

Draft Planning Agreement

**Brookfield Office Properties One Carrington Developer Pty Ltd,
Sovereign Wynyard Centre Pty Limited, Rail Corporation New South
Wales and Transport for NSW**

Explanatory Note

Introduction

The purpose of this explanatory note is to provide a plain English summary to support the notification of the proposed planning agreement ("**Planning Agreement**") prepared under Subdivision 2 of Division 6 of Part 4 of the *Environmental Planning and Assessment Act 1979* ("**Act**").

This explanatory note has been prepared jointly by the parties as required by clause 25E of the *Environmental Planning and Assessment Regulation 2000*.

Parties to the Planning Agreement

The parties to the Planning Agreement are Brookfield Office Properties One Carrington Developer Pty Ltd ("**Developer**"), Sovereign Wynyard Centre Pty Limited as trustee for the Sovereign Wynyard Centre Unit Trust ("**Land Owner**"), Rail Corporation New South Wales ("**RailCorp**") and Transport for NSW ("**TfNSW**").

An offer to enter into the Planning Agreement was made as part of the Concept Plan application for the 'CityOne development' lodged with the Minister for Planning on 19 January 2011. Concept Plan approval for the CityOne development (MP 09_0076) was granted by the Planning Assessment Commission, as delegate of the Minister for Planning, on 3 April 2012 ("**Concept Plan Approval**"). The Concept Plan Approval provides for a two staged development including:

- (a) the upgrade of the eastern access ways to Wynyard Station including retail areas and concourse layout;
- (b) an indicative building envelope on the land between Carrington Street and George Street;
- (c) use of the site for a mixed use development including commercial offices, business premises, shops, general retail food and drink premises, health/medical centre, public amenities, transport facilities; and tenant car parking; and
- (d) development of former Shell House including refurbishments for the purpose of commercial and retail use ("**Development**").

An initial modification of the Concept Plan Approval was sought in September 2013. This modification was approved in 24 March 2014 and modified the specified timing of some of the components of the Concept Plan Approval in order to allow for the timely delivery of the Development.

In late 2013, the Land Owner purchased the adjoining property at 285 George Street. The purchase of this additional property permitted the reconfiguration of the eastern access ways to Wynyard Station. As a consequence a further modification proposal in respect of the Concept Plan Approval has been lodged to incorporate 285 George Street into the Development, amongst other amendments (MP09_0076 MOD 2).

In 2013, a State Significant Development application (SSD 5824) was also lodged seeking approval for Stage 1 of the Development which comprises the detailed design and delivery of the site located to the east of the eastern boundary of Carrington Street consistent with the Concept Plan Approval (“**Stage 1 Development Application**”).

An Environmental Impact Statement for the Stage 1 Development Application was publicly exhibited from 28 May to 27 June 2014. A copy can be found at <http://majorprojects.planning.nsw.gov.au>.

Separate to the planning assessment and approval process, the Planning Agreement, the works comprising the Stage 1 Development Application and a range of related issues are also the subject of an Unsolicited Proposal by the Developer which is currently being considered by the NSW Government as part of the Unsolicited Proposal framework. The Developer’s proposal is at Stage 3 of the Unsolicited Proposal process. The implementation of the Planning Agreement will be subject to the Government’s acceptance of the Developer’s Unsolicited Proposal as part of the Stage 3 process.

On 25 May 2015, the Developer and Land Owner made a revised offer to RailCorp and Transport for NSW to enter into the Planning Agreement. The revised offer supersedes the original offer made in 2011.

Description of the Subject Land

The Planning Agreement applies to the Stage 1 Land to the east of the eastern boundary of Carrington Street, Sydney, comprising:

- (a) Lot 1 DP 853331 (14 Carrington Street, Menzies Hotel);
- (b) Lot 2 DP 853331 (301 George Street);
- (c) Lot 4 DP 853331 (Wynyard Lane);
- (d) Lot 10 DP 595978 (2 – 12 Carrington Street, Former Shell House); and
- (e) Lot 22 DP 56723 and Lot 23 DP 59753 (285 George Street).

The Developer and Land Owner are required to register the Planning Agreement on the titles of the Land Owner’s Land which forms part of the Stage 1 Development Application comprising:

- (a) Lot 10 DP 595978 (2 – 12 Carrington Street, Former Shell House); and
- (b) Lot 22 DP 56723 and Lot 23 DP 59753 (285 George Street).

