
Planning Agreement

Explanatory Note

**391-397A Anzac Parade & 17 Bunnerong Road, Kingsford
(DA/311/2020)**

Randwick City Council (ABN 77 362 844 121) (**Council**)

Perpetual Corporate Trust Limited (ABN 99 000 341 533) (**Developer**)

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1 Introduction

This Explanatory Note has been prepared jointly between the parties in accordance with clause 25E of the *Environmental Planning & Assessment Regulation 2000* (NSW).

The purpose of this Explanatory Note is to provide a plain English summary to support the notification of a draft planning agreement (**Planning Agreement**) between the parties under s7.4 of the *Environmental Planning & Assessment Act 1979* (NSW) (**EPA Act**).

This Explanatory Note is not to be used to assist in construing the Planning Agreement.

2 Parties to the Planning Agreement

The parties to the Planning Agreement are:

- (1) Randwick City Council (ABN 77 362 844 121) (**Council**).
- (2) Perpetual Corporate Trust Limited (ABN 99 000 341 533) (**Developer**).

3 Description of the Subject Land

The land to which the Planning Agreement applies, and to which the Planning Agreement will be registered, is set out in the table below (**Land**).

Folio Identifier	Location
Lot 1 DP34728	1 BUNNERONG RD KINGSFORD, NSW 2032
Lot 2 DP902648	395 ANZAC PDE KINGSFORD, NSW 2032
Lot 1 DP959667	397-397A ANZAC PDE KINGSFORD, NSW 2032
Lot 2 DP959667	17 BUNNERONG RD KINGSFORD, NSW 2032

4 Description of the Development

The development to which the Planning Agreement relates is the development generally described in development application DA/311/2020 (**Development**).

5 Summary of objects, nature and effect of the Planning Agreement

The **objective** of the Planning Agreement is to provide community infrastructure, amenities and resources to the Kingsford community by facilitating the delivery of development contributions consisting of:

- (1) The provision of Public Art as set out in Item 1 of Part 1 of **Schedule 1** and Part 2 of **Schedule 1**;
- (2) Section 7.12 monetary contribution – being a monetary contribution in the amount set out in Item 3 of Part 1 of **Schedule 1**;
- (3) Affordable Housing Levy Contribution – being a monetary contribution in the amount set out in Item 4 of Part 1 of **Schedule 1**; and
- (4) Community Infrastructure Contribution – being:
 - (a) Works as specified in Part 2 of **Schedule 1** to the value of the Contribution Value set out in Part 1 of **Schedule 1**; and
 - (b) monetary contributions in the amount determined by an approved Quantity Surveyor for any shortfall in the value of completed Works in paragraph (a) as set out in Part 1 of **Schedule 1**; and
- (5) Registration of an Easement for public access to the Community Link constructed as part of the Community Infrastructure Contributions as set out in Item 2 of Part 1 of **Schedule 1**.

so that the community does not need to bear those costs (**Contributions**).

The **intent** of the Planning Agreement is to facilitate the provision of the Contributions by the Developer.

As security for the Developer's obligations to make the Contributions, the Planning Agreement will be registered on the title of the Land and Council will be able to withhold Occupation Certificates until such time as those Contributions are made. The Developer will provide Council with the following bank guarantees to ensure completion of the Contributions:

- (1) Separate bank guarantees for an amount equivalent to one hundred and ten per cent (110%) of the Contribution Values for each item of Work set out in Part 1 of **Schedule 1** prior to the issue of a construction certificate for an item of Work (**Works Securities**).

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- (2) A bank guarantee for an amount equivalent to ten per cent (10%) of the Contribution Value for an item of Work prior to the completion of that item of Work to satisfy any defect in the Works (**Defects Security**).

The **nature** of the Planning Agreement is a contractual relationship between the Council and the Developer for providing the Contributions.

The **effect** of the Planning Agreement is that the Developer will provide the Contributions in the manner provided for by the Planning Agreement (as applicable) and as set out in **Schedule 1**.

