

Explanatory note

Planning Agreement – Fairfield Forum

Draft Voluntary Planning Agreement

This explanatory note has been prepared in accordance with s25E of the *Environmental Planning and Assessment Regulation 2000*.

The purpose of this explanatory note is to provide a summary to accompany the notification of a draft planning agreement between the parties under s7.4 of the *Environmental Planning and Assessment Act 1979*.

1. Parties

The parties to the Planning Agreement are:

- Fairfield City Council (ABN 83 140 439 239) (**Council**)
- Harrington Custodian Pty Ltd (ACN 156 505 538) as trustee for the Fairfield Forum Unit Trust ABN 85 505 895 966) (**Developer**)

2. Description of subject Land

The Planning Agreement applies to the land comprised in Lot 1031 in DP 1049068 known as 8-36 Station Street, Fairfield.

3. Description of proposed change to an environmental planning instrument

The Planning Agreement is entered into in connection with Planning Proposal no. PP_2019_FAIRF_002_00. The Planning Proposal seeks to amend the controls applicable to the Land under the *Fairfield Local Environmental Plan 2013* (as amended or repealed and replaced) to:

- increase the permissible height of buildings on the Land from 26 metres to 82 metres; and
- increase the permissible floor space ratio applicable to the Land from 2.5:1 to 3.5:1.

4. Summary of objectives, nature and effect of the draft voluntary planning agreement

The Planning Agreement provides that the Developer will make the following Development Contributions:

Item	Development Contribution
1.	Smart Lane Extension Construction of road widening to Smart Lane generally in accordance with the DCP, located in the area marked 'B' on the plan in Annexure A of the Planning Agreement.

Item	Development Contribution
2.	<p>Pedestrian Link (Smart Lane to Thomas Ware Plaza)</p> <p>Connecting existing Smart Lane Pedestrian way to Thomas Ware Plaza generally in accordance with the DCP, located in the area marked 'D' on the plan in Annexure A of the Planning Agreement, and the grant of public access to the Pedestrian Link.</p>
3.	<p>Extension of Thomas Ware Plaza</p> <p>Connection of existing Thomas Ware Plaza through site to Retail Mall generally in accordance with the DCP, located in the area marked 'E' on the plan in Annexure A of the Planning Agreement, and the grant of public access to the Plaza.</p>
4.	<p>Pedestrian Link (Ware Street to Market Square)</p> <p>Construction of pedestrian link from Ware Street to Market Square, located in the area marked 'J' on the plan in Annexure A of the Planning Agreement, and the grant of public access to the Pedestrian Link.</p>
5.	<p>New Public Road connecting Station Street to Ware Street</p> <p>Construction of new road linking Station Street to Ware Street including the construction, pedestrian paths and a pedestrian crossing on the new street, generally in accordance with the DCP, located in the area marked 'C' on the plan in Annexure A of the Planning Agreement.</p>
6.	<p>Market Square</p> <p>Construction of 1,000 sqm market square, located in the area marked 'F' on the plan in Annexure A of the Planning Agreement, and the grant of public access to the Market Square.</p>
7.	<p>Pedestrian Link (Thomas Ware Plaza to Market Square)</p> <p>Construction of pedestrian link through extended Thomas Ware Plaza and through Covered Retail Mall, located in the area marked 'G' on the plan in Annexure A of the Planning Agreement and the grant of public access to the Pedestrian Link.</p>
8.	<p>Pedestrian Link (Station Street to Market Square)</p> <p>Construction of pedestrian link from Station Street to Market Square, located in the area marked 'I' on the plan in Annexure A of the Planning Agreement and the grant of public access to the Pedestrian Link.</p>
9.	<p>New Cunninghame Street Park (referred to in the Masterplan as Fairfield Cultural Park)</p> <p>Not less than a 4,000 sqm public open space area generally in accordance with the DCP, with the Developer to perform works comprising:</p> <ul style="list-style-type: none"> • Levelling and construction of retaining walls to the perimeter of the park; • Removal of existing structures and hardstand areas/pavements; and • Provision of services (water, electricity) to the perimeter of the park, <p>located in the area marked 'A' on the plan in Annexure A of the Planning Agreement.</p>
10.	<p>Pedestrian Link (Market Square to New Cunninghame Street Park (referred to in the Masterplan as Fairfield Cultural Park))</p>

