

Explanatory Note

Environmental Planning & Assessment Regulation 2021 (clause 205)

Planning Agreement

The purpose of this Explanatory Note is to provide a plain English summary to support the notification of a Planning Agreement (**the Planning Agreement**) under section 7.4 of the *Environmental Planning and Assessment Act 1979 (the Act)*.

The Planning Agreement will require the payment of monetary contributions towards the delivery of public infrastructure and amenities and the registration of easements, in connection with a Planning Proposal and proposed development of land known as 641-653 and 655A Pacific Highway, Chatswood.

This Explanatory Note has been prepared jointly between the parties as required by clause 205 of the *Environmental Planning and Assessment Regulation 2021 (the Regulations)*.

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

Parties

Willoughby City Council ABN 47 974 826 099 - Level 4, 31 Victor Street, Chatswood, NSW 2067 (**Council**)

The Owners Strata Plan No. 12338 ABN 44 358 495 061 - GPO Box 5328 Sydney NSW 2001 (**Landowner 1**)

The Owners Strata Plan No. 57067 ABN 90 679 076 678 - P.O. Box 155 Liverpool BC NSW 1871 (**Landowner 2**)

Description of the Land to which the Planning Agreement Applies

641-653 and 655A Pacific Highway, Chatswood being land currently known as SP 12338 and SP 57067.

Description of Proposed Development

The Planning Agreement is in connection with a planning proposal to amend *Willoughby Local Environmental Plan 2012 (WLEP)* relating to the Land including by:

- a) Rezoning it from R3 Medium Density to MU1 Mixed Use.
- b) Amending the maximum building height development standard from 12 metres to 90 metres.
- c) Amending the maximum Floor Space Ratio (FSR) development standard from 0.9:1 to 6:1.
- d) Identifying it as subject to clause 4.4A(14) of the Comprehensive LEP Amendment. This clause requires land zoned MU1 Mixed Use to contain a minimum non-residential floor space component calculated at 17% of the maximum FSR.
- e) Identifying it on the Affordable Housing Map such that clause 6.8 (Affordable Housing) applies. This clause requires development for the erection of residential accommodation to provide affordable housing dwellings (or payment of a monetary contribution to the consent authority) equivalent to 4% of the accountable total floor space (being the residential component)

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- f) Identifying it as within “Area 5” on the LEP Special Provisions area Map such that clause 6.23 (design excellence at certain sties in Willoughby) applies
- g) Identifying it on the LEP lot size map requiring minimum lot size of 5,500m²
- h) Identifying it on the Active Street Frontages Map to provide active street frontages to Gordon Avenue and Hammond Lane.

(Planning Proposal)

Summary of Objectives, Nature and Effect of the Planning Agreement

Objectives of Planning Agreement

The Planning Agreement provides for the payment of a monetary contribution of \$17,136,000 (to be indexed in accordance with the CPI) by the Landowners to be applied towards Community Infrastructure as identified in Appendix A to Council’s Planning Agreement Policy – Procedures Manual. The monetary contribution is to be paid in 4 instalments.

The Planning Agreement also requires the registration of a public access easement and egress easement on the Land in favour of the Council.

Nature of Planning Agreement

The Planning Agreement is a planning agreement under s7.4(1) of the *Environmental Planning and Assessment Act 1979* (the **Act**). The Planning Agreement is a voluntary agreement under which Development Contributions (as defined in clause 1.1 of the Planning Agreement) are made by the Landowners for various public purposes (as defined in s7.4(2) of the Act).

Effect of the Planning Agreement

The Planning Agreement:

- is in connection with an amendment to the LEP relating to the Planning Proposal
- relates to the carrying out of the Development (as defined in clause 1.1 of the Planning Agreement) on the Land by the Landowners,
- does not exclude the application of s7.11, s7.12 or Division 7.1, Subdivision 4 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 Landowners in instalments
- provides for the registration of a public access easement and egress easement in favour of the Council.

Assessment of the Merits of the Planning Agreement

The Planning Purposes Served by the Planning Agreement

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The 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 Division 7.1, Subdivision 4 of the Act required for the proposed Development on the land to which it applies.
- Provides for easements to improve public access.

How the Planning Agreement Promotes the Public Interest

The Planning Agreement promotes the public interest by promoting the objects of the Act as set out in s1.3 of the Act.

Impacts of the Planning Agreement on the Public

The Planning Agreement will ensure future redevelopment of the Land delivers monetary contributions that can fund by Council public benefits associated with community and social facilities. The easements will improve accessibility, connectivity and amenity. Whilst there will be some short-term construction impacts, the proposed contributions under the Planning Agreement will have a positive impact on the public.

For Planning Authorities:

Development Corporations - How the Planning Agreement Promotes its Statutory Responsibilities

N/A

Other Public Authorities – How the Planning Agreement Promotes the Objects (if any) of the Act under which it is Constituted

N/A

Councils – How the Planning Agreement Promotes the Principles for Local Government Contained in Chapter 3 of the Local Government Act 1993

The 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 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 Planning Agreement Policy and aligns with Council’s Capital Works Program.

All Planning Authorities – Whether the Planning Agreement specifies that certain requirements must be complied with before a construction certificate, occupation certificate or subdivision certificate is issued