

Explanatory Note

Planning Agreement – Villawood Renewal Project – Kamira Court

1 Draft Voluntary Planning Agreement

The purpose of this Explanatory Note is to provide a plain English summary to support the notification of the proposed voluntary planning agreement in relation to the Villawood Renewal Project – Kamira Court (**Planning Agreement**) under section 7.4 of the *Environmental Planning and Assessment Act 1979* (NSW) (**Act**).

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

Words appearing with initial 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.

This Explanatory Note is not to be used to assist in construing the Planning Agreement.

2 Parties

The parties to the Planning Agreement are:

- Fairfield City Council (ABN 83 140 439 239) of 86 Avoca Road, Wakeley, NSW 2176 (**Council**);
- New South Wales Land and Housing Corporation (ABN 24 960 729 253) of Level 5, 219-241 Cleveland Street Strawberry Hills NSW 2012 (**The Corporation**); and
- Villawood Quarter Pty Ltd (ACN 635 504 871) as trustee for the Villawood Quarter Unit Trust of Level 27, 1 Farrer Place Sydney NSW 2000 (**Developer**).

The Corporation is a public trading enterprise established under the *Housing Act 2001* (NSW). Its statutory functions include the acquisition of land and the development of land (by itself or by others) for residential development and public purposes. Under the Communities Plus program, The Corporation is renewing the NSW Government's social housing portfolio. The Corporation enters the Planning Agreement for the purpose of land acquisition and dedication. To that end, The Corporation will acquire 1,624m² of land currently owned by Council (this acquisition is subject to a separate agreement between The Corporation and Council). In accordance with the Planning Agreement, the Developer will undertake embellishment works and The Corporation (or the Developer as appropriate) will dedicate to Council approximately 3,984m² of land, including approximately 3,000m² of public open space.

The Developer has submitted the development applications described in item 4 below on behalf of The Corporation and enters the Planning Agreement because the Developer will be responsible for delivering the Development and the public benefits comprising embellishment works and monetary contributions.

3 Description of the Land

The various parcels to which the Planning Agreement applies are described in Schedule 3 of the Planning Agreement (**Land**). The Land is located within Villawood.

4 Description of the proposed changes to planning controls and the proposed development

The Planning Agreement is entered into in connection with:

- the document titled “Planning Proposal, Open Space Implementation, Villawood Town Centre, Kamira Avenue, Villawood” dated 27 February 2020 (**Planning Proposal**). The Planning Proposal proposes the amendment of the Fairfield Local Environmental Plan by rezoning land from RE1 Public Recreation to R4 High Density Residential; and
- the Development, being the proposed transformation of the Land for a two (2) stage integrated redevelopment consisting of residential flat buildings, mixed use development incorporating retail and business premises, open space areas and community facilities and comprising:
 - Stage 1: the Development described in Development Application No. 384.1/2021 lodged with Council on 21 October 2021; and
 - Stage 2: the Development described in Development Application No. 303.1/2022 lodged with Council on 10 October 2022.

5 Summary of objectives, nature and effect of the draft Planning Agreement

5.1 Objective

The objective of the Planning Agreement is to facilitate the delivery of the Development Contribution (as defined in clause 1.1 of the Planning Agreement) and to make provision for public amenities and infrastructure to meet the demands created by the proposed Development, and to ensure that the community does not bear those costs by requiring the Developer and The Corporation to:

- deliver infrastructure, facilities, and services as works in kind, including, subject to consultation with Council, rain gardens, garden beds, soft and hard landscaping, bench seating and external lighting; and
- dedicate approximately 3,000m² of public open space to Council, with additional dedications for 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 Corporation and the Developer promise to make the Development Contribution (as defined in clause 1.1 of the Planning Agreement) for various public purposes (as defined in 7.4(2) of the Act).

5.3 Effect

The effect of the Planning Agreement is that The Corporation and the Developer will provide the Development Contribution in a manner agreed in the Planning Agreement.

5.4 Commencement

The Planning Agreement will not take effect as a planning agreement for the purposes of the Act until the relevant Development Consents are operative.

The Development cannot commence until The Corporation acquires the land required from the Council, which means The Corporation will need to acquire the Council Land before it provides the Development Contributions (as defined in clause 1.1 of the Planning Agreement) in accordance with the Planning Agreement. The Council Land is described in the table below.

Land to be acquired from Council	Future use	Quantum
That part of the road described as Kamira Court, Villawood which is described as “ Acquisition 1 ” (approx. 1,194m ²) on the plan at Schedule 5 in the Planning Agreement.	Incorporated into development site to facilitate built form and street pattern in Urban Design Study	1,194m ²
That part of Lot 31 in Deposited Plan 36718 which is described as “ Acquisition 2 ” (approx. 430m ²) on the plan at Schedule 5 in the Planning Agreement.	Incorporated into development site consistent with Urban Design Study creating consistent street wall	430m ²
Total		1,624m²

5.5 Undertaking of embellishment works to create a public park

The Developer will undertake embellishment works to public open space (**Section 7.11 Off-Set Works**) in both Stage 1 and Stage 2. Those works include providing rain gardens, garden beds, landscaping, public art, exercise pods, adventure play equipment, fixed furniture, seating and lighting. The works and value of those works are described in the table below.

