

Appendix

(Clause 56)

Environmental Planning and Assessment Regulation 2021

(Clause 205)

Explanatory Note

Draft Planning Agreement

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

Parties

Willoughby City Council ABN 47 974 826 099 of Level 4, 31 Victor Street, Chatswood, New South Wales 2067 (**Council**)

HC Nelson Pacific Pty Ltd ACN 646 656 966 of Suite 92, 53 Walker Street, North Sydney NSW 2060 (**Developer**)

Description of the Land to which the Draft Planning Agreement Applies

Land comprising 613 and 621-627 Pacific Highway, Chatswood, which at the date of this Deed is known as Lot 1 in DP80767; Lot 1 in DP540549; and Lots 1-19 in SP72449, including any land created as a result of the termination of the strata scheme SP72449, or a subdivision or consolidation of that land.

Description of Proposed Development

This Draft Planning Agreement applies to an amendment to the *Willoughby Local Environmental Plan 2012 (LEP)* to which the planning proposal PP-2021-2923 (DPIE Reference) relates. The planning proposal proposes the following amendments to the LEP:

- Rezone the Land to B4 Mixed Use
- Amend the maximum building height of 90m
- Apply a maximum floor space ratio of 6:1

- Apply a non-residential floor space ratio of 1:1

The Draft Planning Agreement is also in connection with a mixed-use development comprising residential and commercial uses on the Land authorised by a Development Consent and that will be permitted as a consequence of the LEP Amendment to *Willoughby Local Environmental Plan 2012*.

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

Objectives of Draft Planning Agreement

The Draft Planning Agreement provides for the payment of a monetary contribution of \$3,214,606 (to be indexed in accordance with the CPI) by the Developer to be applied towards Community Infrastructure as identified in Appendix A to Council's Draft PA Policy. The monetary contribution is to be paid in 3 instalments.

Nature of Draft Planning Agreement

The Draft Planning Agreement is a planning agreement under s7.4(1) of the *Environmental Planning and Assessment Act 1979* ('Act').

It is an agreement between Council and the Developer under which the Developer is required to make monetary Development Contribution (as defined in clause 1.1 of the Draft Planning Agreement) to be used for a public purpose (as defined in s7.4(2) of the Act).

Effect of the Draft Planning Agreement

The Draft Planning Agreement:

- provides for the payment of monetary contributions by the Developer;
- does not exclude the application of s7.11, s7.12 or s7.24 of the Act to the Development,
- is to be registered on the title to the Land,
- imposes restrictions on the Parties transferring the Land or part of the Land or assigning, or novating an interest under the agreement,

Assessment of the Merits of the Draft Planning Agreement

The Planning Purposes Served by the Draft Planning Agreement

The Draft Planning Agreement:

- promotes and co-ordinates the orderly and economic use and development of the land to which it applies,
- provides increased opportunity for public involvement and participation in environmental planning and assessment of the Development,

How the Draft Planning Agreement Promotes the Public Interest

The draft Planning Agreement promotes the public interest by promoting the objects of the Act as set out in s1.3(c), (d) and (g) of the Act.

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

Councils – How the Draft Planning Agreement Promotes the Principles for Local Government Contained in Chapter 3 of the Local Government Act 1993

The Draft Planning Agreement promotes the principles for local government by:

- keeping the local and wider community informed about its activities,
- provides value for residents and ratepayers by requiring the developer to contribute to community infrastructure.

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

Yes.

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

Yes.