

Appendix

(Clause 46)

Environmental Planning and Assessment Regulation 2000

(Clause 25E)

Explanatory Note

Draft Planning Agreement

Under s93F of the *Environmental Planning and Assessment Act 1979*

Parties

Auburn City Council ABN 63 914 691 587 of PO Box 118 Auburn 1835 (**Council**)

Fairmead Business Pty Ltd ABN 76 069 006 426 of Suite 101, 25 Angas Street
Meadowbank NSW 2114 (**Developer**)

Description of the Land to which the Draft Planning Agreement Applies

Land means Lot 8 in DP270778.

Description of Proposed Development

Development on the Land as shown on the Development Concept Plan.

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

Objectives of Draft Planning Agreement

The objective of the Draft Planning Agreement is to provide Floor Space to the Council for a community facility and public library in connection with the Development.

Nature of Draft Planning Agreement

The Draft Planning Agreement is a planning agreement under s93F of the *Environmental Planning and Assessment Act 1979 (Act)*. The Draft Planning Agreement is a voluntary agreement under which Development Contributions (as defined in clause 1.1 of the Draft Planning Agreement) are made by the Developer for various public purposes (as defined in s93F(3) of the Act).

Effect of the Draft Planning Agreement

The Draft Planning Agreement:

- relates to the carrying out by the Developer of Development on the Land,
- excludes the application of s94 of the Act to the extent it would empower the Council to require contributions towards the provision of land for community facilities and a library,
- does not otherwise exclude the application of s94, s94A or s94EF of the Act to the Development,
- requires the provision of Floor Space and dedication of land for a community centre and public library,
- is to be registered on the title to the Land,
- imposes restrictions on the Developer transferring the Land or part thereof or assigning an interest under the agreement,
- provides two dispute resolution methods for a dispute under the agreement, being expert determination and mediation,
- provides that the agreement is governed by the law of New South Wales, and
- provides that the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) applies to the agreement.

Assessment of the Merits of the Draft Planning Agreement

The Planning Purposes Served by the Draft Planning Agreement

The Draft Planning Agreement:

Wentworth Point Community Facility and Library Planning Agreement
Auburn City Council
Fairmead Business Pty Ltd Developer

- promotes and co-ordinates of the orderly and economic use and development of the Land to which the agreement applies,
- provides and co-ordinates community services and facilities in connection with the Development, and
- 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 s5(a)(ii), (iv), (v) and 5(c) 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 Elements of the Council's Charter

The Draft Planning Agreement promotes the elements of the Council's charter by:

- providing facilities for the community,
- providing a means that allows the wider community to make submissions to the Council in relation to the agreement.

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

The Draft Planning Agreement is not inconsistent with Council's Capital Works Program

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

Wentworth Point Community Facility and Library Planning Agreement
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This Draft Planning agreement contains requirements that must be complied with before a occupation certificate is issued, being the provision of Floor Space and dedication of land for a community centre and public library.