

# Explanatory Note - Planning Agreement, 25 Talavera Road, Macquarie Park

The purpose of this Explanatory Note is to provide a summary to support the notification of the Planning Agreement under s 7.4 of the *Environmental Planning and Assessment Act 1979* (NSW) (**EP&A Act**).

This Explanatory Note has been jointly prepared as required by s 205 of the *Environmental Planning and Assessment Regulation 2021* (NSW) (**EP&A Regulation**). The planning authority must also consider any relevant practice notes issued by the Planning Secretary under s 203(6) of the EP&A Regulation. This Explanatory Note has been prepared having regard to any relevant practice notes issued by the Planning Secretary.

## Parties

This Planning Agreement is between:

- **The Council of the City of Ryde** ABN 81 621 292 610 of Level 1, 3 Richardson Place, North Ryde NSW 2113 (**Council**)
- **The Trust Company Limited** ACN 004 027 749 of Level 25, 133 Castlereagh Street Sydney NSW 2000 (**Owner**)
- **Stockland Trust Management Limited ACN 001 900 741 as Trustee for Advance Property Fund No. 2** of Level 25, 133 Castlereagh Street Sydney NSW 2000 (**Trustee**).

## Description of the Land

The Planning Agreement applies to Lot 21 DP 1319168 known as 25 Talavera Road, Macquarie Park NSW 2113 as described in Schedule 1 to the Planning Agreement.

## Description of the Development to which the Planning Agreement applies

The proposed development comprises the land uses proposed in the State Significant Development Application (SSD-63235720), including demolition of existing structures and construction of a six-storey data centre with a maximum height of 45m and a total GFA of 19,434m<sup>2</sup>. The development seeks incentives in respect of FSR and Building Height:

- FSR: Base FSR of 1:1, proposed FSR of 1.94:1 - additional 9,419m<sup>2</sup> of GFA.
- Building Height: Base height of 30m, proposed height of 45m - additional 15m of building height being the maximum incentive height permissible with development consent.

## Summary of Objectives, Nature and Effect of Planning Agreement

### *Objectives*

The objective of the Planning Agreement is to provide a mechanism by which a monetary contribution for public purposes can be made in connection with the Owner carrying out the development on the Land.

### *Nature of the Planning Agreement*

The parties agree that this agreement is a voluntary planning agreement within the meaning of s 7.4 of the EP&A Act. This agreement applies to the proposed Development and the Land.

Subject to the grant of Development Consent, the Planning Agreement will require the Owner to make payment of a monetary contribution in the amount of \$3,039,605.49 (**Incentive FSR Monetary Contribution**) to be paid prior to the issue of the first Construction Certificate for any part of the Development Consent relating to construction of a building. The contribution will be indexed at time of payment and will be guaranteed by Security in the form of a bank guarantee, caveat, and registration of

the Planning Agreement on the title of the Land. The bank guarantee will be required upon execution of the Planning Agreement.

The Planning Agreement includes a mechanism to enable amendment of the Incentive FSR Monetary Contribution should the Development Application be approved with an incentive FSR lower or higher than that proposed in the State Significant Development Application (SSD-63235720).

#### *Effect of Planning Agreement*

The Planning Agreement is not intended to fetter the exercise of any statutory power or discretion of the Council. Nothing in this agreement imposes any obligation on an Authority to grant any Development Consent or exercise any function under the EP&A Act.

The Planning agreement is to be registered on the title of the Land.

### **Assessment of the merits of the Planning Agreement**

#### *How does the planning agreement promote the objects of the Act and Public Interest*

The Planning agreement promotes the orderly and economic use and development of the land in accordance with s 1.3(c) of the EP&A Act.

The Planning Agreement facilitates the delivery of public benefits to the local community in the form of a monetary contribution and enables additional floor space and building height consistent with clause 6.9 of the *Ryde Local Environmental Plan 2014*. The monetary contribution has been calculated in accordance with the Macquarie Park incentive scheme and will be used to fund local infrastructure improvements required to support the anticipated population in Macquarie Park.

The monetary contribution serves the public purpose of contributions to be used towards the delivery of local infrastructure including open space and the fine grain road network, at Council's discretion.

The Planning agreement promotes the public interest by:

- Ensuring that additional development intensity is accompanied by appropriate contributions towards local infrastructure;
- Providing funding for open space and road network improvements that will benefit the Macquarie Park community;
- Creating a transparent and enforceable mechanism for the delivery of public benefits; and
- Supporting the orderly development of the Macquarie Park area.

### **Whether the Planning Agreement conforms with the Council's capital works program.**

Yes, the Planning Agreement is not inconsistent with Council's capital works program.

### **Whether the Planning Agreement specifies that certain requirements must be complied with before a construction certificate, occupation certificate or subdivision certificate is issued.**

Yes, payment of the Incentive FSR Monetary Contribution is required prior to the issue of a Construction Certificate for any part of the Development Consent relating to a building.