

# Explanatory Note

## Exhibition of draft Voluntary Planning Agreement

### 31-33 Albany Street, Crows Nest

*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 Section 93F of the *Environmental Planning and Assessment Act 1979* (“**the Act**”).

The Planning Agreement will require the provision of areas accessible to the public and a monetary contribution towards the provision of new open space in relation to a proposed change to provisions of the *North Sydney Local Environmental Plan 2013* (“**LEP 2013**”) that affect land at 31-33 Albany Street, Crows Nest.

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

Winten (No. 16) Pty Ltd (“**the Developer**”) made an offer to North Sydney Council (“**the Council**”) to enter into a voluntary Planning Agreement, in connection with a Planning Proposal relating to the subject land. Paluma Pty Limited and Yuri and Rae Bolotin (“**the Landowners**”) have agreed to be parties to the arrangement.

#### Description of subject land

The land to which the Planning Agreement applies is described as Lot 1 DP 572479 and Lot 41 Section 4 DP 2872 known as 31-33 Albany Street, Crows Nest (“**the Land**”).

The Land has frontages to Albany Street and Hume 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 13 metres to 26 metres consistent with the St Leonards / Crows Nest Planning Study; and
- (b) introduce a maximum Floor Space Ratio for the Land of 4.27:1.

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

### **Monetary Contribution**

The Planning Agreement requires a monetary contribution in the amount of \$1,150,000.00 (indexed in accordance with the consumer price index) to Council for the provision of new open space in the precinct.

The monetary contribution will be used to acquire land and aims to:

- increase the size of existing parks;
- provide improved pedestrian access to existing parks; and
- form an important link within the broader pedestrian network that links St Leonards town centre and Willoughby Road.

### **Building Setbacks**

The draft Planning Agreement seeks to facilitate the provision of a 3 metre building setback from the Hume Lane frontage to allow for greater footpath widths. The Planning Agreement requires the design and construction of the setback areas in accordance with the Council's *Development Control Plan 2013* and *Public Domain Style Manual and Design Code*.

The building setbacks aim to:

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

The building setbacks will apply to all future development and the agreement to provide the building setbacks 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 areas will also be registered against the title to 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 objective of the Environmental Planning and Assessment Act 1979:

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

The draft Planning Agreement promotes the public interest by providing 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 contribution by the Developer, building setbacks and funds for the following planning purposes:

- Public amenities and public services.

## **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 Planning Agreement promotes the following element of the Council's Charter:

- to provide directly or on behalf of other levels of government, after due consultation, adequate, equitable and appropriate services and facilities for the community and to ensure that those services and facilities are managed efficiently and effectively

This element of the Council's Charter is promoted through the raising of funds through the proposed monetary contribution so as to provide new open space. It is also promoted through the provision of building setbacks that will allow for widened footpaths.

## **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 a covenant building in the setback area to be registered prior to the issue of a Construction Certificate for any future building on the Land.

The Planning Agreement also requires an easement for public access over the setback area and the construction of those public domain areas to be completed prior to the issue of an Occupation Certificate for any future building on the Land.