

Explanatory Note

Exhibition of draft Voluntary Planning Agreement

PP3/18: 50-56 Atchison Street, 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 (“**the Planning Agreement**”) under Clause 7.4 of the *Environmental Planning and Assessment Act 1979* (“**the Act**”).

The Planning Agreement will require the provisions for both monetary and in-kind contributions to community infrastructure in the St Leonards/Crows Nest precinct in connection with a proposed change to provisions of the *North Sydney Local Environmental Plan 2013 (NSLEP 2013)*. The contributions include:

- a. Provision of a 3-metre-wide building setback from Atchison Street as generally shown on the Plan at Annexure A;
- b. Provision of a publicly accessible pedestrian thoroughfare between 4.6m and 5.6m wide and at least 7m high from Atchison Street to Atchison Lane, as generally identified in the location on the Plan attached at Annexure A, with an easement for public access between 6am to 11pm; and
- c. A \$1,400,000 monetary contribution towards the upgrade of Hume Street Park or public open space within the suburbs of St Leonards or Crows Nest within the North Sydney Local Government Area.

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

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

Parties

Epic Leisure Pty Ltd (“**the Developer**”) made an offer to North Sydney Council (“**Council**”) to enter into a Planning Agreement, in connection with a Planning Proposal for land at 50-56 Atchison Street, St Leonards.

Description of subject land

The land to which the Planning Agreement is Lots 5 to 7 of Section 11 in Deposited Plan 2872, known as 50-56 Atchison Street, St Leonards (“**the Land**”).

Description of the Planning Proposal to which the Planning Agreement applies

The Planning Proposal seeks to amend the NSLEP 2013 to:

- a) increase the maximum height limit for the Land from 20 metres to 56 metres (excluding the lift overrun) consistent with the St Leonards/Crows Nest Planning Study;
- b) increase the minimum non-residential floor space ratio (FSR) from 0.6:1 to 1.7:1;
- c) apply a maximum FSR of 6.4:1; and

- d) Introduce a site-specific provision clarifying that the maximum building height control may be reasonably exceeded for those portions of the building designed to provide access to a communal rooftop.

Summary of Objectives, Nature and Effect of the Planning Agreement

Monetary Contribution

The Planning Agreement requires the Developer to pay Council the amount of \$1,400,000 to be applied towards the acquisition, embellishment and maintenance of Hume Street Park or the embellishment and maintenance of other land for the purpose of public open space and recreation within the suburbs of St Leonards or Crows Nest within the North Sydney Local Government Area.

The monetary contribution will be payable in instalments, with 50% of the amount payable prior to the issue of a Construction Certificate for any above-ground works and the remaining 50% of the amount payable prior to the issue of the first Occupation Certificate for the Development. The monetary contribution will be indexed in accordance with increases in the Consumer Price Index from the date of agreement to the date of payment.

Setback Area

The Planning Agreement requires a 3m building setback from Atchison Street to improve pedestrian circulation and amenity and encourage active street frontages as generally identified on the Plan at Annexure A (**Setback Area**). The Setback Area will be established through the registration of a covenant restricting building (registered prior to a Construction Certificate for above ground works) and an easement for public access to the relevant land (registered prior to the issue of an Occupation Certificate).

The Planning Agreement provides that any development consent applying to the land may require development of the Setback Area so it is consistent with any standards and specifications provided by Council.

Pedestrian Thoroughfare

The Planning Agreement will facilitate the provision of a 4.6 – 5.6m wide and at least 7m high publicly accessible pedestrian thoroughfare along the western boundary of the site, as generally identified in the location on the Plan attached at Annexure A, with an easement for public access between 6am to 11pm (**Public Access Area**). The Public Access Area aims to provide a pedestrian link between Atchison Street and Atchison Lane.

The Planning Agreement requires that any approval for a building on the land may require development of the Public Access Area so it is consistent with any standards and specifications provided by the Council and suitable for public use as a pedestrian thoroughfare.

Public access to the pedestrian thoroughfare will be achieved by the grant of an easement in favour of Council (required prior to the issue of an Occupation Certificate for the development of the Land).

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:

- a. *Promotes the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources* (section 1.3(a)).

- b. *Promotes the orderly and economic use and development of land* (section 1.3 (c)).
- c. *Promotes good design and amenity of the built environment* (section 1.3(g)).

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 proposed contributions under the Planning Agreement are consistent with the Council's strategic plans and policy documents.

