

## **Appendix**

(Clause 55)

*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**

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

**Green Dior Holdings Pty Ltd** ACN 627 356 003 of PO Box 7226, Baulkham Hills NSW  
2153 (Developer)

### **Description of the Land to which the Draft Planning Agreement Applies**

This draft Planning Agreement applies to the Developer Land specified in Part 1 of Schedule 1 and the Additional Land specified in Part 2 of Schedule 1 when the Developer becomes owner of the Additional Land.

### **Description of Planning Proposal and Proposed Development**

This draft Planning Agreement applies to the planning proposal submitted by the then owner of the land to the Council in May 2015 and the subject of the gateway determination dated 24 June 2016 (as altered from time to time) under s3.34 of the Act and as varied pursuant to s3.35 of the Act, proposing

- (a) rezoning of the Land to B4 Mixed Use,
- (b) amendments to the maximum building height of the Land to 31m,



**Woodville Road, Merrylands East (John Cootes Site) Planning Agreement**  
**Cumberland Council**  
**Green Dior Holdings Pty Ltd**

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- (c) amendments to the maximum floor space ratio of the Land to 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 Affordable Housing and embellished open space to meet the requirements of the Development.

Specifically, the Developer will make the following contributions:

- (a) dedication of Affordable Housing Units,
- (b) embellishment and dedication of not less than 2,000sqm of open space for a public park,
- (c) dedication of land for public roads and green setbacks.

### **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:

- 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,
- requires Affordable Housing to be provided,
- requires dedication of land and carrying out of works for a public park,
- requires dedication of land for public roads and green setbacks,
- enables the Council to lodge a caveat over the Land,
- allows for compulsory acquisition arrangements for the land dedication,
- is to be registered on the titles to the Land,
- imposes restrictions on the Developer transferring the Land or part of the Land or any affordable housing units 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,
- provides land for public purposes in connection with the Development, specifically open space, green setbacks, roads and Affordable Housing,
- provides and co-ordinates community services and facilities in connection with the Development.

The Draft Planning Agreement provides a reasonable means of achieving these planning purposes by requiring the Developer to make monetary, works-in-kind and land dedication contributions to Council, to facilitate the development of the Land in connection with the provision of necessary infrastructure, community facilities and affordable housing.

### **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
- delivering affordable housing, road infrastructure, open space and funding for public services and public amenities which benefit the local and wider community.

### **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 Principles for local government (formerly the Council’s charter) in the Local Government Act 1993***

The Draft Planning Agreement promotes the principles for local government of the Council’s charter by:

- o the management of lands and other assets so that current and future local community needs can be met in an affordable way,
- o working with others to secure appropriate services for local community needs,
- o 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***

The Draft Planning Agreement conforms with the Council’s capital works program in that it is not inconsistent with works required to support growth in the Council’s local government area.

***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 Construction Certificates and Occupation Certificates are issued.

