

Explanatory Note

Environmental Planning and Assessment Regulation 2021

Section 205

Voluntary Planning Agreement – Keyhole Lands, Horsley Park

Australand C & I Land Holdings Pty Ltd atf Frasers Property C&I
Land Holdings (Horsley Park No.1) Trust

Transport for NSW

1 Planning Agreement

The purpose of this Explanatory Note is to provide a plain English summary to support the notification of the proposed planning agreement in relation to the property known as Keyhole Lands, Horsely Park (**Planning Agreement**) under section 7.4 of the *Environmental Planning and Assessment Act 1979* (NSW) (**Act**).

This Explanatory Note has been prepared in accordance with section 205 of the *Environmental Planning and Assessment Regulation 2021* (NSW) (**Regulation**).

Words appearing with capital letters in this note have the meanings given to them in this note or, if not defined in this note, in the Planning Agreement.

2 Parties

The parties to the Planning Agreement are:

1. Transport for NSW (ABN 18 804 239 602) of 4 Parramatta Square, 12 Darcy Street, Parramatta NSW 2150 (**TfNSW**); and
2. Australand C & I Land Holdings Pty Ltd (ACN 107 356 641) as trustee for the Frasers Property C&I Land Holdings (Horsley Park No.1) Trust of Level 2, 1C Homebush Bay Drive, Rhodes NSW 2138 (**Developer**).

3 Description of the Land to which the Planning Agreement applies

The Land to which the Planning Agreement applies is defined in clause 1.1 of the Planning Agreement (**Land**). The Land is located within the Fairfield local government area.

4 Description of the Development / changes to environmental planning instrument

The Developer proposes to carry out the Development on the Developer Land predominantly to create industrial warehousing facilities. In order to facilitate the Development, the Developer has sought amendments to the *Fairfield Local Environmental Plan 2013* (**LEP**) to:

1. rezone the land identified in the Planning Proposal from RU2 Rural Landscape to E4 General Industrial;
2. remove the existing height of buildings control applying to the Developer Land;
3. introduce a floor space ratio control of 0.55:1;
4. reduce the minimum lot size development standard from 10,000m² to 930m²; and
5. remove the minimum lot size for dual occupancy development standard.

The Developer has entered into the Planning Agreement with TfNSW under section 7.4 of the Act in connection with the change to the LEP resulting from the Planning Proposal and the future development of the Land.

5 Summary of Objectives, Nature and Effect of the Planning Agreement

5.1 Objectives

The objective of the Planning Agreement is to provide for the delivery of public benefits in connection with the Planning Proposal and Development by requiring the Developer to construct a new signalised intersection at the junction of The Horsley Drive and a proposed new north-south road within the Land, upgrade the northern side of The Horsley Drive, and dedicate certain land for public roads.

5.2 Nature

The Planning Agreement is a planning agreement under section 7.4 of the Act. It is a voluntary agreement under which the Developer makes Development Contributions (as defined in clause 1.1 of the Planning Agreement) for public purposes (as defined in section 7.4(2) of the Act).

The Development Contributions are broadly described as works and the dedication of land to deliver infrastructure.

The details, staging and timing of these Development Contributions are set out in Schedule 2 of the Planning Agreement. The works are broadly described in section 5.1 above, and an indicative plan of the works appears at the end of this explanatory note.

Some of the land to be dedicated is currently owned by third parties. The Planning Agreement makes provision for the Developer using reasonable endeavours to acquire this land. In the event that the Developer is not able to acquire the land despite using reasonable endeavours, the Developer may request TfNSW to consider using its land acquisition powers to acquire the land at the Developer's cost. The Planning Agreement sets out the basis on which this may occur. A map showing the land to be dedicated also appears at the end of this explanatory note.

The Developer is not required to pay a monetary contribution under the Planning Agreement.

The Planning Agreement sets out the security arrangements that are required to be provided by the Developer to secure the performance on the Development Contributions, and their enforcement if necessary.

5.3 Effect

The Planning Agreement:

- relates to the Planning Proposal and the carrying out of the Development;
- does not exclude the application of sections 7.11 and 7.12, or Division 7.1, subdivision 4, of the Act to the Development;
- provides for the delivery of Development Contributions by the Developer by requiring the dedication of parts of the Land and carrying out of Works; and
- is required to be registered on the title to the Developer Land.

6 Assessment of the merits of the Planning Agreement

6.1 The Planning Purposes Served by the Draft Planning Agreement

The Planning Agreement is consistent with and promotes the objects in section 1.3 of the Act. In particular, the Planning Agreement promotes and co-ordinates the orderly and economic use and development of the land to which it applies.

6.2 How the Planning Agreement Promotes the Public Interest

The Planning Agreement sets out arrangements for the delivery of infrastructure to meet the needs of the Development and the broader State road network, and to provide for the dedication of roads to TfNSW.

The Planning Agreement promotes the public interest by promoting the objects of the Act as set out in section 1.3 of the Act and through the provision of the public benefits outlined above.

6.3 Whether the Planning Agreement Conforms with TfNSW's Planned Projects

TfNSW is planning to upgrade The Horsley Drive to meet Western Sydney's transport needs and support expected industrial and employment growth. The Development Contributions will contribute to this planned upgrade. The Developer will undertake some of the works required for the upgrade, reducing the works that TfNSW is required to undertake.

The acquisition of land contemplated by the Planning Agreement will facilitate this upgrade. In these circumstances, and noting that the cost will be borne by the Developer, TfNSW believes that the acquisition of land, whether through the Developer acquiring the land, or through TfNSW exercising its acquisition powers (if required) is an appropriate way to deliver the public benefits contemplated by the Planning Agreement.

6.4 Whether the Planning Agreement specifies that certain requirements must be complied with before a construction certificate, occupation certificate or subdivision certificate is issued

Yes. The Developer is required to deliver the road upgrade works prior to the issue of an Occupation Certificate for Gross Floor Area within the Developer Land. The Developer is also required to enter into a works authorisation deed regarding the design, construction, completion and dedication of the road upgrade works, which must occur prior to the issue of a Construction Certificate for Gross Floor Area within the Developer Land.