

Explanatory Note

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

and

Victoria Plaza Holdings Pty Ltd (ACN 613 133 752) in its capacity as trustee of Victoria Plaza Unit Trust

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 Victoria Plaza Holdings Pty Ltd (ACN 613 133 752) in its capacity as trustee of Victoria Plaza Unit Trust (the **Developer**).

Description of the Subject Land

The Planning Agreement applies to the following parcels of land known as 77-81 Berry Street, North Sydney, NSW 2060 (**Subject Land**):

- Lot 6 in Deposited Plan 1237296
- Lot 7 in Deposited Plan 1237296
- Common Property in Strata Plan 74602
- Lot 4 in Deposited Plan 1078998.

Description of the Proposed Development

Eastmark Holdings Pty Ltd sought and received consent to:

- demolish the existing buildings on the Subject Land;
- construct a forty-one (41) storey commercial and retail building;
- construct a new through-site link between Denison Street and Little Spring Street;
- and
- undertake other associated works,

(**Development**), in accordance with the approval of MP08-0238 (**Project Approval**).

Condition B6 of the Project Approval requires the 'Proponent' to enter into a planning agreement with the Minister to provide a Railway Infrastructure Contribution to the Transport Administration Corporation in accordance with the offer made on 21 December 2009.

The Developer, as the 'Proponent', has offered to enter into the Planning Agreement in connection with the Development to give effect to Condition B6 of the Project Approval.

Summary of Objectives, Nature and Effect of the Planning Agreement

The Planning Agreement provides that the Developer will make a monetary contribution of \$7,770,151.02 (subject to indexation in accordance with the Planning Agreement) **(Development Contribution)** for the purposes of the provision of railway infrastructure within the meaning of former clause 28C of North Sydney Local Environmental Plan 2001 (LEP).

The Development Contribution will be payable on the commencement of the Planning Agreement in accordance with clause 4 of the Planning Agreement.

The objective of the Planning Agreement is to facilitate the delivery of the Developer's contributions towards the provision of railway infrastructure referred to in former clause 28C 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 purpose:

- 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 purpose set out above. This is because it will ensure that the Developer makes an appropriate contribution towards the provision of railway infrastructure referred to in former clause 28C 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 railway infrastructure to satisfy needs that arise from development of the Subject Land.

The Developer's offer to contribute towards the provision of railway infrastructure will have a positive impact on the public who will ultimately use the railway infrastructure.

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, a subdivision certificate or an occupation certificate.