

Explanatory Note

Exhibition of draft Voluntary Planning Agreement

Lot 2 DP 1046092, 85-97 Waterloo Road, Macquarie Park

Environmental Planning & Assessment Regulation 2000 (clause 25E)

1. 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 7.4 of the *Environmental Planning and Assessment Act 1979 (Act)*.

The Planning Agreement will require the payment of a monetary contribution in connection with incentive gross floor area and height (**Incentive GFA**) available under clause 6.9 of the *Ryde Local Environmental Plan 2014 (Ryde LEP)*, the construction and dedication of roadworks and the provision of pedestrian rights of way in connection with the proposed development of Lot 2 DP 1046092 and Lot 3 in DP1046092, known as 85-91 and 97-99 Waterloo Road, Macquarie Park NSW. The Planning Agreement specifies the public benefits to be provided by the Developer in connection with the development.

Contributions under section 7.24 of the Act are not excluded under the Planning Agreement, but contributions under sections 7.11 and 7.12 of the Act will be excluded. The Planning Agreement requires the payment of additional monetary contributions and works to be carried out in lieu of contributions currently payable under section 7.11 of the Act. As the total contributions provided for under the Planning Agreement are connected to Incentive GFA available for the development, the Planning Agreement provides for adjustments to the total amount if the land is not able to be developed to its full potential or the development is approved with a greater GFA than anticipated. The monetary contributions payable under the Planning Agreement will also be reduced by the costs of works to construct a pedestrian link, once the design for those works is completed and the costs can be accurately determined.

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.

2. Parties

The parties to the Planning Agreement are City of Ryde Council (**Council**) (ABN 81 621 292 610), The Trust Company Limited (ACN 004 027 749) as custodian for Goodman Australia Industrial Trust No. 3 (**Custodian**) and Goodman Funds Management Australia Limited (ACN 088 981 793) as responsible entity for Goodman Australia Industrial Trust No. 3 (**Trustee**). The Custodian and Trustee are together referred to as the **Developer** for the purposes of the Planning Agreement.

3. Description of subject land

The land to which the Planning Agreement applies is Lot 2 DP 1046092 and Lot 3 in DP1046092 known as 85-91 and 97-99 Waterloo Road, Macquarie Park NSW (**Land**).

4. Description of the Development Application to which the Planning Agreement applies

The Planning Agreement relates to the Development subject to a Concept Masterplan. The Development is described in the Planning Agreement as:

- (a) **Stage 1** comprising the construction of an 11-13 storey commercial office building at 97-99 Waterloo Road Macquarie Park including four (4) split level basements with a Proposed GFA of 15,932 square metres and construction of the Road Works, being that part of the Development subject to Development Application LDA2017/96 submitted on 21 March 2017.
- (b) **Stage 2** which includes a building on land known as 85 Waterloo Road, Macquarie Park with a Proposed GFA of 24,180 square metres, being Concept Building 2 as shown on the Concept Masterplan.
- (c) **Stage 3** which includes a building on land known as 85 Waterloo Road, Macquarie Park with a Proposed GFA of 18,200 square metres, being Concept Building 3 as shown on the Concept Masterplan.
- (d) **Stage 4** which includes a building on land known as 85 Waterloo Road, Macquarie Park with a Proposed GFA of 15,400 square metres, being Concept Building 4 as shown on the Concept Masterplan.

(Development)

Both the Concept Masterplan and Stage 1 of the Development are the subject of a current Development Application being considered by Council. Further Development Applications will be required for Stages 2, 3 and 4.

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

The objective of the Planning Agreement is to provide contributions in connection with Incentive GFA available for the Development and to ensure the provision of public open space, public roads and pedestrian pathways in the vicinity of the Development meet the needs of the local community.

