

## Appendix

(Clause 49)

*Environmental Planning and Assessment Regulation 2000*

(Clause 25E)

## Explanatory Note

### Draft Planning Agreement

Under s93F of the *Environmental Planning and Assessment Act 1979*

### Parties

**Georges River Council** ABN 57 789 014 855 of Civic Centre MacMahon Street Hurstville NSW 2220 (**Council**)

**Hville FCP Pty Ltd** ACN 607 573 491 of Suite 6.06, 50 Holt Street, Surry Hills NSW 2010 (**Developer**)

**East Quarter Hurstville Pty Ltd** ACN 141 735 373 of Suite 1101, 99 Forest Road, Hurstville NSW (**Landowner**)

### Description of the Land to which the Draft Planning Agreement Applies

Land means 93-103 Forest Road, Hurstville NSW 2220 and legally described as part Lot 10 in DP270611, and any lot created by the subdivision of that lot.

### Description of Proposed Development

Development means development on the Land the subject of a Development Consent that could only be granted as a result of the LEP Amendment and includes the development described in the Development Application

The LEP Amendment to which this draft Planning Agreements relates is an amendment to the *Hurstville Local Environmental Plan 2012* to amend the height and floor space ratio development standards applying to the Land pursuant to the planning proposal, within the meaning of s55 of the Act with reference number PP2014/0002 in respect of the Land as reported to and endorsed by the Council on 5 December 2016, that proposes to amend the planning controls applying the Land to:

- (a) increase the maximum floor space ratio for the Land from 2.5:1 to 3.5:1, and
- (b) increase the maximum height of a building on the Land:
  - (i) from 23m to 30m for the north-eastern part the Land, and
  - (ii) from 40m to 65m for the south-eastern part of the Land.

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

### **Objectives of Draft Planning Agreement**

The objectives of the Draft Planning Agreement is to require the provision of Development Contributions (as defined in clause 1.1 of the Draft Planning Agreement) involving:

- carrying out road works at the Forest Road and Durham Street intersection,
- payment of monetary contributions to be applied towards public domain works on Kempt Field,
- carrying out landscaping works to the Forest Road frontage to the Land that are additional to any landscaping works required under a Development Consent,
- payment of monetary contributions to Hurstville Public School,
- payment of monetary contributions to be applied towards Kempt Field works,
- registration of an easement in gross in favour of the Council allowing for public access to and from and across the Land to and from Kempt Field and Lot 11 DP270611.

### **Nature of Draft Planning Agreement**

The Draft Planning Agreement is a planning agreement under s93F of the *Environmental Planning and Assessment Act 1979* (Act). The Draft Planning Agreement is a voluntary agreement under which Development Contributions (as defined in clause 1.1 of the Draft Planning Agreement) are made by the Developer and Landowner for various public purposes (as defined in s93F(3) of the Act).

### **Effect of the Draft Planning Agreement**

The Draft Planning Agreement:

- relates to the carrying out by the Developer of development on the Land,
- does not exclude the application of s94, s94A or s94EF of the Act to the Development,
- is not to be taken into consideration when determining a Development Contribution under s94 of the Act in respect of the Development,
- requires the registration of easements by the Landowner,
- requires monetary Development Contributions to be paid by the Developer,
- requires works to be carried out by the Developer,

- requires security to be provided by the Developer,
- is to be registered on the title to the Land,
- imposes a charge and allows a caveat to be registered over the Land if the planning agreement is not registered and the Council has not received the full amount of security,
- imposes restrictions on the Developer and Landowner transferring the Land or part of the Land or assigning an interest under the agreement,
- provides two dispute resolution methods for a dispute under the agreement, being expert determination and mediation,
- provides that the agreement is governed by the law of New South Wales, and
- provides that the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) applies to the agreement.

## **Assessment of the Merits of the Draft Planning Agreement**

### **The Planning Purposes Served by the Draft Planning Agreement**

The Draft Planning Agreement:

- promotes and co-ordinates the orderly and economic use and development of the Land to which the agreement applies,
- provides and co-ordinates the provision of public infrastructure and facilities in connection with the Development,
- provides public access to land for public purposes,
- provides increased opportunity for public involvement and participation in environmental planning and assessment of the Development.

### **How the Draft Planning Agreement Promotes the Public Interest**

The draft Planning Agreement promotes the public interest by promoting the objects of the Act as set out in s5(a)(ii), (iv), (v) and 5(c) of the Act.

#### **For Planning Authorities:**

##### ***Development Corporations - How the Draft Planning Agreement Promotes its Statutory Responsibilities***

N/A

##### ***Other Public Authorities – How the Draft Planning Agreement Promotes the Objects (if any) of the Act under which it is Constituted***

N/A

##### ***Councils – How the Draft Planning Agreement Promotes the Elements of the Council's Charter (now principles for local government) in section 8 of the Local Government Act 1993***

The Draft Planning Agreement promotes the principles for local government by:

- ensuring that lands and other assets are managed so that current and future local community needs can be met in an affordable way,
- providing a means where Council can work with others to secure appropriate services for local community needs,
- ensuring that the Councils actively engages with the local communities, through the public notification of this Draft Planning Agreement and allowing the wider community to make submissions to the Council in relation to the Agreement.

***All Planning Authorities – Whether the Draft Planning Agreement Conforms with the Authority’s Capital Works Program***

The Draft Planning Agreement conforms with the Council's capital works program.

***All Planning Authorities – Whether the Draft Planning Agreement specifies that certain requirements must be complied with before a construction certificate, occupation certificate or subdivision certificate is issued***

This Draft Planning agreement contains requirements that must be complied with before occupation certificates are issued.