The Planning Purposes served by the Planning Agreement

The Planning Agreement facilitates the implementation of Council's endorsed "St Leonards/Crows Nest Planning Study – Precincts 2 & 3" and provides for monetary contributions and building setbacks that will enable the Council to provide adequate public amenities 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 setbacks for the purpose of additional public open space and a pedestrian through site link, 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 facilitate engagement with the local community by councils, councillors and other persons and bodies that constitute the system of local government; and
- to provide for a system of local government that is accountable to the community and that is sustainable, flexible and effective.

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

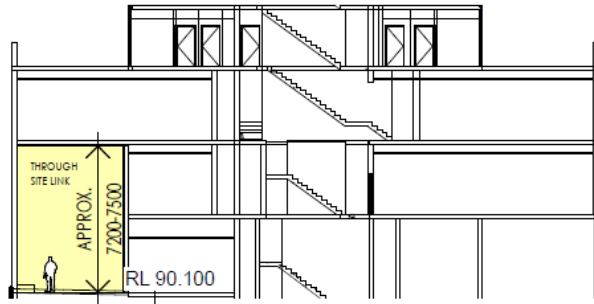
The Planning Agreement offers contributions that will enable the Council to provide and embellish new public open space areas, the need for which will be created by the Development, and will improve pedestrian amenity in the vicinity of the Development. The Planning Agreement will enable Council to provide 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

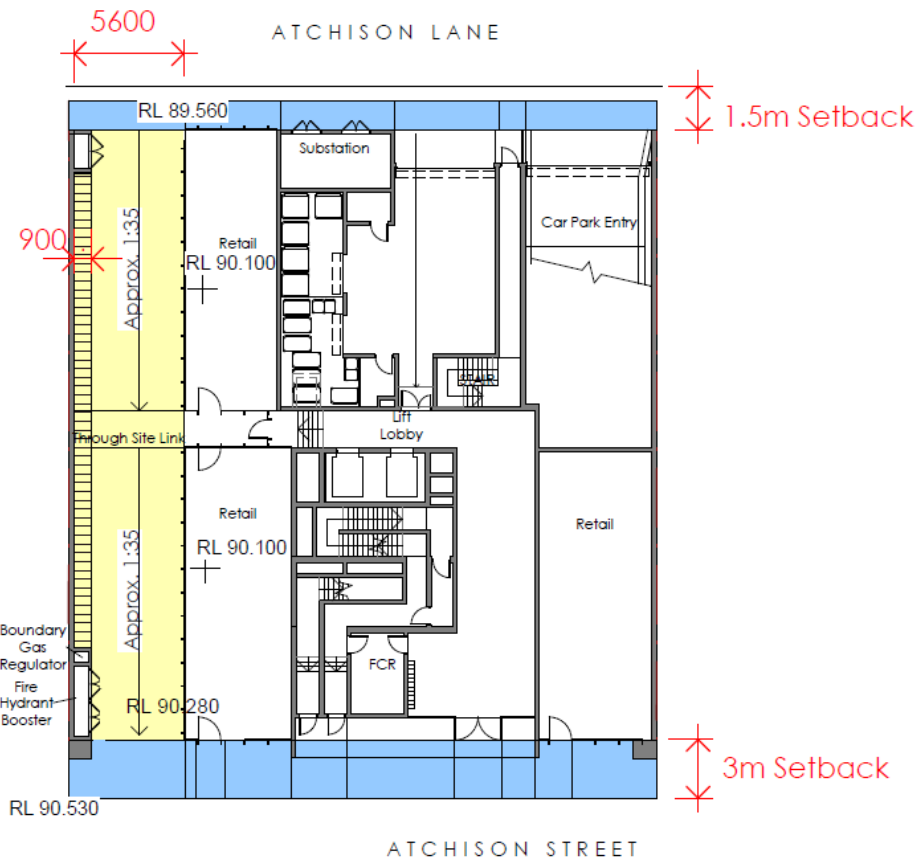
The Planning Agreement requires:

<u>Contribution</u>	<u>Timing</u>
50% of the monetary contribution to be paid to Council	Prior to the issue of a Construction Certificate for above ground works
50% of the remaining monetary contribution to be paid to Council	Prior to the issue of the first Occupation Certificate
Registration of a covenant restricting building on the Setback Area	Prior to the issue of a Construction Certificate for above ground works
Registration of public access easements for the Setback Area and the Public Access Area	Prior to the issue of any Occupation Certificate

Annexure A Plan showing Public Access Area and Setback Area



THROUGH SITE LINK SECTION



THROUGH SITE LINK PLAN

