

Explanatory Note
Minister administering the *Environmental Planning and Assessment Act 1979*
(ABN 20 770 707 468)
and
Deicorp Projects (Rhodes) Pty Ltd (ACN 660 248 537)
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 Deicorp Projects (Rhodes) Pty Ltd (ACN 660 248 537) (the **Developer**).

Description of the Subject Land

The Planning Agreement applies to Lots 1 to 6 (inclusive) in Deposited Plan 17671 known as 1-9 Marquet Street and 4 Mary Road, Rhodes 2138 (**Subject Land**).

Description of the Proposed Development

The Developer is seeking to construct on the Subject Land a 32-storey mixed use development comprising of 214 apartments, four levels of commercial and retail tenancies, basement carparking, stratum and residential strata subdivision and associated landscaping and demolition of existing buildings generally in accordance with DA2023/0181 which is lodged with 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 \$10,000 per dwelling (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 6.9 of *Canada Bay Local Environmental Plan 2013* (**LEP**). Clause 6.9 of the LEP, despite its repeal, continues to apply to DA2023/0181 by virtue of clause 4 of *State Environmental Planning Policy Amendment (Housing and Productivity Contributions) 2023*.

The Development Contribution will be payable prior to the issue of the first construction certificate in relation to the Proposed Development or before the commencement of any work authorised by a Development Consent to the Proposed Development (if no construction certificate is required), in accordance with Schedule 4 to the Planning Agreement.

The Developer is required to provide security 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 6.9 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 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 subdivision certificate or an occupation certificate.

The Planning Agreement requires the Development Contribution to be paid prior to the issue of the first construction certificate and therefore contains a restriction on the issue of a construction certificate within the meaning of section 21 of the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021* (NSW).