6 Assessment of the merits of the Planning Agreement

6.1 The planning purposes served by the Planning Agreement

In accordance with section 7.4 of the EPA Act, the Planning Agreement promotes the following public purposes:

- (1) The provision of monetary contributions to meet the demands for infrastructure in relation to affordable housing, public amenities and public services.
- (2) Provision of contributions to accommodate and meet the demands of future developments and to mitigate the potential impacts of the Development on existing infrastructure.
- (3) Enables the Land to be developed in a timely and efficient manner to promote economic development and employment opportunities.

6.2 How the Planning Agreement promotes the public interest

In accordance with the objects of the EPA Act, the Planning Agreement promotes the public interest in the following manner:

- (1) By providing certainty for the Developer and Council as to provision of the Contributions directed towards community infrastructure within the Kingsford community.
- (2) The proper management and development of land.
- (3) The promotion and co-ordination of the orderly and economic use and development of Land to which the Planning Agreement applies.
- (4) The Planning Agreement will provide an opportunity for involvement and participation by members of the community in development assessment, and are invited to make comment on the Planning Agreement.

6.3 How the Planning Agreement promotes Council's guiding principles

The Planning Agreement promotes a number of Council's guiding principles under section 8A of the *Local Government Act 1993* (NSW), as follows:

- (1) The exhibition of the Planning Agreement facilitates the involvement of members of the public in the consultation process for the Planning Agreement;
- (2) To plan strategically for the provision of effective and efficient services and regulation to meet the diverse needs of the local community;
- (3) To act fairly, ethically and without bias to the interests of the local community;
- (4) To recognise diverse local community needs and interests.
- (5) To have regard to the long term and cumulative effects of its decisions on future generations.
- (6) To engage in long-term strategic planning on behalf of the local community;
- (7) To bear in mind that it is the custodian and trustee of public assets and to effectively plan for, account for and manage the assets for which it is responsible.
- (8) The Planning Agreement makes it clear that Council has a statutory role as consent authority in relation to the development proposal and that the Planning Agreement is not intended to unlawfully influence the exercise of Council's regulatory functions.

7 Identification of whether the Planning Agreement conforms with the Council's capital works program

The Planning Agreement conforms to Council's capital works program.

Schedule 1: Contributions

Part 1: Contributions

Item	Contributions	Public Purpose	Timing	Contribution Value
1	Public Art to be delivered to the northern boundary of the Land.	Improvement of local area amenity and liveability	The earlier of twenty-four (24) months from the date the relevant Construction Certificate is issued or the issue of the first Occupation Certificate in respect of the Development.	\$500,000.00
2	Registration of an Easement on the title to the Land on the terms of the Easement as set out in Schedule 3 unless otherwise agreed by Council.		Prior to the issue of an Occupation Certificate in respect of the Development.	Nil
3	Section 7.12 Monetary Contribution	Public infrastructure in the Kensington and Kingsford community.	Prior to the issue of a Construction Certificate in respect of the Development.	\$1,244,916.00
4	Affordable Housing Levy Contribution	The amount of the contribution is calculated in accordance with Clause 6.18 of the <i>Randwick Local Environmental Plan 2012</i> , the <i>Kensington and Kingsford Town Centres Affordable Housing Plan</i> adopted by the Council on 10 December 2019 and is based on an Affordable Housing Contribution Rate of \$324.38., in accordance with the conditions of the Development Consent	Prior to the issue of an Occupation Certificate in respect of the Development.	Payable at a rate of \$324.38/sq m
Community Infrastructure Contributions				
5	Construction of Anzac Parade/ Gardeners Road Intersection as identified as 'Area 1' on the Location Plan.	Improvement of local infrastructure and recreation facilities	The earlier of twenty-four (24) months from the date the relevant Construction Certificate is issued or the issue of the first Occupation Certificate in respect of the Development.	\$1,200,000.00
6	Construction of Anzac Parade footpaths and intersections (directly	Improvement of local infrastructure and recreation	The earlier of twenty-four (24) months from the date the relevant Construction	\$1,540,000.00

