

Appendix

(Clause 53)

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**)

The Owners – Strata Plan No. 65120 ABN 30 967 574 531 of 9-11 Nelson Street, Chatswood, New South Wales 2067 (Developer)

Description of the Land to which the Draft Planning Agreement Applies

9-11 Nelson Street, Chatswood, being all of the land that is currently known as SP 65120.

Description of Proposed Development

The Draft Planning Agreement is in connection with a proposed amendment to the *Willoughby Local Environmental Plan 2012 (WLEP)* relating to a Planning Proposal with the Department of Planning and Environment under PP2020/12 (Council's Ref) or PP-2021-5704 (Planning Portal's Ref) which seeks to amend the LEP to facilitate a mixed use development comprising residential and retail/commercial uses on the Land by:

- a) change the zoning of the Land from R2 Low Density Residential to B4 Mixed Use;
- b) increase the maximum building height from 12 metres to 90 metres;
- c) increase the maximum floor space ratio from 0.9:1 to 6:1.

The Draft Planning Agreement also applies to development on the Land as authorised by the future Development Consent granted as a result of the LEP Amendment.

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 \$12,479,980 (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 Planning Agreement Policy. The monetary contribution is to be paid in 3 instalments.

The Draft Planning Agreement also requires the registration of a public access easement on the land in favour of the Council.

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 (the 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 s7.4(2) of the Act).

Effect of the Draft Planning Agreement

The Draft Planning Agreement:

- is in connection with an amendment to the LEP relating to the Planning Proposal with the Department of Planning, Industry and Environment (Council's Ref: PP2020/12; Planning Portal's Ref: PP-2021-5704),
- relates to the carrying out of the Development (as defined in clause 1.1 of the Draft Planning Agreement) on the Land 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,
- provides for the payment of monetary contributions by the Developer in instalments
- provides for the registration of a public access easement in favour of the Council.

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 public purposes, in addition to other development contributions under s7.11 or s7.12 and s7.24 of the Act required for the 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 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,
- providing adequate, equitable and appropriate services and facilities for the community and to ensure that those services and facilities are managed efficiently and effectively.

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

Yes. The proposed contributions are consistent with the community infrastructure identified in the Council's draft Planning Agreement Policy and aligns 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

Yes. Monetary contributions are required to be paid prior to the issuing of a construction certificate and the issue of an occupation certificate or issuing of a strata certificate for the registration of a strata plan, whichever occurs earlier.

A public access easement is also required to be registered prior to the issuing of an occupation certificate for the development.