

## **Explanatory Note**

**Minister for Planning and Public Spaces ABN 20 770 707 468**

**and**

**Sitting Bull Developments Pty Ltd ACN 639 656 241**

**and**

**Three Fratelli Pty Limited (ACN 617 929 307) in its capacity as trustee of the  
Box Hill Unit Trust**

**and**

**Luca Brazi Pty Limited (ACN 625 943 035) in its capacity as trustee of the Pine  
Unit Trust**

**and**

**Barzini Developments Pty Limited (ACN 629 278 897)**

**and**

**Red Belly Enterprises Pty Ltd (ACN 613 406 661) in its capacity as trustee of  
the S.A.O.S Family Trust**

**and**

**John Cappello**

**and**

**Julie-Anne Cappello**

## **Draft Planning Agreement**

### **Introduction**

The purpose of this explanatory note is to provide a plain English summary to support the notification of the draft planning agreement (the **Planning Agreement**) prepared under Subdivision 2 of Division 7.1 of Part 7 of the *Environmental Planning and Assessment Act* 1979 (the **Act**).

This explanatory note has been prepared jointly by the parties as required by clause 25E of the *Environmental Planning and Assessment Regulation* 2000 (the **Regulation**).

### **Parties to the Planning Agreement**

The parties to the Planning Agreement are:

- the Minister for Planning and Public Spaces (ABN 20 770 707 468) (**the Minister**);  
and
- Sitting Bull Developments Pty Ltd (ACN 639 656 241);

- Three Fratelli Pty Limited (ACN 617 929 307) in its capacity as trustee of the Box Hill Unit Trust;
- Luca Brazi Pty Limited (ACN 625 943 035) in its capacity as trustee of the Pine Unit Trust;
- Barzini Developments Pty Limited (ACN 629 278 897);
- Red Belly Enterprises Pty Ltd (ACN 613 406 661) in its capacity as trustee of the S.A.O.S Family Trust;
- John Cappello; and
- Julie-Anne Cappello (together, the **Developer**).

### **Description of the Subject Land**

The Planning Agreement applies to Lot 421-424 in Deposited Plan 1183810, known as 13 Red Gables Road, Gables NSW 2765 and 9, 9A and 9B Janpieter Road, Gables NSW 2765 (**Subject Land**).

### **Description of the Proposed Development**

The Developer is seeking:

- to subdivide the Subject Land into approximately sixty-one (61) residential lot, two (2) residue lots and associated infrastructure over five (5) stages generally in accordance with Development Application DA 799/2020/ZB which has been lodged with The Hills Shire Council; and
- a further subdivision of the Subject Land to erect four (4) residential flat buildings generally in accordance with Development Application DA1093/2020/JP which has been lodged with The Hills Shire Council (**Proposed Development**).

The Developer has made an offer to the Minister to enter into the Planning Agreement in connection with the Proposed Development.

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

The Planning Agreement provides that the Developer will make a monetary contribution of \$97,961.40 per hectare of net developable area (subject to indexation in accordance with the Planning Agreement) (**Development Contribution**) for the purposes of the provision of designated State public infrastructure within the meaning of clause 6.2 of *The Hills Local Environmental Plan 2012 (LEP)*.

An instalment of the Development Contribution will be payable prior to the issue of each relevant Subdivision Certificate in accordance with Schedule 4 to the Planning Agreement.

The Developer is required to provide a bank guarantee.

The objective of the Planning Agreement is to facilitate the delivery of the Developer's contributions towards the provision of designated State public infrastructure referred to in clause 6.2 of the LEP.

No relevant capital works program by the Minister is associated with the Planning Agreement.

## **Assessment of Merits of Planning Agreement**

### **The Public Purpose of the Planning Agreement**

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

- the provision of (or the recoupment of the cost of providing) public amenities or public services;
- the provision of (or the recoupment of the cost of providing) transport or other infrastructure relating to land.

The Minister and the Developer have assessed the Planning Agreement and both hold the view that the provisions of the Planning Agreement provide a reasonable means of achieving the public purposes set out above. This is because it will ensure that the Developer makes an appropriate contribution towards the provision of services, facilities and infrastructure.

### **How the Planning Agreement Promotes the Public Interest**

The Planning Agreement promotes the public interest by ensuring that an appropriate contribution is made towards the provision of infrastructure, facilities and services to satisfy needs that arise from development of the Subject Land.

The Developer's offer to contribute towards the provision of State infrastructure will have a positive impact on the public who will ultimately use the infrastructure, facilities and services.

### **How the Planning Agreement Promotes the Objects of the Act**

The Planning Agreement promotes the objects of the Act by encouraging:

- the promotion of the orderly and economic use and development of land; and
- the promotion of good design and amenity of the built environment.

The Planning Agreement promotes the objects of the Act set out above by facilitating development of the Subject Land in accordance with the Planning Agreement.

### **Requirements relating to Construction, Occupation and Subdivision Certificates**

The Planning Agreement does not specify requirements that must be complied with prior to the issue of a construction certificate or an occupation certificate.

The Planning Agreement requires an instalment of the Development Contribution to be paid prior to the issue of the relevant Subdivision Certificate and therefore contains a restriction on the issue of a Subdivision Certificate within the meaning of section 6.15(1)(d) of the Act.