

Explanatory Note

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

and

New South Wales Land and Housing Corporation (ABN 24 960 729 253)

and

Frasers Property Telopea Developer Pty Limited (ACN 637 732 079)
in its capacity as trustee of the Telopea Development 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 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:

- Minister administering the *Environmental Planning and Assessment Act 1979* (ABN 20 770 707 468) (the **Minister**)
- New South Wales Land and Housing Corporation (ABN 24 960 729 253) (the **Landowner**)
- Frasers Property Telopea Developer Pty Limited (ACN 637 732 079) in its capacity as trustee of the Telopea Development Trust (the **Developer**).

Description of the Subject Land

The Planning Agreement applies to the following parcels of land (the **Subject Land**):

Lot/Deposited Plan	Address
Lot 6 in Deposited Plan 128229	14 Sturt Street, Telopea 2117
Lot 7 in Deposited Plan 128229	

Description of the Proposed Development

The Developer is seeking to develop the Subject Land with a total gross floor area of up to 37,299 square metres, being the total gross floor area of five (5) buildings containing approximately 450 dwellings generally in accordance with detailed proposals for the first stage of development set out in the concept development application SSD-14378717 lodged with the Department of Planning, Housing and Infrastructure, including additional public facilities, public open space and new roads (**Proposed Development**).

The Developer and the Landowner have 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 8.1 of *Parramatta Local Environmental Plan 2011* (the **LEP**). This clause, despite its repeal, continues to apply to the concept development application SSD-14378717 by virtue of clause 1.8A of *Parramatta Local Environmental Plan 2023*.

If the project delivery agreement between the Developer and the Landowner is terminated before the Development Contribution is payable under the Planning Agreement, then the Planning Agreement provides that the Landowner will make the Development Contribution for the purposes of the provision of designated State public infrastructure within the meaning of clause 8.1 of the LEP.

The Development Contribution will be payable prior to:

- the issue of the first construction certificate to erect a dwelling in the Proposed Development that is to be used for a purpose other than affordable housing or social housing; or
- if no construction certificate is required or the Developer does not intend to apply for a construction certificate because the Landowner is the Crown for the purposes of Part 6 of the Act, before the erection of a dwelling in the Proposed Development that is to be used for a purpose other than affordable housing or social housing,

in accordance with Schedule 4 to the Planning Agreement.

The Developer is required to provide one or more bank guarantee(s) in accordance with Schedule 5 to the Planning Agreement and register the Planning Agreement over the Subject Land.

The objective of the Planning Agreement is to facilitate the delivery of the Developer's or the Landowner's contributions towards the provision of designated State public infrastructure referred to in clause 8.1 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, the Landowner and the Developer have assessed the Planning Agreement and all 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 or the Landowner (as the case may be) 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 offer by the Developer and the Landowner to contribute towards the provision of designated State public infrastructure will have a positive impact on the public who will ultimately use that infrastructure.

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 to erect a dwelling in the Proposed Development that is to be used for a purpose other than affordable housing or social housing. The Planning Agreement 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).