



Appendix

(Clause 54)

Environmental Planning and Assessment Regulation 2000

(Clause 25E)

Explanatory Note

Draft Planning Agreement

Under s7.4 of the *Environmental Planning and Assessment Act 1979*

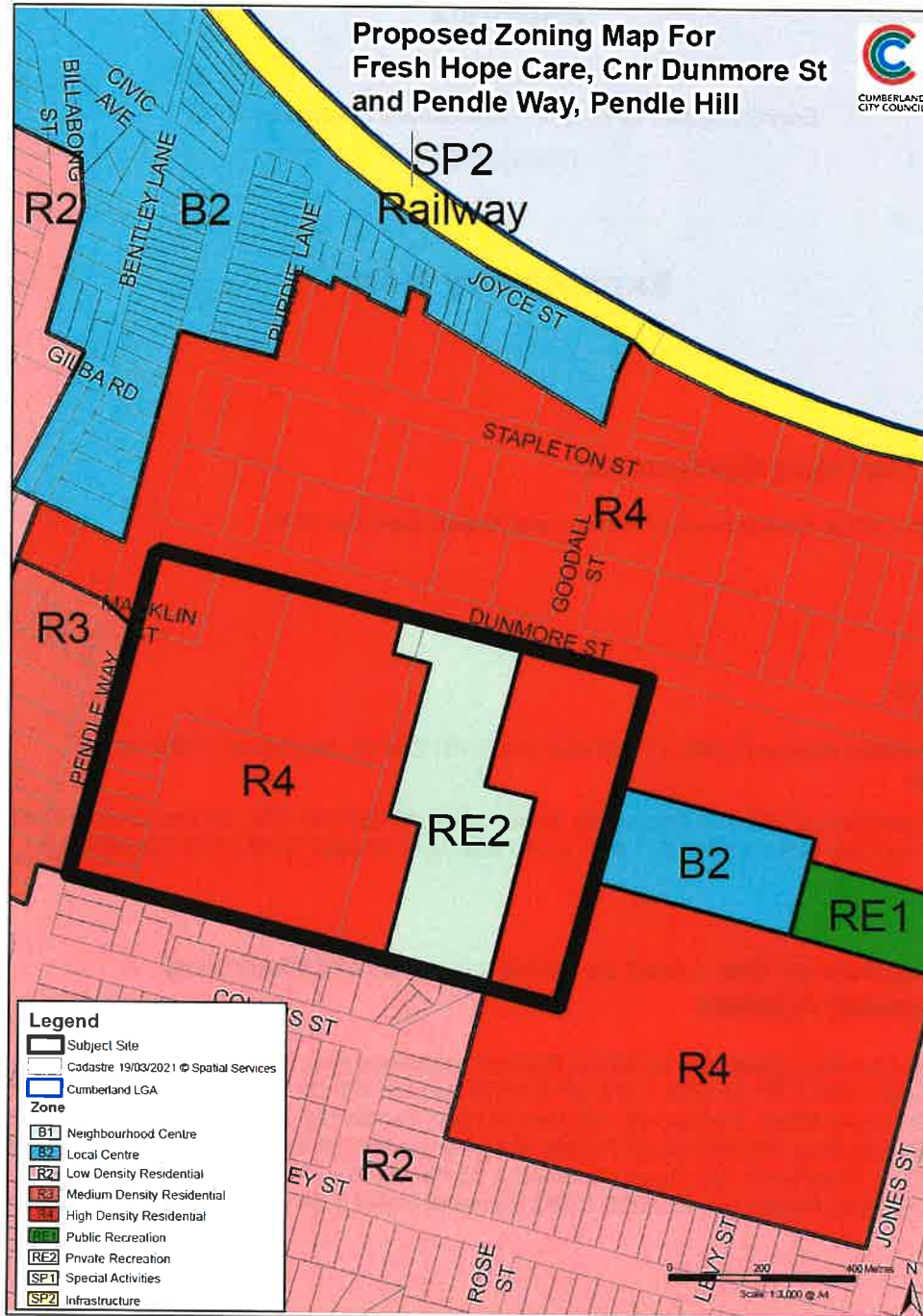
Parties

Cumberland Council ABN 22 798 563 329 of PO Box 42, Merrylands, NSW 2160
(Council)

The Churches of Christ Property Trust (ABN 73 068 989 953) atf Churches of Christ
Community Care (ABN 41 041 851 866) of PO Box 3541 Rhodes NSW 2138 (Developer)

Description of the Land to which the Draft Planning Agreement Applies

This draft Planning Agreement applies to the land comprised in Lots 1 and 2, and 8-12 DP 24728, Lots 2 and 3 DP 554208, Lot 2 DP 335578 and Lot 472 DP 1204429 otherwise known as 284 Dunmore Street, Pendle Hill, 105 Pendle Way, Pendle Hill, 93 Pendle Way, Pendle Hill, 91 Pendle Way, Pendle Hill, 87 Pendle Way, Pendle Hill, 85 Pendle Way, Pendle Hill, 83 Pendle Way, Pendle Hill, 282 Dunmore Street & 95 Pendle Way, Pendle Hill, 268-280 Dunmore Street, Pendle Hill, 222-226 & 282 Dunmore Street & 89 Pendle Way, Pendle Hill.



