



Appendix

(Clause 36)

Environmental Planning and Assessment Regulation 2000

(Clause 25E)

Explanatory Note

Draft Planning Agreement

Under s7.4 of the *Environmental Planning and Assessment Act 1979*

Parties

City of Cumberland City Council ABN 22 798 563 329 of PO Box 42 MERRYLANDS NSW 2160 (**Council**)

and

Lidcombe Church Property Pty Ltd ABN 48 627 115 762 of Suite 101, 25 Angas Street, MEADOWBANK NSW 2114 (**Developer**)

and

New South Wales Land and Housing Corporation ABN 24 960 729 253 of Level 5, 219-241 Cleveland Street, Strawberry Hills NSW 2120 (**Landowner**)

Description of the Land to which the Draft Planning Agreement Applies

This draft Planning Agreement applies to Lot 1 in DP 1259904as shown in Schedule 2.

Description of Proposed Development

This draft Planning Agreement applies to the planning proposal submitted by the Developer and supported by the Council for which a Gateway determination was issued on 24 July 2020 (as altered from time to time) under s3.34 of the Act and as varied pursuant to s3.35 of the Act, proposing:



- (a) increasing the height of building control for the Land under the Auburn Local Environmental Plan 2010 from part 14.9 m, 16.9 m, 22.9 m, 27 m to part 22 m, 32 m and 40 m; and
- (b) increasing the floor space ratio for the Land under the Auburn Local Environmental Plan 2010 from part 1.29:1, 1.49:1, 2.49:1 and 2.6:1 to 3.2:1.

This draft Planning Agreement applies to the development, within the meaning of the Act, on the Land in accordance with a Development Consent (as modified or substituted from time to time under the Act) granted as a consequence of the making of the LEP Amendment.

Summary of Objectives, Nature and Effect of the Draft Planning Agreement

Objectives of Draft Planning Agreement

The objectives of the Draft Planning Agreement are to provide funding for public domain, open space and drainage improvements in the Lidcombe Town Centre.

Nature of Draft Planning Agreement

The Draft Planning Agreement is a planning agreement under s7.4 of the EPA Act. It is a voluntary agreement, under which the Developer makes Development Contributions (as defined in clause 1.1 of the Draft Planning Agreement) for various public purposes (as defined in s 7.4(2) of the EPA Act).

Effect of the Draft Planning Agreement

The Draft Planning Agreement:

- requires monetary contributions to be paid by the Developer in instalments,
- requires financial security to be provided,
- relates to the taking effect of the Planning Proposal and the carrying out by the Developer of the Development,
- does not exclude the application of s 7.11 and s7.12 of the EPA Act to the Development,
- does not exclude the application of s 7.24 of the EPA Act to the Development,
- is to be registered on the titles to the Land,
- imposes restrictions on the Developer transferring the Land or part of the Land or assigning an interest under the Agreement,
- provides a dispute resolution method where a dispute arises under the
- agreement, being mediation and expert determination,
- provides that the agreement is governed by the law of New South Wales,
- provides that the A New Tax System (Goods and Services Tax) Act 1999 (Cth) applies to the agreement.



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 the Planning Agreement applies,
- captures the shared uplift value of land through the delivery of public services and public amenities.

The Draft Planning Agreement provides a reasonable means of achieving these planning purposes by requiring the Developer to make monetary contributions to Council, to facilitate public domain, open space and drainage improvements in the Lidcombe Town Centre.

How the Draft Planning Agreement Promotes the Public Interest

The Draft Planning Agreement promotes the public interest by:

- promoting the objects of the EPA Act set out in sections 1.3(a), (c) and (j); and
- enabling the funding and provision of public domain improvements and public facilities for the benefit of the public and to address demand arising from the Development.

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 Elements of the Council's Charter

The Draft Planning Agreement promotes the elements of the Council's charter by:

- the management of lands and other assets so that current and future local community needs can be met in an affordable way,
- working with others to secure appropriate services for local community needs,
- promoting Council's long-term strategic planning on behalf of the local community.



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

Yes

***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***

This Draft Planning Agreement contains requirements that must be complied with before any Construction Certificate is issued for any part of a building in the Development which is only made permissible by the LEP Amendment.

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