Description of the Stage 1 Development Application / Proposed Development

The Developer is seeking approval for the following works as part of the Stage 1 Development Application:

- (a) demolition of the Menzies Hotel (14 Carrington Street), 301 George Street and the eastern accessways to Wynyard Station;
- (b) construction and use of a 27 storey office tower on the land between Carrington Street and George Street;

- (c) partial demolition of Shell House and 285 George Street and refurbishment of those properties for commercial and retail use; and
- (d) the Transit Hall Works,
(collectively, the “**Stage 1 Development**”).

Summary of Objectives, Nature and Effect of the Planning Agreement

The Planning Agreement requires the Developer to construct and commission the Transit Hall Works and to maintain the Transit Hall in perpetuity by registering a Building Management Statement and complying with that Building Management Statement in perpetuity (“**Agreed Development Contributions**”).

The Transit Hall Works comprise the upgrade of the Transit Hall and associated accesses, including:

- (a) provision of a through site link from George Street to Carrington Street;
- (b) provision of a new entrance and access ways to the Transit Hall from George Street and Carrington Street;
- (c) the upgraded George Street entrance, when combined with the Hunter Connection, to provide a minimum aggregate unobstructed width of 20 metres with a minimum height of 13 metres;
- (d) the upgraded Carrington Street entrance to provide a minimum height of 8 metres;
- (e) provision of:
 - (i) a minimum clear width at the Wynyard Station concourse level of 16 metres;
 - (ii) a fully accessible route from George Street to all public levels, including two passenger lifts connecting George Street to the Wynyard Station concourse level, the Hunter Connection level and Carrington Street level;
 - (iii) six escalators and a fixed stair well to connect George Street to the Wynyard Station concourse level;
 - (iv) intuitive way-finding utilising clear sight-lines from George Street to the Wynyard Station concourse level;
 - (v) a naturally ventilated Transit Hall space benefiting from conditioned spill air from adjacent retail units; and
 - (vi) pedestrian capacities to meet current and future demands during normal and emergency operation of the Transit Hall;
- (f) accommodation of the existing pedestrian connections to the Hunter Connection and the Met Centre (subject to necessary temporary or partial closure of the connections required to facilitate the construction of the Stage 1 Development);
- (g) ensuring that the unimpeded exit width to the east (George Street) will be accessed via the most convenient route from the Wynyard Station Concourse level to street level;
- (h) implementing a signage strategy consistent with TfNSW's *Guidelines for the Development of Public Transport Interchange Facilities* issued September 2008; and

- (i) addressing, to TfNSW's and RailCorp's satisfaction, all interfaces, and issues arising from such interfaces, with the Transit Hall Lot, including interfaces with the Retail Lot, the Office Lot and the surrounding road network and adjoining properties.

Schedule 2 of the Planning Agreement sets out the timing for delivery of the Developer's Contributions which requires the Transit Hall Works to be completed prior to the first occupation certificate being issued for any part of the Development. The objective of the Planning Agreement is to require and facilitate the delivery of the Agreed Development Contributions.

The Transit Hall Works will be undertaken on land owned by RailCorp. RailCorp will allow the Developer to access RailCorp's land for the purpose of providing the Agreed Development Contributions and TfNSW and RailCorp will permit the delivery of the Agreed Development Contributions on terms which will be set out in a further agreement known as a Delivery Agreement.

Assessment of Merits of Planning Agreement

The Planning Purpose of the Planning Agreement

In accordance with section 93F(2) of the Act, the Planning Agreement has the following public purposes:

- (a) The provision of public amenities or public services; and
- (b) The provision of transport or other infrastructure relating to land.

The parties have assessed the Planning Agreement and hold the view that the provisions of the Planning Agreement provide a reasonable means of achieving the public purposes set out above.

This is because the Agreed Development Contributions will assist the State Government to achieve upgrades to critical transport related infrastructure to enhance capacity for the current and long term transport needs of workers, residents and visitors in the Sydney CBD.

How the Planning Agreement Promotes the Public Interest

The Planning Agreement promotes the public interest by committing the Developer to make contributions to State infrastructure through the re-development of the Transit Hall of one of Sydney CBD's major transport hubs and to deliver public benefits through the upgrade of Wynyard Station's eastern entry off George Street and pedestrian access ways.