Section 7.11 Off-Set Works	Contribution Value
Embellishment of Stage 1 Open Space Land with, subject to future Development Consent, rain gardens, garden beds, soft and hard landscaping, bench seating and external lighting to the value of \$500/m ² .	Approx. \$410,000
Embellishment of Stage 2 Open Space Land with, subject to future Development Consent, adventure play equipment, fixed furniture, soft and hard landscaping, public art, exercise pods, seating and lighting to the value of \$700/m ² .	Approx. \$1,430,000

The Developer will maintain the embellishment works for a period of 12 months in accordance with clause 5.5 of the Planning Agreement and Schedule 4.

5.6 Dedication of land to Council to the purpose of public open space and roads

The Corporation (or the Developer if appropriate) will dedicate land to Council (**Dedication Land**) for public purposes, including approximately 984m² for a future road connection (being Dedication 1, Dedication 2 and Dedication 3 below) and 3,000m² for public open space (being Dedication 4 and Dedication 5 below) as follows:

Dedication Land	Future use	Quantum
Lot 37 DP 202006 (part), which is described as “ Dedication 1 ” on the plan at Schedule 5 to this Agreement.	Future road connection	Approx. 105m ²
Lot 37 DP 202006 (part), which is described as “ Dedication 2 ” on the plan at Schedule 5 to this Agreement.	Future road connection	Approx. 476m ²
Lot 381 DP 1232437, which is described as “ Dedication 3 ” on the plan at Schedule 5 to this Agreement.	Future road connection	Approx. 403m ²
Lot 37 DP 202006 (part), being the Stage 1 POS Land and which is described as “ Dedication 4 ” on the plan at Schedule 5 to this Agreement.	Public open space	Approx. 1,000m ²
Lot 39 DP 202006 (part), being the Stage 2 POS Land and which is described as “ Dedication 5 ” on the plan at Schedule 5 to this Agreement.	Public open space	Approx. 2,000m ²
Total		Approx. 3,984m²

5.7 Scope, timing and manner of delivery

The scope, timing, and manner of the delivery of the Development Contribution are set out in Schedule 4 of the Planning Agreement.

6 Assessment of the merits of the Planning Agreement

6.1 The Planning Purposes Served by the Planning Agreement

The Planning Agreement satisfies the objectives of making provision for public amenities and infrastructure to meet demands created by the Development, and to ensure that the community does not bear those costs.

The Planning Agreement is directed towards legitimate planning purposes identified in the statutory planning controls and other adopted planning strategies and policies as follows:

- *Fairfield Local Environmental Plan 2013*; and
- Fairfield City Council Direct Development Contributions Plan 2011 (Section 7.11).

In accordance with section 7.4(2) of the Act, the Planning Agreement promotes the following public purposes:

- (a) The provision of public amenities and public services; and
- (c) The provision of other infrastructure relating to the Land and the Development.

6.2 How the Planning Agreement promotes the objects of the Act

The Planning Agreement promotes following objects of the Act:

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources;
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment;
- (c) to promote the orderly and economic use and development of land;
- (d) to promote the delivery and maintenance of affordable housing;
- (g) to promote good design and amenity of the built environment; and
- (j) to provide increased opportunity for community participation in environmental planning and assessment.

These objects are promoted by the provision by The Corporation and the Developer of Development comprising social and affordable housing and Development Contributions comprising the provision of embellished public open space and other infrastructure, and by the public being afforded the opportunity to be involved through public exhibition of the Planning Agreement.

6.3 How the Planning Agreement promotes the public interest

The Planning Agreement sets out arrangements for the delivery of public amenities and infrastructure to meet the needs of the Development, consistent with the terms of the 7.11 Contribution Plan, and to provide for the dedication of open space land and roads to Council.

The Planning Agreement promotes the public interest by promoting the objects of the Act as set out in section 6.2 above and through the provision of the public benefits outlined in section 5 above.

6.4 How the Planning Agreement promotes Council's guiding principles

The Planning Agreement promotes a number of Council's guiding principles under section 8A of the *Local Government Act 1993* (NSW), including as follows:

- (a) The exhibition of the Planning Agreement facilitates the involvement of members of the public in the consultation process for the Planning Agreement.
- (b) To plan strategically for the provision of effective, equitable and appropriate services (i.e. increasing access to public open space) and regulation to meet the diverse needs of the local community.
- (c) To act fairly, ethically and without bias to the interests of the local community.
- (d) To recognise diverse local community needs and interests.
- (e) To have regard to the long term and cumulative effects of its decisions on future generations.
- (f) To engage in long-term strategic planning on behalf of the local community;
- (g) To bear in mind that it is the custodian and trustee of public assets and to effectively plan for, account for and manage the assets for which it is responsible.
- (h) The Planning Agreement makes it clear that Council has a statutory role as consent authority in relation to the development proposal and that the Planning Agreement is not intended to unlawfully influence the exercise of Council's regulatory functions.

6.5 Whether the Planning Agreement conforms with Council's Capital Works Program

The works items are not part of Council's current Capital Works Program. However, it is proposed that the applicant will undertake the capital / civil works as part of their Development and Planning Agreement.

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

The relevant Development Contribution (excepting the Section 7.11 Off-Set Works for Stage 2 of the Development, which must be delivered within six (6) months after the issuing of an Occupation Certificate for that stage of the Development) must be delivered prior to the issuing of an Occupation Certificate for a relevant stage of the Development.