	adjacent to subject site) as 'Area 2' in the Location Plan.	facilities	Certificate is issued or the issue of the first Occupation Certificate in respect of the Development.	
7	Construction of Public Realm Works – Community Link on Land as 'Area 3' on the Location Plan and in the Community Link Plan.	Improvement of local infrastructure	The earlier of twenty-four (24) months from the date the relevant Construction Certificate is issued or the issue of the first Occupation Certificate in respect of the Development.	\$210,225.00
TOTAL CONTRIBUTIONS				\$4, 695,141.00 plus any Affordable Housing Levy Contribution

Part 2: Works

Item of Works	Specification	Application of specification and design approval
Public Art to be delivered to the northern boundary of the Land.	As per the Public Art Strategy at Annexure 3 of this document.	Yes
Community Infrastructure Contributions		
Anzac Parade/Gardeners Road Intersection as identified as 'Area 1' on the Location Plan.	<p>All works listed below will be delivered as per the final approved plans and as per Council's standards. The works will include but will not be limited to the following items;</p> <p>Replace existing vehicle lay-by on Bunnerong Road with a new pavement extension and planting zone as nominated,</p> <p>Provide new paving to full extent of 'Area 1',</p> <p>Retain and protect existing trees as nominated on approved plans and</p>	Yes

	<p>incorporate in new planter beds with integrated seating,</p> <p>Relocate and reinstate existing utility service infrastructure as required (located on Bunnerong Road and Anzac Parade intersection directly in front of the site) and nominated in the final Public Utility Report,</p> <p>Provide bike racks as nominated,</p> <p>Provide Public seatwalls and standalone seating as nominated,</p> <p>Deliver 'Area 1' with all required kerbing, drainage and pavement thresholds,</p> <p>Remove existing TfNSW signage (located on Bunnerong Road and Anzac Parade directly in front of the site) and relocate and reinstate to new location.</p> <p>Provide public domain lighting to 'Area 1'.</p> <p>Provision of public domain furniture and ancillary items.</p> <p>Incorporation of environmentally sustainable initiatives in line with the Green Star Design and Build requirements as nominated in K2K DCP.</p>	
Anzac parade footpaths and intersections (directly adjacent to subject site) as 'Area 2' in the Location Plan.	<p>All works listed below will be delivered as per the final approved plans and as per Council's standards. The works will include but will not be limited to the following items;</p> <p>Underground existing overhead cables</p>	Yes

	<p>fronting Bunnerong Road directly in front of the subject site.</p> <p>Remove existing pavement finishes and replace with new pavement as nominated,</p> <p>Provide new trees as nominated,</p> <p>Provide new planting beds as nominated,</p> <p>Provide new seating zones as nominated,</p> <p>Provide bike racks as nominated,</p> <p>Relocate and reinstate existing utility service infrastructure as required.</p> <p>Provision of public domain furniture and ancillary items.</p> <p>Incorporation of environmentally sustainable initiatives in line with the Green Star Design and Build requirements as nominated in K2K DCP.</p>	
Public Realm Works – Community Link on Land as ‘Area 3’ on the Location Plan and in the Community Link Plan.	<p>All works listed below will be delivered as per the final approved plans and as per Council’s standards. The works will include but will not be limited to the following items;</p> <p>Provide new Community Link with new paving and landscaping with planter beds as nominated,</p> <p>Provide new public domain lighting as nominated,</p> <p>Provide CCTV security and boom gate</p>	Yes

	<p>(if required) to the laneway to meet public domain security requirements,</p> <p>Provide weather protection structures to the nominated area,</p> <p>Provide new handrails and integrated lightning to meet DDA requirements on pedestrian ramp located in the laneway,</p> <p>Provision of public domain furniture and ancillary items.</p> <p>Incorporation of environmentally sustainable initiatives in line with the Green Star Design and Build requirements as nominated in K2K DCP.</p>	
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