

## Explanatory Note

Minister for Planning and Public Spaces (ABN 20 770 707 468)

and

Eloura Holdings Pty Ltd (ACN 117 032 103)

and

Powells Creek Developments Pty Ltd (ACN 167 684 595)

in its capacity as trustee of the Powells Creek Trust

and

Concord Partners Holdings Pty Limited (ACN 162 008 068)

## 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 Eloura Holdings Pty Ltd (ACN 117 032 103), Powells Creek Developments Pty Ltd (ACN 167 684 595) and Concord Partners Holdings Pty Limited (ACN 162 008 068) (together referred to as the **Developer**).

### Description of the Subject Land

The Planning Agreement applies to:

- Lot 1 DP 215341, known as 2 Rothwell Avenue, Concord West NSW 2138;
- Lot 2 DP 215341, known as 2A Rothwell Avenue, Concord West NSW 2138; and
- Lot X DP 404807, known as 4 Rothwell Avenue, Concord West NSW 2138,

(together referred to as the **Subject Land**).

### Description of the Proposed Development

The Developer is seeking to demolish the existing structures on the Subject Land and erect three (3) four-storey residential flat buildings, comprising eighty-eight (88) residential lots and a basement level car park for ninety-one (91) vehicles, generally in accordance with Development Application DA2019/0160 lodged with the City of Canada Bay 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 \$10,548 per residential lot (subject to indexation in accordance with the Planning Agreement) (**Development Contribution**) for the provision of designated State public infrastructure within the meaning of clause 6.9 of the *Canada Bay Local Environmental Plan 2013 (LEP)*.

An instalment of the Development Contribution will be payable prior to the issue of an Occupation Certificate for each residential flat building or part of a residential flat building, in accordance with Schedule 4 to the Planning Agreement.

The Developer is required to provide a bank guarantee or insurance bond in accordance with Schedule 5 to the Planning Agreement.

The objective of the Planning Agreement is to facilitate the delivery of the Developer's contributions towards the provision of infrastructure, facilities and services referred to in clause 6.9 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; and
- 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 infrastructure, facilities and services referred to in clause 6.9 of the LEP.

### **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 subdivision certificate.

The Planning Agreement requires an instalment of the Development Contribution to be paid prior to the issue of an occupation certificate (in respect of each residential flat building or part of a residential flat building), and therefore contains a restriction on the issue of an occupation certificate within the meaning of clause 154E of the Regulation.