
Explanatory Note

Planning Agreement

20, 26, 28, 31, 32 – 34 & 33 Shepherd Street

1 Introduction

This Explanatory Note has been prepared in accordance with clause 25E of the *Environmental Planning & Assessment Regulation 2000* (NSW).

The purpose of this Explanatory Note is to provide a plain English summary to support the notification of a draft planning agreement (**Planning Agreement**) between the parties under s93F of the *Environmental Planning & Assessment Act 1979* (NSW) (**EPA Act**).

Any words beginning with a capital letter below which are not otherwise defined in this Explanatory Note have the meaning ascribed to them in clause 1.1 of Schedule 2 of the Planning Agreement.

2 Parties to the Planning Agreement

The parties to the Planning Agreement are:

- (1) Liverpool City Council (ABN 84 181 182 471) (**Council**);
- (2) Shepherd Street Developments Pty Limited (ACN 660 668 120), Coronation (33 Shepherd St) Pty Limited (ACN 601 903 682), Coronation (26 Shepherd St) Pty Limited (ACN 600 861 907) and Coronation (28 Shepherd St) Pty Limited (ACN 612 253 308) (**Developer**); and
- (3) Shepherd Property Nominee Pty Limited (ACN 606 262 784) (**Participant**).

3 Description of the Subject Land

The Planning Agreement applies to the whole of the land contained in Certificates of Title Folio Identifiers:

- (1) 1 / 247485;
- (2) 3 / 247485;
- (3) 4 / 247485;
- (4) 5 / 247485
- (5) 6 / 247485
- (6) 22 / 859055; and
- (7) 23 / 859055,

and known as 20, 26, 28, 31, 32 – 34 and 33 Shepherd Street, Liverpool, NSW (**Land**).

4 Description of the Development and Instrument Change

Development

The Planning Agreement applies to any development of the Land permitted after the Instrument Change (as described below) is made (which for the purpose of clarity includes any development undertaken on the land as at the date of the Planning Agreement in accordance with existing development consent(s) summarised below).

20 Shepherd St

DA-1010/2014: approved by JRPP at its meeting of 8 October 2015. Development Consent issued on 27 October 2015

Demolition of portion of existing heritage building 'former Challenge Wollen Mills'; removal of existing car park; removal of 14 trees; remediation of site; erection of two residential flat buildings, with two levels of basement parking; landscaping and associated site works.

DA-1011/2014: approved by Liverpool Council on 9 April 2015

Use of Part of an existing building as an exhibition home.

DA-1011/2014/A: approved by Liverpool Council on 1 July 2015

Modification pursuant to s96(2) of Environmental Planning & Assessment Act 1979. Proposed modifications allowed for the additional of a second display unit/exhibition home.

DA-1056/2015: approved by Liverpool Council on 11 April 2016

Fitout and usage of "Challenge Woollen Mills" Building as a local retail facility.

DA-1010/2014: approved by JRPP in February 2016. Modification approval issued on 15 February 2016

Modification pursuant to Section 96(2) of the Environmental Planning & Assessment Act 1979. The modification seeks to:

Realign the basement and provide an extra level (no change to number of parking spaces); and

Modify ground level of Building A with respect to car park entries, which results in minor changes to unit location (no change to unit size or

DA-1010/2014/B: approved by Liverpool Council on 26 July 2016

Modification to DA 1010/2014 pursuant to section 96(1A) of the Environmental Planning & Assessment Act 1979. The modification proposes changes to hours of work on Saturday to 8am to 3pm

DA-1010/2014/C: approved by Liverpool Council on 26 May 2017

Modification to DA-1010/2014 pursuant to Section 96(1A) of the Environmental Planning & Assessment Act 1979. The modification proposes changes to the external facade, lift overruns, floor to floor height on Building A Level 4, modification to basement walls and layouts, change of Building A Unit mix and adaptable apartment locations, ground floor landscaping and drainage changes, and amendment to the kerb at Atkinson Street.

DA-1010/2014/D: approved by Liverpool Council on 24 February 2017

Modification to DA 1010/2014 pursuant to section 96(1A) of the Environmental Planning & Assessment Act. The modification proposes to amend condition 47C in relation to Heritage Conservation Works.

28 Shepherd St

DA-612/2015: approved by SSWPP. Development Consent issued on 24 January 2016

Construction of two residential flat buildings comprising one x 7 storey building and one x 6 storey building with a total of 144 units, underground carparking, demolition of structures, and site works.

