany Street and the Pacific Highway, so that any building or development (other than landscaping or fencing) on that part of the Land will not be higher than RL 116.5. This restriction aims to retain view corridors and minimise the impacts of the proposed development on nearby development.

The Planning Agreement imposes a further restriction on part of the Land adjoining 567-573 Pacific Highway, so that any building or development (other than landscaping, air-conditioning, fencing, lift overruns, skylights or non-habitable common room areas) on that part of the Land will not exceed RL 102.3. This restriction aims to ensure there is an adequate setback from the adjoining building to minimise impacts on the amenity of occupants of the adjoining building.

Covenants will be registered against the title to the Land to reinforce the restrictions on height limit.

Assessment of the Merits of the Planning Agreement

How the Planning Agreement Promotes the Objects of the Act and the public interest

The draft Planning Agreement promotes the following objectives of the Act:

... to encourage ... promotion and co-ordination of the orderly and economic use and development of land (section 5(a)(ii))

... to encourage ... the provision of land for public purposes (section 5(a)(iv))

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The Planning Agreement will enable the utilisation of the development potential of the Land, while requiring the developer to make provision for public purposes. The Planning Agreement promotes the public interest because it will require the provision of public domain improvements that will benefit existing and future residents and workers in the St Leonards / Crows Nest area.

The Planning Purposes served by the Planning Agreement

The Planning Agreement facilitates the implementation of the St Leonards / Crows Nest Planning Study – Precinct 1 and provides for monetary contributions and building setbacks that will enable the Council to provide adequate public amenities and public services for new development in the area.

The Planning Agreement will require the developer to provide funds for the acquisition, embellishment and maintenance of public open space. It will also require building setbacks and height limits, improving public amenity and pedestrian connectivity at street level and minimising development impacts.

How the Planning Agreement promotes the objectives of the *Local Government Act 1993* and the elements of the Council's Charter

The Planning Agreement is consistent with the following purposes of the *Local Government Act 1993*:

- to give councils the ability to provide goods, services and facilities, and to carry out activities, appropriate to the current and future needs of local communities and the wider public;
- to give councils a role in the management, improvement and development of the resources of their areas.

The provision of public benefits under the Planning Agreement, consistent with the St Leonards / Crows Nest Planning Study and the exhibition of the Planning Agreement are consistent with the following guiding principles for councils set out in section 8A of the *Local Government Act 1993* (which has replaced the Council's Charter):

- Councils should provide strong and effective representation, leadership, planning and decision-making.
- Councils should carry out functions in a way that provides the best possible value for residents and ratepayers.
- Councils should plan strategically, using the integrated planning and reporting framework, for the provision of effective and efficient services and regulation to meet the diverse needs of the local community.
- Councils should manage lands and other assets so that current and future local community needs can be met in an affordable way.
- Councils should work with others to secure appropriate services for local community needs.
- Councils should act fairly, ethically and without bias in the interests of the local community.
- Councils should consider the long term and cumulative effects of actions on future generations.
- Council decision-making should be transparent and decision-makers are to be accountable for decisions and omissions.
- Councils should actively engage with their local communities, through the use of the integrated planning and reporting framework and other measures.

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

The Planning Agreement offers contributions that will enable the Council to provide and embellish new public open space areas, the need for which will be created by the Development, and will improve pedestrian amenity in the vicinity of the Development. While the Council's Capital Works Program does not include any proposals to acquire land for the purpose of new open space areas, it does include proposals to improve open space areas and the provision of the contributions under the Planning Agreement will not be inconsistent with the Council's Capital Works Program. The Planning Agreement will enable Council to provide for the current and future open space needs of the local community.

Whether the Planning Agreement specifies that certain requirements must be complied with before a construction certificate, occupation certificate or subdivision certificate is issued

The Planning Agreement requires the payment of the monetary contribution and covenants restricting the height of buildings over parts of the Land to be registered prior to the issue of a Construction Certificate for the Development or any part of the Development.

The Planning Agreement also requires payment of any additional monetary contribution for additional floor space approved after the issue of a Construction Certificate, the easement for public access over the setback area and the construction of public domain areas to be completed prior to the issue of an Occupation Certificate for a the Development or any part of the Development.