

## Explanatory Note

Minister administering the *Environmental Planning and Assessment Act 1979* (ABN 20 770 707 468)

and

GIWU Investments Pty Ltd (ACN 613 405 995) as trustee of the  
Jadep Family Trust

and

Emanuele 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 having regard to the Planning Agreements Practice Note and its contents have been agreed by the parties.

### Parties to the Planning Agreement

The parties to the Planning Agreement are the Minister administering the *Environmental Planning and Assessment Act 1979* (ABN 20 770 707 468) (the **Minister**) and GIWU Investments Pty Ltd (ACN 613 405 995) in its capacity as trustee of the Jadep Family Trust, Emanuele Cappello and Julie-Anne Cappello (together, the **Developer**).

### Description of the Subject Land

The Planning Agreement applies to:

- part Lot 424 in Deposited Plan 1183810 (as shown in Annexure A to the Planning Agreement); and
- Lot 425 in Deposited Plan 1183810,

known as 9B-9C Janpieter Road, Gables 2765 (**Subject Land**).

### Description of the Development to which the Planning Agreement applies

The Developer is seeking to subdivide the Subject Land into approximately 23 lots comprising approximately 21 residential lots, one R3 development lot and one residue lot, and associated infrastructure, generally in accordance with Development Application DA No. DA/949/2022/ZB 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.

An indicative plan of the Proposed Development is at the end of this explanatory note.

It is noted that the development to which the Planning Agreement will apply also includes the further subdivision of the R3 development lot and residue lot under any future development application.

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

The Planning Agreement provides that the Developer will make a monetary contribution of \$98,879.27 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 2019 (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 \$20,000 bank guarantee 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 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 purpose:

- 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 purpose set out above. This is because it will ensure that the Developer makes an appropriate contribution towards the provision of infrastructure, facilities and services.

### **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 designated State public infrastructure will have a positive impact on the public who will ultimately use it.

### **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.

# Indicative Plan of the Proposed Development

