

Appendix

(Clause 56)

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

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

Goldfields Chatswood No. 2 Pty Ltd ACN 644 674 813 of Suite 12.03, 14 Martin Place, Sydney NSW 2000 (**Developer**)

Description of the Land to which the Draft Planning Agreement Applies

871-877 Pacific Highway Chatswood, being all of the land in SP17870.

Description of Amendment to LEP and Proposed Development

This Draft Planning Agreement is in connection with an amendment to the *Willoughby Local Environmental Plan 2012 (LEP)* to which the planning proposal PP_2020_WILLO_003_00 (DPIE Reference) relates. The planning proposal proposes the following amendments to the LEP:

- Rezone the site from B5 Business Development to B4 Mixed Use;
- Amend the maximum building height from 21m to 90m;
- Amend the maximum floor space ratio (FSR) from 2.5:1 to 6:1; and
- Provide for a minimum commercial floor space ratio of 1:1 within the Mixed Use zone.
- Require the Development to provide 4% affordable housing on the Land

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 \$2,738,700 (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:

- has been offered in connection with a planning proposal (Department of Planning, Industry and Environment ref: PP_2020_WILLO_003_00) that seeks to change the zoning of the Land from B5 Business Development to B4 Mixed Use; increase the maximum building height from 21m to 90m; increase the maximum floor space ratio from 2.5:1 to 6:1; provide for a minimum commercial floor space ratio of 1:1 and require the provision of 4% affordable housing on the Land
- 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,
- provides for additional monetary contributions by a developer to the Council to be used for community infrastructure, additional to other development contributions under s7.11 or s7.12 and s7.24 required for a proposed Development on the land to which it applies.

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. The developer's contribution to community infrastructure is additional to any statutory contributions under s7.11, s7.12 and s7.24 that the developer may be required to pay for the proposed development on the site.

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. Monetary contributions are required to be paid prior to the issuing of the first construction certificate and first occupation certificate for the residential component of the Development that includes Residential GFA.