Description of Proposed Development

This draft Planning Agreement applies to a Planning Proposal prepared by the Council in response to a request made by Keylan Consulting Pty Ltd on behalf of Fresh Hope Care and submitted in April 2020 that is the subject of a gateway determination dated 26 November

2020 authorising for the proposal to proceed to public exhibition, subject to conditions, under s3.34 of the Act and as varied pursuant to s3.35 of the Act, proposing to:

- (a) rezone part of the Land from R2 Low Density Residential and R3 Medium Density Residential to R4 High Density Residential and RE2 Private Recreation;
- (b) amend the Height of Building control for the Land from 9m and 11m to 12.5m, 23m and 32m;
- (c) increase the maximum Floor Space Ratio control from 0.5:1, 0.7:1 and 0.85:1 to 0.85:1, 1.2:1, 1.5:1 and 1.8:1;
- (d) amend Schedule 1 to permit the following additional permissible uses in part of the proposed R4 zone on the Land: *'food and drink premises'* and *'medical centre'*.

The Planning Proposal seeks to facilitate redevelopment of the Land for a new and expanded seniors' housing development with affordable key worker housing, community facilities, allied health services and publicly accessible open space.

This draft Planning Agreement applies to the development, within the meaning of the Act, on the Land in accordance with any Development Consent (as modified or substituted from time to time under the Act) granted as a consequence of the making of the LEP Amendment.

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

Objectives, Nature and Effect of Draft Planning Agreement

The draft Planning Agreement is a planning agreement under s7.4 of the *Environmental Planning and Assessment Act (EPA Act)*. It is a voluntary agreement, under which the Developer makes Development Contributions (as defined in clause 1.1 of the Draft Planning Agreement) for various public purposes (as defined in s 7.4(2) of the EPA Act).

The objectives of the draft Planning Agreement are to provide Affordable Housing, provide community use and access to Dunmore House and provide, maintain and secure communal open space to meet the requirements of the Development.

Specifically, the Developer will make the following contributions:

- (a) provision of \$450,000 as a monetary contribution towards upgrades in the Pendle Hill Town Centre;
- (b) dedication of 4 Affordable Housing Units to the Council,
- (c) embellishment of communal open space on the RE2 Land, and registration of an easement over the RE2 Land to enable public access to the open space,
- (d) refurbishment and maintenance of a heritage listed building (Dunmore House and its curtilage) situated on the RE2 Land,
- (e) registration of positive covenants to ensure the RE2 Land and the heritage listed building (Dunmore House) situated on it are maintained in perpetuity and made available for general community use and access

The Draft Planning Agreement:

- requires the Developer to provide affordable housing, carry out embellishment works to open space, refurbishment works to a heritage building, and the

- registration of easements and positive covenants on land for ongoing public access and maintenance to the open space and heritage building,
- relates to the carrying out by the Developer of the Development,
- excludes the application of s 7.11 of the EPA Act to the Development,
- excludes the application of s7.12 of the EPA Act to the Development,
- does not exclude the application of s 7.24 of the EPA Act to the Development,
- is to be registered on the titles to the Land,
- imposes restrictions on the Developer transferring the Land or part of the Land and on the Developer from assigning an interest under the draft Planning Agreement,
- provides a dispute resolution method where a dispute arises under the draft Planning Agreement, being mediation and expert determination,
- provides that the draft Planning Agreement is governed by the law of New South Wales,
- provides that the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) applies to the draft Planning Agreement.

Assessment of the Merits of the Draft Planning Agreement

How the Draft Planning Agreement Promotes the Public Interest

The Draft Planning Agreement:

- promotes and co-ordinates the orderly and economic use and development of the land to which the Planning Agreement applies,
- contributes to the provision of (or recoupment of the cost of providing) affordable housing,
- makes land available for public purposes in connection with the Development, specifically open space, community use and access to Dunmore House and affordable housing,
- provides and co-ordinates community services and facilities in connection with the Development,
- provides increased opportunity for public involvement and participation in the form of public notification of the draft Planning Agreement

The Draft Planning Agreement provides a reasonable means of achieving these planning purposes by requiring the Developer to make development contributions as described further above to Council, to facilitate the development of the Land in connection with the provision of necessary infrastructure, community facilities and affordable housing. The Draft Planning Agreement promotes the public interest by:

- promoting the objects of the EPA Act set out in sections 1.3(a), (c), (d), (g) and (j), and
- delivering affordable housing, open space and funding of public services and public amenities which benefit the local and wider community.

The Draft Planning Agreement also promotes the following guiding principles for local councils as set out in s8A of the *Local Government Act 1993*:



- the management of lands and other assets so that current and future local community needs can be met in an affordable way,
- working with others to secure appropriate services for local community needs,
- promoting Council's long-term strategic planning on behalf of the local community.

For Planning Authorities:

Development Corporations - How the Draft Planning Agreement Promotes its Statutory Responsibilities

N/A

Other Public Authorities – How the Draft Planning Agreement Promotes the Objects (if any) of the Act under which it is Constituted

N/A

All Planning Authorities – Whether the Draft Planning Agreement Conforms with the Authority's Capital Works Program

The draft Planning Agreement conforms with the Council's capital works program in that it is not inconsistent with works required to support growth in the Council's local government area.

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

This draft Planning Agreement includes requirements that must be complied with before Construction Certificates and Occupation Certificates are issued.