

EXPLANATORY NOTE

Planning Agreement

This Explanatory Note is provided under s. 93F of the *Environmental Planning and Assessment Act 1979* and applies to an alteration and alteration to approved mixed use development on the Land ("Proposed Alteration")..

The Explanatory Note is not to be used to assist in construing the Planning Agreement, however terms used in this Explanatory Note have the same meaning as in the Planning Agreement.

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

1. Parties

H.S.D (PARRA) PTY LTD (ABN 75 100 116 863) as trustee for The Hassall Street Unit Trust ABN 68 304 587 756 of 2/ 5-9 Hunter Street, Parramatta, in the State of New South Wales ("Developer")

PARRAMATTA CITY COUNCIL (ABN 49 9807 74 773) of 30 Darcy Street, Parramatta, in the said State ("Planning Authority")

NOTE: The Developer may at any time, and pursuant to clause 8 of the Voluntary Planning Agreement, assign the rights and benefits under the Planning Agreement to any person or entity, but such assignment will take no effect until the Developer has notified the Council in writing of the assignment.

2. Description of the Subject Land

This Planning Agreement applies to 9 Hassall Street, Parramatta, more particularly known as Lot 6 in Section 2 in Deposited Plan 241 and Lot 14 in Deposited Plan 11507 which forms part of Auto Consol 3753-97 folio identifier auto consol 3753-97.

An Indicative Plan for the Proposed Alteration is included at Schedule 1 of the Planning Agreement.

3. Description of Development Application

The Developer proposes to seek Planning Approval for an alteration to approved mixed use development from the Council to carry out the altered development on the Land. In essence, if the Development Application is granted, the Developer will be entitled to increase the number of residential unit levels by two.

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

The objective of the Planning Agreement is to, in the absolute discretion of the Developer, either ensure the recoupment of the cost of public facilities and infrastructure generated by the incoming population resulting from the increased residential Units as contained in the Proposed Alteration, or to provide to the Planning Authority, one residential Unit to be used as affordable and adaptable housing.

The Development Contribution as proposed by the Developer will take the form of either the dedication of one residential Unit, more particularly described below, to the Planning Authority for their use, or alternatively, a cash contribution in the amount of \$300,000 to be applied by the Planning Authority towards costs of public infrastructure.

In the event the Development Contribution, in the absolute discretion of the Developer, takes the form of the dedication to the Planning Authority of one residential Unit, the following will apply:

- (i) The Developer will do (or procure to be done) all things required to dedicate the Unit to the Council (including, strata subdivision and transfer of ownership in fee simple) within fourteen (14) days of the Strata Plan being registered.
- (ii) The Developer will comply with any reasonable directions given by the Council in respect of the dedication of the Unit to the Council, however the decision of whether to provide the Council with the Public Benefit in the form of a cash contribution or the Unit will always rest solely with the Developer.
- (iii) The Unit will be Unit 16, Tower A, 9 Hassall Street, Parramatta, in the State of New South Wales, ("the Unit") being a one bedroom Unit, with one car space and one storage area located on Basement Level 2. For configuration, plans and specifications refer to Schedule 2 of the Planning Agreement. The agreed finishes to the Unit are included at Schedule 1 to the planning agreement. In addition to the finishes at Schedule 1, the Developer will ensure that a new refrigerator (with freezer compartment) a washing machine and a clothes dryer, are fully supplied and installed in the Unit, and further, that:
 - 1. the washing machine will have a minimum rating of 3 stars for water use efficiency (water Efficiency Liability and Standards) and a minimum 4 star energy label (old green based label);
 - 2. the fridge/freezer will have a minimum 4 star (new white based label from 2010) or 6 star (under the old green based label) energy label;
 - 3. the clothes dryer will have a minimum 4 star energy label (old green based label) .
- (iv) The Developer will, at its own cost, obtain all approvals and consents from any relevant governmental agencies having jurisdiction over or in respect of the Unit.
- (v) The Developer will at its own cost:

- a. carry out and complete the development of the Unit in accordance with all approvals and consents relating to the Unit issued by any relevant governmental agencies having jurisdiction over or in respect of the Unit;
 - b. ensure that the development of the Unit is conducted in a proper and workmanlike manner so that the Unit is structurally sound, fit for purpose and suitable for its intended use; and
 - c. promptly notify the Council of any delays which it experiences in completing the development of the Unit.
- (vi) If the Council notifies the Developer of a Defect in the Unit within the Defects Liability Period, the Developer must remedy that Defect to the Council's satisfaction, within a reasonable period of time as allowed by the Council.
- (vii) The Developer will transfer the Unit to the Council in fee simple within 14 business days from the registration of the Strata Plan. . If the transfer does not occur at this time, then Developer, in addition to the transfer of the Unit, will pay to the Council interest calculated on an amount of \$300,000 at a rate of 8% per annum calculated daily for each day that the transfer is delayed.
- (viii) The Developer will not alter or amend the location, configuration or specifications of the Unit, without first obtaining the Council's approval.

For the assistance of the Planning Authority, attached and marked "C" is a draft Contract for Sale for Unit 16, 9 Hassall Street, Parramatta. This Contract is subject to change limited to updating any attached Certificates, inserting a copy of the registered Strata Plan, and possibly changing or updating some details to the front page of the contract.

In the event the Development Contribution, in the absolute discretion of the Developer, takes the form of a cash contribution to the Planning Authority, the following will apply:

- (i) Amount: The amount of the cash contribution is three hundred thousand (\$300,000);
- (ii) Time for payment: The Developer will make the payment prior to the issuance of the Construction Certificate. In the event the cash contribution is not made prior to the issuance of the Construction Certificate, then the Public Benefit will take the form of the Unit and will be delivered to the Council in accordance with clause 4.3(vii) below.
- (iii) The Developer will pay the amount specified of \$300,000 indexed quarterly in accordance with movements in the Consumer Price Index (All Groups Index) for Sydney issued by the Australian Statistician.

5. Assessment of the Merits of the Draft Planning Agreement

Pursuant to s.93F(2), the draft Planning Agreement has the following public purposes:

- (a) the provision of (or the recoupment of the cost of providing) affordable housing;
- (b) the provision of (or the recoupment of the cost of providing) transport or other public infrastructure relating to land.

How the draft Planning Agreement promotes the Objects of the *Environmental Planning and Assessment Act 1979*

The draft Planning Agreement promotes the following Objects of the Act:

- (a) The Planning Agreement assists in the promotion and co-ordination of the orderly and economic use and development of land;
- (iii) The Planning Agreement allows for a contribution towards the provision and maintenance of affordable housing a contribution to the cost of public infrastructure.

The draft Planning Agreement achieves the aforementioned objects by requiring the Developer to make a Development Contribution as set out in clause 4 of the Voluntary Planning Agreement. The Development Contribution of the Developer will allow the Planning Authority to either maintain a residential Unit for affordable housing, or alternatively, expend the cash contribution on the construction of or maintenance of public infrastructure to accommodate the increase in population resulting from the Proposed Alteration.

How the draft Planning Agreement promotes the Planning Authority's Charter in accordance with s.8 of the *Local Government Act 1993*

The draft Planning Agreement promotes the Planning Authority's Charter in the following ways:

- providing adequate, equitable and appropriate services and facilities for the community;
- engaging in long-term strategic planning on behalf of the local community

The draft Planning Agreement promotes the Public Interest by:

Either:

Providing a residential Unit to be used by the Planning Authority in providing affordable housing;

OR:

Providing a cash contribution to the Planning Authority for the purposes of contributing to services and facilities for the community including public infrastructure.