The public benefits to be provided under the Planning Agreement consist of the following:

- (a) The payment of monetary contributions totalling \$17,132,470.55. This monetary contribution is to be paid by the Developer in instalments prior to the issue of a Construction Certificate at each stage in the Development and is to be used towards the embellishment of public parks and open space in Macquarie Park, and / or the Macquarie Park access network at Council's discretion.
- (b) The construction and dedication to Council of a public road that will service the Development.
- (c) The construction of a shared pedestrian link through the Land and the grant of a public right of way over the pedestrian path.

collectively, the **Contributions**.

The amount of the monetary contributions will be adjusted to account for:

- (a) indexation in accordance with increases in the consumer price index; and
- (b) differences between the approved gross floor area of future buildings and the anticipated gross floor area as at the date of the Planning Agreement; and
- (c) the cost of the pedestrian link works, to be estimated once those works have been designed.

In order to secure the obligations of the Developer under the Planning Agreement, the terms of the Planning Agreement require the provision of several bank guarantees and authorise Council

to compulsorily acquire any interest in relevant parts of the Land if the interest is not provided by the Developer when required. In addition, the obligations to deliver the contributions and works must occur prior to the issue of specific Construction Certificates and Occupation Certificates respectively, for relevant parts of the Development. The Planning Agreement is to be registered against the title to the Land.

6. Assessment of the Merits of the Planning Agreement

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

The Planning Agreement will contribute to the provision of public open space, public roads and footpaths to meet the needs of the people who will live, work or visit the locality once the Development is complete. In doing so, the Agreement promotes the following objects of the Act:

- (a) To promote 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 (1.3(a) EP&A Act).
- (b) To facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment (1.3(b) EP&A Act).
- (c) To promote the orderly and economic use and development of land (s1.3(c) EP&A Act).
- (d) To promote good design and amenity of the built environment, (1.3(g) EP&A Act).

The delivery of the Contributions under the Planning Agreement will be in the public interest because they will result in the provision of public infrastructure and will improve traffic movements and pedestrian amenity in the vicinity of the Development. The provision of these items will promote the social and economic welfare of the community.

The Planning Purposes served by the Planning Agreement

The Planning Agreement will provide a major public benefit in terms of the provision of public open space, improved public roads and pedestrian pathways to service the Development and the wider public. The Contributions to be delivered under the Planning Agreement will contribute to providing appropriate facilities and infrastructure for the Development, producing a good planning outcome for the Development of the Land. As it would be difficult to obtain these public benefits through other statutory means, the Planning Agreement is the most suitable instrument by which the contributions can be delivered.

How the Planning Agreement promotes the objectives of the Local Government Act 1993 and the elements of the Council's Charter (now section 8A)

The Planning Agreement promotes the objects of the *Local Government Act 1993* because it will give Council the ability to provide goods, services and facilities and to carry out activities, appropriate to the current and future needs of local communities and of the wider public (sections 7(d) and 7(e)). The Planning Agreement will provide appropriate public infrastructure for the benefit of the community in the area of the Development.

By enabling Council to provide public infrastructure and improve public domain areas, the Planning Agreement is consistent with the following guiding principles for councils, set out in section 8A of the *Local Government Act 1993* (replacing 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 consider the long term and cumulative effects of actions on future generations.
- Councils should consider the principles of ecologically sustainable development.
- Councils should actively engage with their local communities, through the use of the integrated planning and reporting framework and other measures.

The Council's strategic planning for the Macquarie Park area seeks to provide enhanced pedestrian, bike and road access. The Planning Agreement is consistent with this strategic plan for the area.

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

The Planning Agreement is not consistent with the Council's capital works program. The Planning Agreement provides capital infrastructure and public benefits beyond what Council is providing in its capital works program, due to the direct demand resulting from the development to which the Planning Agreement relates. As such the Planning Agreement provides that developers will be responsible for the provision of the capital infrastructure and public benefits required.

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

The Contributions under the Planning Agreement, being the payment of the monetary contribution, the dedication of public roads and grant of a pedestrian right of way, must be provided at various stages of the Development, generally prior to the issue of a construction certificate or occupation certificate for the relevant stage of the Development. The Planning Agreement restricts the issue of relevant construction certificates and occupation certificates if the obligations to deliver the Contributions have not been satisfied.