

Explanatory Note

Inner West Council ABN 52 659 768 527

and

The Yard 120C Pty Ltd

1 Introduction

The purpose of this explanatory note is to provide a plain English summary to support the notification of the draft planning agreement between Inner West Council and The Yard 120C Pty Ltd (**Planning Agreement**) prepared under Subdivision 2 of Division 7.1 of the *Environmental Planning and Assessment Act 1979 (Act)*.

2 Parties to the Planning Agreement

The Parties to this Planning Agreement are the Inner West Council ABN 52 659 768 527 (**Council**) and The Yard 120C Pty Ltd ACN 610 050 541 (**Developer**).

3 Description of the Subject Land

This Planning Agreement applies to:

- Lot 1 DP 817359; and
- Lot 100 DP 875660;

known as 120C Old Canterbury Road, Summer Hill (**Land**).

4 Description of the Proposed Development

The Planning Agreement relates to a planning proposal, which seeks to amend the *Ashfield Local Environmental Plan 2012 (LEP)*, and the proposed future development of the Land for the purpose of a six story mixed use development, comprising mainly of residential housing as well as a smaller retail space and sixty-two car spaces (**Proposed Development**).

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

In connection with the Proposed Development, the parties have agreed to enter into the Planning Agreement.

The Planning Agreement requires the Developer to:

- Construct a park of approximately 300m² located within the Land and to provide rights of way for public access through the park;
- Provide Council with 35m² of community office space located within the Ground Floor retail space of the Proposed Development for a period of five years at a rate of \$1 per year for the term of the lease;
- Transfer to Council for no consideration the legal title for two affordable housing units, both being mid-range studio apartments which are each approximately 35m²; and
- Pay Council a monetary contribution of an amount equivalent to the amount that would be payable under a condition of development consent imposed in accordance with ss.7.11 and 7.13 of the Act having regard to the Contributions Plan, such amount to be calculated on the

date that the Monetary Contribution is paid., with such amount to be paid prior to the issue of any Occupation Certificate for the final stage of the development.

The Developer must register the Planning Agreement on the title of the Land in accordance with section 7.6 of the Act.

The objective of the Planning Agreement is to facilitate the delivery of contributions by the Developer towards the provision of infrastructure, facilities and services which will be required in connection with the development of the Land.

The Planning Agreement excludes the operation of Sections 7.11. and 7.12 of the Act in relation to any development application for the Proposed Development, unless there is a modification to the development consent for the Proposed Development which would increase the demand for public amenities and services generated by the Proposed Development.

6 Assessment of the Merits of the Draft Planning Agreement

6.1 The Planning Purpose of the Planning Agreement

The planning purpose served by the Planning Agreement is the provision of affordable housing and infrastructure and the orderly and economic development of land.

Both the Developer and the Council believe that the Planning Agreement provides a reasonable means of achieving those public purposes, in accordance with s7.4(2) of the Act.

6.2 How the Planning Agreement Promotes the Public Interest

The Planning Agreement promotes the public interest by requiring the Developer to make an appropriate contribution towards the provision of infrastructure, facilities and services to satisfy the needs that arise from the proposed Development of the Land.

6.3 How the Planning Agreement Promotes the Objects of the Act

The Planning Agreement promotes the objects of the Act by:

- (a) Promoting the delivery and maintenance of affordable housing;
- (b) Promoting the orderly and economic use and development of land; and
- (c) Requiring the Developer to contribute to infrastructure, facilities and services required to meet the demand generated by the Proposed Development.

6.4 How does the agreement promote one or more of the elements of the council's charter under section 8 of the Local Government Act 1993?

Implementation of the Planning Agreement will promote the following elements of Council's charter:

“ to provide... , 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”

“ 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”

6.5 How does the Planning Agreement conform with the planning authority's capital works program (if any)?

There are no specific capital works identified within Council's programs that equate with the Development Contributions.

6.6 *Requirements relating to Construction, Occupation and Subdivision Certificates*

The Planning Agreement provides that the park is to be completed and the monetary contribution is to be provided to Council, prior to the issue of any Occupation Certificate for the final stage of the Approved Development.