

Explanatory Note
Minister administering the *Environmental Planning and Assessment Act 1979* (ABN 20 770 707 468)
and
Infrastructure NSW (ABN 85 031 302 516)
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 Infrastructure NSW (ABN 85 031 302 516) (the **Developer**).

Description of the Subject Land

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

1. Land owned by the Developer:
 - (a) Lot 2 in DP827434;
 - (b) Lot 1 in DP836351;
 - (c) Lot 1 in DP734622;
 - (d) Lot 1 in DP74155;
 - (e) Lots 1 and 2 in DP125720 (Auto consol 3200-167);
 - (f) Lot 17 in DP1027254;
 - (g) Lot 1 in DP439245; and
 - (h) Lots 1 and 2 in DP1089643.
2. Land owned by other agencies or vested in the Council of the City of Sydney:
 - (a) Lot 1 in DP85206;
 - (b) Lot 1 in DP188671;
 - (c) Lots 19 and 20 in DP803159;

- (d) Lots 21 and 22 in DP803159;
- (e) Lots 5 and 6 in DP803160;
- (f) Part Lot 1 in DP835794;
- (g) Lot 2 in DP1064339;
- (h) Part Lot 107 in DP1076596; and
- (i) Parts of the Bank Street Road Reserve.

The Planning Agreement is required to be registered over lots owned by the Developer (being the land identified at 1 (a.) – (h.) above).

Description of the Proposed Development

Following the preparation of the June 2021 Blackwattle Bay State Significant Precinct Study exploring the potential rezoning and redevelopment of land within the 'Blackwattle Bay State Significant Precinct area' (**Precinct**), the Developer sought a change to relevant environmental planning instruments applying to the Precinct, including *Sydney Local Environmental Plan 2012*.

On 16 December 2022, the Minister made *State Environmental Planning Policy Amendment (Blackwattle Bay Precinct) 2022* to effect changes to relevant environmental planning instruments relating to the Precinct (**Precinct SEPP**).

Upon its commencement on 8 September 2023, the Precinct SEPP amended *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, *State Environmental Planning Policy (Precincts—Eastern Harbour City) 2021*, *State Environmental Planning Policy (Transport and Infrastructure) 2021* and *Sydney Local Environmental Plan 2012* to enable:

- transformation of the waterfront industrial and commercial precinct into a vibrant mixed-use precinct with:
 - around 97,500 square metres of residential gross floor area (GFA) allowing for approximately 1,200 apartments with a population of around 2,400 residents; and
 - approximately 100,000 square metres of commercial and retail GFA allowing for approximately 5,600 new jobs;
- new buildings ranging from 6 storeys to 35 storeys in height;
- new homes close to jobs and services with existing and proposed public transport, including the proposed Pyrmont metro station;
- nearly 34,000 square metres of new interconnected parks and public space, including a 30m wide foreshore promenade linking Glebe Island Bridge and the new Sydney Fish Market, and completing the harbour foreshore walk around the Pyrmont Peninsula;
- a sustainable precinct that requires development to meet high sustainability criteria and demonstrate design excellence; and
- contributions towards and provisions for infrastructure, including community and cultural uses and affordable housing.

In March 2024, the Developer sought further changes to relevant environmental planning instruments (**Proposed Precinct (Further Amendment) SEPP**) to delete the minimum non-

residential floor space control applying to 'Area 17', located within the Precinct, under the *Sydney Local Environmental Plan 2012*, together with ancillary and consequential amendments.

Subject to subsequent development applications, the amendments proposed to be made under the Proposed Precinct (Further Amendment) SEPP have the potential to result in approximately 320 additional residences within the Precinct, with no change to building envelopes or other increase in environmental impacts above those considered as part of the June 2021 Blackwattle Bay State Significant Precinct Study.