Instrument Change

The Instrument Change refers to the making of a local environmental plan that amends the Liverpool *Local Environmental Plan 2008* generally in accordance with the changes sought under the planning proposal (Council reference RZ-17/2015) including the following amendments:

- (1) An amendment to the floor space ratio (**FSR**) controls, to provide maximum FSR controls of:
 - (a) 3.3:1 at 20 Shepherd Street;
 - (b) 3.7:1 at 26 & 28 Shepherd Street Liverpool;
 - (c) 3.5:1 at 31-33 Shepherd Street Liverpool; and
 - (d) 3.6:1 at 32-34 Shepherd Street Liverpool.
- (2) An amendment to the height of building (**HOB**) controls to provide maximum HOB controls of:
 - (a) 24m, 29m and 76m at 20 Shepherd Street Liverpool;
 - (b) 46m at 26 Shepherd Street Liverpool;
 - (c) 20m, 68m, and 58m at 28 Shepherd Street Liverpool;
 - (d) 56m at 32-34 Shepherd Street Liverpool; and
 - (e) 24m, 65m, and 77m at 31-33 Shepherd Street Liverpool.

5 Summary of contributions, objective, nature and effect of the Planning Agreement

The Developer is prepared to make contributions to Council in conjunction with the carrying out of the Development by carrying out the Works and making payment to Council of the Monetary Contributions (**Development Contributions**) as set out in the Planning Agreement.

Schedule 3 and **Annexure 1** of the Planning Agreement set out the timing, descriptions, plan and procedures associated with the delivery of the Development Contributions, including the public purpose for which they are provided and/or are to be applied. Some of those timing requirements allow Council to withhold an Occupation Certificate in respect of parts of the Development until the relevant Development Contributions are provided.

The **objective** of the Planning Agreement is to:

- (1) facilitate the delivery of the Development Contributions; and

(2) to make provision for transport and other infrastructure,

to meet certain demands created by the Development and to ensure that existing communities do not bear those costs.

The **nature** of the Planning Agreement is a contractual relationship between the Council and the Developer for the provision of the Development Contributions to support the Development.

The **effect** of the Planning Agreement is that the Developer will contribute the Development Contributions in the manner provided for by the Planning Agreement.

This Explanatory Note is not to be used to assist in construing the planning agreement.

6 Assessment of the merits of the Planning Agreement

6.1 The planning purposes served by the Planning Agreement

The Planning Agreement satisfies the objective of making provision for transport and other infrastructure to meet certain demands created by the Development and to ensure that existing communities do not bear those costs.

In accordance with section 93F(2) of the EPA Act, the Planning Agreement promotes the following public purpose:

- (1) The provision of (or the recoument of the cost of providing) public amenities and public services.
- (3) The provision of (or the recoument of the cost of providing) transport or other infrastructure relating to land.
- (2) The funding of recurrent expenditure relating to the provision of public amenities or public services, transport or other infrastructure.
- (3) The conservation or enhancement of the natural environment.
- (4) The monitoring of the planning impacts of development of the Land.

6.2 How the Planning Agreement promotes the objects of the EPA Act

By providing transport and other infrastructure that will serve the future needs of residents in the local area, the Planning Agreement promotes the following objects under s5 of the EPA Act:

- (1) To encourage the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment.
- (2) The provision and co-ordination of community services and facilities..

6.3 How the Planning Agreement promotes the public interest

In accordance with the objects of the EPA Act, the Planning Agreement promotes the public interest in the following manner:

- (1) The proper management and development of land.
- (2) The promotion and co-ordination of the orderly and economic use and development of land.

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- (3) The Planning Agreement will not preclude the public being provided with the opportunity for involvement and participation in development assessment. The public have been provided the opportunity to be involved with the development assessment and are invited to make comment on the Planning Agreement, particularly with regard to the public interest.

These purposes represent an important public benefit, and the Developer's offer to contribute towards these purposes will provide an important positive impact on the public who use the infrastructure, land and services to which these purposes relate.

6.4 How the Planning Agreement promotes the Guiding Principles for Councils

The Planning Agreement promotes a number of the Guiding Principles for Councils under section 8A of the *Local Government Act 1993* (NSW), as follows:

- (1) This Explanatory Note is prepared for the purposes of keeping the local community and the State government (and through it, the wider community) informed about its activities and to ensure that its decision-making is transparent.
- (2) To manage lands and other assets so that current and future local community needs can be met in an affordable way which provides the best possible value for residents and ratepayers.
- (3) To act fairly, ethically and without bias in the interests of the local community
- (4) 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.
- (5) To recognise diverse local community needs and interests.
- (6) To have regard to the long term and cumulative effects of its decisions on future generations.
- (7) To bear in mind that it is the custodian and trustee of public assets and to effectively plan for, account for and manage the assets for which it is responsible.
- (8) To engage in long-term strategic planning on behalf of the local community.
- (9) To promote the public interest by committing the Developer to make contributions towards local infrastructure and open space land.

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

A portion of the scope of works is additional to Council's current Capital Works Program, however those works are to be undertaken by the Developer in accordance with the Planning Agreement.

Proposed works in the Planning Agreement confirms the works identified in the various Council investigations to be delivered progressively over the coming years.

These works are included in the relevant s94s plans but are significantly underfunded based on current construction cost and potential s94 contribution collection amount.

While design is underway, the works are yet to be programmed in Council's future Capital Works Program.