



Appendix

(Clause 35)

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 16 Memorial Ave Merrylands NSW 2160
(Council)

Landmark Group Australia Pty Ltd ACN 144 079 792 of Level 25, 88 Phillip Street,
Sydney NSW 2000 (Developer)

Lot 11 Neil Street Pty Limited ABN 164 388 907 of Level 25, 88 Phillip Street, Sydney
NSW 2000 (Landowner)

Description of the Land to which the Draft Planning Agreement Applies

The Land being Lot 3 in DP 1248018 and known as 22 Dressler Court, Merrylands

Description of Proposed Development

The Developer seeks to amend the *Holroyd Local Environmental Plan 2013* to amend:

- the Floor Space Ratio Map to increase the floor space ratio applying to the Land from 3.5:1 to 3.66:1, and
- the Height of Buildings Map to increase the maximum building height applying to the Land from 39 metres to a range of heights of 50 metres.

Development Consent 496/2016 has been granted for a mixed use redevelopment of the Land. The proposed LEP Amendment will enable the Developer to seek Development



Consent, or a modification of Development Consent 496/2016, to increase the number of floors of the mixed use development by 4 which will permit an additional 24 residential units. This additional development could only be granted as a result of the proposed amendment of the *Holroyd Local Environmental Plan 2013*.

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

Objectives of Draft Planning Agreement

To require the Developer to make a monetary Development Contribution (as defined in clause 1.1 of the Draft Planning Agreement) for any additional residential gross floor area permissible on the Land as a result of the approval of the Planning Proposal (as defined in clause 1.1 of the Draft Planning Agreement). The monetary contributions paid are to be applied towards public works, including public facilities, public domain and public road infrastructure in the Cumberland Council local government area.

Nature of Draft Planning Agreement

The Draft Planning Agreement is a planning agreement under s7.4(1) of the *Environmental Planning and Assessment Act 1979* ('Act').

It is an agreement between Council, the Developer and the Landowner under which the Developer is required to make the Development Contribution (as defined in clause 1.1 of the Draft Planning Agreement) to be used for a public purpose (as defined in s7.4(2) of the Act).

Effect of the Draft Planning Agreement

The Draft Planning Agreement:

- relates to the LEP Amendment, the Development and the Land;
- excludes the effect of sections 7.11 and 7.12 of the Act on the Development;
- does not exclude the effect of section 7.24 of the Act on the Development;
- provides for the payment of monetary contributions by the Developer in respect of the Development;
- is to be registered on the title to the Land;
- imposes restrictions on the transfer of the Land, or the assignment or novation of the Developer's obligations under the Draft Planning Agreement;
- requires the Developer to provide financial security for the monetary contributions;
- provides for dispute resolution by expert determination and mediation;
- provides that the Draft Planning Agreement is subject to the law of New South Wales; and
- provides that the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) applies to the Agreement.

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Assessment of the Merits of the Draft Planning Agreement

The Planning Purposes Served by the Draft Planning Agreement

The Draft Planning Agreement promotes the orderly and economic use and development of the Land and provides increased opportunity for community participation in environmental planning and assessment.

How the Draft Planning Agreement Promotes the Public Interest

The Draft Planning Agreement has been prepared having regard to Council's Planning Agreements Policy. The Draft Planning Agreement promotes the public interest by promoting the objects of the Act as set out in s1.3(c) and (j) of the Act.

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 Guiding Principles for Local Government by enabling the Council to:

- obtain monetary contributions to be applied towards managing assets so that current and future local community needs can be met in an affordable way,
- work with others to secure appropriate services for local community needs, and
- actively engage with their local community, through the use of the public notification of this Draft Planning Agreement.

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

The Draft Planning Agreement does not propose any works. Accordingly, it is not relevant to the Council's capital works program.

All Planning Authorities – Whether the Draft Planning Agreement specifies that certain requirements must be complied with before a

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construction certificate, occupation certificate or subdivision certificate is issued

Yes, the draft Planning Agreement requires monetary development contributions to be paid before the issuing of the first Construction Certificate for the Development.