How the Planning Agreement Promotes the Objects of the Act

The Planning Agreement promotes the following objects of the Act:

- (a) To encourage the proper management, development and conservation of natural and artificial resources, including cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment (section 5(a)(i));
- (b) To encourage the promotion and co-ordination of the orderly and economic use and development of land (section 5(a)(ii)); and

- (c) To encourage the provision and co-ordination of community services and facilities (section 5(a)(v)).

The Planning Agreement promotes these objects by requiring the Developer to provide the items set out in this Explanatory Note under the heading "*Description of the Stage 1 Development Application / Proposed Development*" for the purposes of providing State transport related infrastructure and facilities and by requiring the Developer to ensure ongoing maintenance of that infrastructure and facilities in perpetuity by way of the Building Management Statement.

This purpose represents an important public benefit, and the Developer's offer to contribute towards this purpose will have a positive impact on the public who use the infrastructure, facilities and services to which these purposes relate.

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

The Planning Agreement must be executed and commence prior to the release of the first construction certificate for any part of the approved Development.

The Planning Agreement also specifies timeframes for the completion of the Agreed Development Contributions and requires the Developer to achieve final completion of the Transit Hall Works prior to the issue of the first occupation certificate for any part of the Development.

How the Planning Agreement promotes one or more of the objects of the Act under which TfNSW and RailCorp are constituted

TfNSW's objectives pursuant to section 3D of the *Transport Administration Act 1988* are:

- (a) to plan for a transport system that meets the needs and expectations of the public;
- (b) to promote economic development and investment;
- (c) to provide integration at the decision-making level across all public transport modes;
- (d) to promote greater efficiency in the delivery of transport infrastructure projects; and
- (e) to promote the safe and reliable delivery of public transport and freight services.

RailCorp's principal objectives pursuant to section 5(1) of the *Transport Administration Act 1988* are:

- (a) to deliver safe and reliable railway passenger services in New South Wales in an efficient, effective and financially responsible manner; and
- (b) to ensure that the part of the NSW rail network vested in or owned by RailCorp enables safe and reliable railway passenger and freight services to be provided in an efficient, effective and financially responsible manner.

The Planning Agreement promotes these objectives of TfNSW and RailCorp by:

- (a) assisting to provide upgraded critical transport infrastructure at one of Sydney CBD's major transport hubs;

- (b) securing delivery of the Agreed Development Contributions as part of a large scale commercial and retail development;
- (c) ensuring the co-ordinated delivery of the Agreed Development Contribution with RailCorp as the agency responsible for the delivery of railway passenger services in New South Wales;
- (d) ensuring the safe and reliable delivery of the Agreed Development Contributions through:
 - (i) detailed planning for delivery of the Transit Hall Works having regard to matters including the interfaces between:
 - (A) the separate components of the Stage 1 Development comprising the Transit Hall, commercial and retail works; and
 - (B) the Stage 1 Development and the surrounding road network and adjoining properties;
 - (ii) ensuring the efficient functioning and use of the Transit Hall and surrounding retail/commercial uses, to the extent practicable, during construction of the Stage 1 Development;
 - (iii) co-ordinating delivery of the Transit Hall Works with the planned delivery of other major transport infrastructure projects in and surrounding Wynyard Station including the Wynyard Walk and Sydney CBD and South East Light Rail projects; and
 - (iv) requiring the Developer to provide suitable means for TfNSW and RailCorp to secure delivery of the Agreed Development Contributions through the provision of security in the form of an Unconditional Undertaking and registration of the Planning Agreement on the title of the Land Owner's Land.

Whether the Planning Agreement conforms with TfNSW's and RailCorp's capital works program (if any)

Not applicable.

Developer and Land Owner's Offer

The Developer and Land Owner has made an offer to enter into the Planning Agreement which will operate to require provision of the Agreed Development Contributions subject to the Developer:

- (a) obtaining acceptable approval of the Stage 1 Development Application and associated modifications to the Concept Plan Approval; and
- (b) the parties to the Planning Agreement entering into the Delivery Agreement and a Contract for Sale of land between RailCorp and the Land Owner as part of the Stage 3 Unsolicited Proposal process.

As the Stage 1 Development Application forms part of the Developer's Unsolicited Proposal for the Development, once the Planning Agreement commences, it will be terminated if:

- (a) TfNSW does not accept the Developer's final offer for Stage 3 of the Unsolicited Proposal process;

- (b) the Developer does not commence the Transit Hall Works prior to the date on which the Stage 1 Development Consent lapses; or
- (c) the Delivery Agreement or the Contract for Sale is terminated.

Interpretation of Planning Agreement

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

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