

EXPLANATORY NOTE
Draft Deed of Amendment for
2-14 Thallon Street and 7-13
Jenkins Road, Carlingford

Prepared in accordance with the requirements of Clause 25E of the *Environmental Planning and Assessment Regulation 2000*.

1. Introduction

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

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

2. Parties

The parties to the draft Deed of Amendment are C88 Pty Ltd (the “**Developer**”) and City of Parramatta (the “**Council**”).

3. Description of Subject Land

The draft Deed of Amendment applies to land identified as 2-14 Thallon Street and 7-13 Jenkins Road, Carlingford known as; lots 1 & 2 DP209917; lots 26, 28, 30 & 33-36 DP 8001; lots 1 & 2 DP 530832; and 1 & 2 SP43088 (“**Subject Land**”).

On 12 May 2016 the State Government made a proclamation creating the new City of Parramatta. As part of this announcement the boundaries of many councils in the Sydney Metropolitan area were adjusted and amalgamation of some councils took place. The Subject Land is now located within the City of Parramatta Local Government Area as a result of the amalgamation process. The City of Parramatta is now responsible for the Voluntary Planning Agreement and any related amendments that are sought, even though the original Agreement was executed by The Hills Shire Council. As the original Voluntary Planning Agreement was prepared whilst the Subject Land was located in The Hills Local Government Area, references to The Hills planning policies are made throughout this document.

4. Description of Development Application

The draft Deed of Amendment is associated with development application 895/2010/JP which delivered a mixed use development consisting of 408 units. This has since been amended (DA499/2016/HB) to deliver an additional 10 units.

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

The objective of the Deed of Amendment is to make variations to an existing Voluntary Planning Agreement (VPA) for land at 2-14 Thallon Street and 7-13

Jenkins Road, Carlingford. There are three notable changes to the VPA as discussed below.

- 1) The VPA as endorsed and signed requires the proponent to deliver a roundabout at the intersection of Boundary Road and Post Office Street. It is proposed that the roundabout is no longer to be delivered by the applicant as works in kind. The estimated construction value of the roundabout (\$253,000) will instead be provided as a monetary contribution to be put towards local traffic works by Council. As this area of Carlingford is a recent addition to the City of Parramatta Local Government Area a monetary contribution provides the opportunity to further review the local traffic conditions of the precinct as development progresses. This will determine whether a roundabout is the most effective means of improving safety and moderating traffic speeds as development intensifies.
- 2) A reduction to the bank guarantee from \$618,251 to \$365,251 is also sought. The bank guarantee provides security for the works in kind. The value of the works in kind is reduced should the monetary contribution for the roundabout discussed above proceed.
- 3) Amend the delivery dates of the other works in kind from 'prior to the issue of any Strata Subdivision Certificate' to 'prior to the issue of the Occupation Certificate for the Stage 4 Development'. The works in kind include a cycleway/pedestrian path and open space embellishments on land that is being dedicated to Council.

The executed VPA will deliver 1,510sqm of embellished open space that will include a cycleway/pedestrian path and a total monetary contribution (excluding the roundabout discussed above) of \$2,203,023 to be received by Council. As outlined in Schedule 2 of the VPA the monetary contribution will be put towards; the signals at Jenkins Rd/Post Office St; an upgrade to Jenkins/ Pennant Hills Road intersection; an upgrade to stormwater management facilities; Carlingford Library; Carlingford Community Centre; open space embellishment; and an offset for Corner Park, these infrastructure upgrades are listed in The Hills Section 94A Development Contributions Plan. There are no proposed changes to the deliverables as detailed in this paragraph.

The VPA is in lieu of Section 94A contributions under Contributions Plan No. 14 – Carlingford Precinct dated November 2010 prepared by The Hills Shire Council which is applicable to the development application for the Subject Land. The Hills Shire Council and the Developer in preparing the original VPA agreed that the Section 94A Plan would not apply to the Development in addition to the VPA. The proposed Deed of Amendment retains the value of the original VPA.

6. Assessment of the Merits of the Draft Planning Agreement

How the draft planning agreement promotes the public interest

The draft Deed of Amendment is in the public interest as it allows Council to better review the local traffic conditions of the broader area and put money towards the delivery of infrastructure that will improve safety and moderates traffic speeds as

development intensifies. There are no proposed changes to the overall value or level of public benefit of the planning agreement.

Amongst the deliverables of the signed and executed VPA is a land dedication with embellishments. The draft Deed of Amendment proposes to deliver the works in kind prior to the Occupation Certificate. Given the land dedication is located in the centre of the site, allowing a delay to the delivery of these works will result in a more complete product that will be ready for use as the occupation of the site commences. This will improve the safety of the open space for the general public with passive surveillance being available from the buildings that surround it.

How the draft planning agreement promotes the objects of the Environmental Planning and Assessment Act 1979

In accordance with Part 1 Section 5 of the Act, the draft Deed of Amendment to the Planning Agreement promotes the Objects of the Act and achieves the Objectives in the following ways:

- The draft Deed of Amendment will represent a social benefit to the community, responding to Section 5(a) (iii) by contributing to the delivery of local traffic infrastructure that will improve road safety in Carlingford.
- The change of delivery dates responds to Section 5(a) (iv) as the land dedication and embellishments will be delivered at a more desirable stage in the lifetime of the development as discussed above.

How the draft planning agreement promotes elements of Council's charter

The charter for all councils is provided at Clause 8 of the Local Government Act 1993 and provides objectives for Council to adhere to throughout its decision making and operation. The following objectives outlined in the Local Government Act are achieved through the deliverables of the draft Deed of Amendment:

- (c) Councils should plan strategically, using the integrated planning and reporting framework, for the provision of effective and efficient services and regulations to meet the diverse needs of the local community.
- (g) Councils should work with others to secure appropriate services for local community needs.

The planning purposes served by the draft planning agreement

In accordance with Section 93F(2) of the Act, the draft Deed of Amendment has the following public purposes:

- (a) the provision of (or the recoupment of the cost of providing) public amenities or public services
- (c) the provision of (or the recoupment of the cost of providing) transport or other infrastructure relating to land

The Developer's obligations outlined in the draft Deed of Amendment provide a suitable means for achieving these purposes.

Whether the agreement, amendment or revocation conforms with Council's capital works program

The draft Deed of Amendment will contribute to the delivery of local traffic works and open space in the Carlingford locality. This is in keeping with The Hills Section 94A Development Contributions Plan (Contributions Plan No. 14 Carlingford Precinct), outlined in Table 3: Works Schedules.

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

The works in kind which include a cycleway/pedestrian path and open space embellishments on land that is being dedicated to Council are to be delivered prior to the Occupation Certificate for the Stage 4 Development. The monetary contributions to be put towards local traffic works are also required to be paid prior to the issue of the Occupation Certificate for the Stage 4 Development.