The Developer has made an offer to enter into the Planning Agreement with the Minister to secure the provision of development contributions in connection with the Precinct SEPP, the Proposed Precinct (Further Amendment) SEPP, and future development applications which the Developer proposes to make on the Subject Land for the following development (**Future Development**):

1. development which became permissible on the Subject Land as a result of the Precinct SEPP; and
2. in the case of development within 'Area 17', includes development for which development consent may be granted as a result of the making of the Proposed Precinct (Further Amendment) SEPP.

The Future Development does not include any development:

1. for which development consent may be granted only as a result of the making of any further environmental planning instrument under the Act after 8 September 2023 (other than the Proposed Precinct (Further Amendment) SEPP); or
2. that may be carried out without development consent as a result of the making of any further environmental planning instrument after 8 September 2023.

Summary of Objectives, Nature and Effect of the Planning Agreement

The Planning Agreement facilitates:

1. the delivery of works contributions by the Developer towards the provision of State public infrastructure, being:
 - (a) construction of a cycleway on land defined as the Bank Street Cycleway Land;
 - (b) works, including demolition, site preparation, remediation, seawall, landscaping and embellishment of open space for public recreation and community facilities, and other ancillary permissible land uses, carried out on land defined as the Bank Street Park Land;
 - (c) construction of a boardwalk over water at land defined as the Boardwalk Land;
 - (d) works, including demolition, remediation and embellishment works, on land defined as the Miller Street Reserve Land;
 - (e) the provision of Public Art, to the value set out in Schedule 6 Clause (2)(b) of the Planning Agreement, and at the locations set out in a 'Public Art Plan' to be prepared;
 - (f) construction of a cycleway for active transport and recreation on land defined as the Pyrmont Bridge Road Cycleway Extension Land;

- (g) works to be carried out on land defined as the Sydney Fish Market Urban Park Land, including foreshore connection works;
 - (h) works, including demolition, remediation, seawall and drainage works and embellishment, carried out on land defined as the Waterfront Promenade Land;
 - (i) construction of approximately 1,200 square metres of space for cultural and creative uses (which may include meeting rooms, indoor recreation facilities/ amenities and the like) on land defined as the Cultural and Creative Uses Land;
 - (j) carrying out of intersection upgrades, including intersection reconfiguration and signals, at the intersection of Bank Street and Miller Street; and
 - (k) carrying out of road and intersection works at the Wattle Street intersection;
2. the payment of monetary contributions towards the Pyrmont Peninsula Metro Station and to local infrastructure; and
 3. the transfer and / or dedication of land on which the contribution works have been constructed,
- (together, **Development Contribution**).

Assessment of the Merits of Planning Agreement

The Public Purpose of the Planning Agreement

In accordance with section 7.4(2) of the Act, the public purpose of the Planning Agreement is:

1. the provision of public amenities or public services; and
2. provision of 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 the Planning Agreement will ensure that the Developer makes an appropriate contribution towards the provision of infrastructure, facilities and services by means of the works contributions, monetary contributions and transfer / dedication of land for public purposes.

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 rezoning and development at the Precinct, including any amendment of development controls under the Proposed Precinct (Further Amendment) SEPP.

The Developer's offer to provide various works throughout the Precinct contributes towards the provision of State or regional public infrastructure will have a positive impact on the public who will ultimately use the infrastructure.

The Developer's offer to provide monetary contributions will assist in the provision of public amenities or public services by providing monetary contributions towards local infrastructure, and towards the Pyrmont Peninsula Metro Station which will service the Precinct.

The Developer's offer to transfer / dedicate land for public purposes is in the public interest as it retains the land in public ownership and preserves it for specified public purposes in perpetuity.

Requirements relating to Construction, Occupation and Subdivision Certificate

The Planning Agreement requires parts of the contributions to be made prior to a construction certificate and an occupation certificate being issued, pursuant to sections 21 and 48 of the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021* (**Regulation**).

In particular, the requirement to make works and land contributions is a restriction on the issue of an Occupation Certificate under section 48 of that Regulation, and the requirement to make monetary contributions is a restriction on the issue of a Construction Certificate under section 21.