Item	Development Contribution
	Construction of pedestrian link from Market Square to New Cunninghame Street Park, located in the area marked 'H' on the plan in Annexure A of the Planning Agreement and the grant of public access to the Pedestrian Link.
11.	<p>New Cunninghame Street Park – base level embellishment</p> <p>A base level of embellishment of the New Cunninghame Street Park generally shown in the area marked A on the Plan, and comprising:</p> <ul style="list-style-type: none"> • Retention of existing trees unless otherwise agreed by Council; • Footpaths; • Grassed / seeded (including appropriate soil preparation and turf underlay); • Mature tree plantings; and • Bench seating, <p>and any other works approved in accordance with the Planning Agreement.</p> <p>The total value of this Item of the Works Contribution is to be equal to the Security Amount for this item.</p>

Schedule 2 of the Planning Agreement specifies the time by which each of the Development Contributions must be provided.

The objective of the Planning Agreement is to facilitate the delivery of the Development Contributions and to make provision for public amenities and infrastructure to meet certain demands created by the Development, and to ensure that the community does not bear those costs.

The nature of the Planning Agreement is a contractual relationship between Council and the Developer for the provision of the Development Contributions to support the Development.

The effect of the Planning Agreement is that the Developer will provide the Development Contributions in the manner specified under the Planning Agreement.

5. **Assessment of the merits of the draft voluntary planning agreement**

The Planning Agreement satisfies the objectives of making provision for public amenities and infrastructure to meet certain demands created by the Development, and to ensure that the community does not bear those costs.

In this respect, the Planning Agreement is directed towards legitimate planning purposes identified in statutory planning controls and other adopted planning strategies and policies as follows:

- the Fairfield Local Environmental Plan 2013
- the site specific Development Control Plan to be adopted in connection with the instrument change described at Item 3 above

- the Fairfield City Council Direct Development Contributions Plan 2011 (Section 7.11) Amendment 12

In accordance with section 7.4(2) of the EPA Act, the Planning Agreement promotes the following public purposes:

- the provision of public amenities and public services;
- the provision of other infrastructure relating to land; and
- the monitoring of the planning impacts of the development of the Land.

How the draft voluntary planning agreement promotes the objects of the Environmental Planning and Assessment Act 1979

The planning agreement promotes objects (c), (g) and (j) of the Environmental Planning and Assessment Act 1979 as follows:

- Object (c): to promote the orderly and economic use and development of land;
- Object (g): to promote good design and amenity of the built environment; and
- Object (j): to provide increased opportunity for community participation in environmental planning and assessment.

These objects are promoted by the provision by the Developer of public amenities, services and other infrastructure, and by the public being afforded the opportunity to be involved through public exhibition of the Planning Agreement and the Planning Proposal.

How the draft voluntary planning agreement promotes the public interest for planning authorities:

- (a) **Development Corporations – How the draft voluntary planning agreement promotes its statutory responsibilities**

Not applicable

- (b) **Other Public Authorities – How the draft voluntary planning agreement promotes its objects (if any) of the act under which it is constituted**

Not applicable

- (c) **Councils – How the draft voluntary planning agreement promotes the elements of Council’s charter**

The VPA promotes increased access open space provision.

- (d) **All Planning Authorities – Whether the draft voluntary planning agreement conforms with the authority’s Capital Works Program**

The works items are not part of Council’s current Capital Works Program. However, it is proposed that the applicant will undertake the capital / civil works as part of their development and VPA.

The impact of the draft voluntary planning agreement on the public or any section of the public

Not applicable

Other Matters

None