
Planning Agreement – Cabramatta East

Explanatory Note

Fairfield City Council (ABN 83 140 439 239) (**Council**)

Moon Investments Pty Ltd (ACN 606 586 207) (**Developer**)

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1 Introduction

This Explanatory Note has been prepared jointly between the parties in accordance with clause 25E of the *Environmental Planning & Assessment Regulation 2000* (NSW).

The purpose of this Explanatory Note is to provide a plain English summary to support the notification of a draft planning agreement (**Planning Agreement**) between the parties under s7.4 of the *Environmental Planning & Assessment Act 1979* (NSW) (**EPA Act**).

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

2 Parties to the Planning Agreement

The parties to the Planning Agreement are:

- (1) Fairfield City Council (ABN 83 140 439 239) (**Council**).
- (2) Moon Investments Pty Ltd (ACN 606 586 207) (**Developer**).

3 Description of the Subject Land

The land to which the Planning Agreement applies, and to which the Planning Agreement will be registered, is set out in the table below (**Land**).

Folio Identifier	Location
7/E/4420	76 BROOMFIELD ST, CABRAMATTA NSW 2166
1/205759	84 BROOMFIELD ST, CABRAMATTA NSW 2166
10/255023	
1/212183	125 CABRAMATTA RD, E CABRAMATTA NSW 2166

4 Description of the Development

The development to which the Planning Agreement relates is the development subject to the Instrument Change generally described in Planning Proposal PP-2021-3107 (**Development**).

5 Summary of objects, nature and effect of the Planning Agreement

The **objective** of the Planning Agreement is to provide community infrastructure, amenities and resources to the Cabramatta community by facilitating the delivery of development contributions consisting of:

- (1) the construction of a footbridge connection to Cabramatta Railway Station and ancillary works (**Works**);
- (2) a monetary contribution in lieu of Works in an amount equivalent to one hundred and ten per cent (110%) of the then Contribution Value of the Works in lieu of completing the Works:
 - (a) at the Developer's election (if the Developer is unable to obtain approval for the Works); or
 - (b) at the agreement of the parties (if the Developer is attempting to obtain approval and the estimated cost to the Developer in complying with conditions imposed by Transport for NSW, including Sydney Trains and/or Transport Asset Holding Entity of New South Wales (TAHE), with respect to any works to Cabramatta Train Station exceeds five per cent (5%) of the then Contribution Value of the Works); and
- (3) registration of an easement in the favour of the public in relation to the footbridge connection,

so that the community does not need to bear those costs (**Contributions**).

The **intent** of the Planning Agreement is to facilitate the provision of the Contributions by the Developer.

As security for the Developer's obligations to make the Contributions, the Planning Agreement will be registered on the title of the Land and Council will be able to withhold Construction, Subdivision and Occupation Certificates until such time as those Contributions are made. The Developer will provide Council with the following bank guarantees to ensure completion of the Contributions:

- (1) A bank guarantees for an amount equivalent to seventy five per cent (75%) of the Contribution Values for the Works prior to the issue of a Construction Certificate for the Development (**Primary Security**).
- (2) A bank guarantee for an amount equivalent to fifteen per cent (15%) of the Primary Security prior to the completion of an item of Work to satisfy any defect in the Work (**Defects Security**).

The **nature** of the Planning Agreement is a contractual relationship between the Council and the Developer for providing the Contributions.

The **effect** of the Planning Agreement is that the Developer will provide the Contributions in the manner provided for by the Planning Agreement (as applicable) and as set out in **Schedule 1**.

6 Assessment of the merits of the Planning Agreement

6.1 The planning purposes served by the Planning Agreement

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

- (1) Provision of contributions to accommodate and meet the demands of future developments and to mitigate the potential impacts of the Development on existing infrastructure.
- (2) Enables the Land to be developed in a timely and efficient manner to promote economic development and employment opportunities.

6.2 How the Planning Agreement promotes the public interest

In accordance with the objects of the EPA Act, the Planning Agreement promotes the public interest in the following manner:

- (1) By providing certainty for the Developer and Council as to the provision of the Contributions directed towards community infrastructure within the Cabramatta community.
- (2) The proper management and development of land, including the promotion of good design and amenity of the built environment on the Land to which the Planning Agreement applies.
- (3) The promotion and co-ordination of the orderly and economic use and development of Land to which the Planning Agreement applies.
- (4) The Planning Agreement will provide an opportunity for involvement and participation by members of the community in development assessment, and are invited to make comment on the Planning Agreement.

6.3 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), as follows:

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- (1) The exhibition of the Planning Agreement facilitates the involvement of members of the public in the consultation process for the Planning Agreement;
 - (2) To plan strategically for the provision of effective and efficient services and regulation to meet the diverse needs of the local community;
 - (3) To act fairly, ethically and without bias to the interests of the local community;
 - (4) To recognise diverse local community needs and interests.
 - (5) To have regard to the long term and cumulative effects of its decisions on future generations.
 - (6) To engage in long-term strategic planning on behalf of the local community;
 - (7) 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.
 - (8) 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.

7 Identification of whether the Planning Agreement conforms with the Council's capital works program

The proposed works are in addition to Council's works program, however, those works will be undertaken by the Developer in accordance with the Planning Agreement.

The works are consistent with the draft Cabramatta Town Centre Urban Design Study and the Fairfield Local Strategic Planning Statement.

Schedule 1: Contributions

Development Contributions	Specifications	Time for Completion	Contribution Value
Works	Construction of a footbridge connection and ancillary works including lift to Cabramatta Railway Station from the Development	Prior to the issue of an Occupation Certificate for the Development.	\$4,182,837
Registration of Easement for Footbridge	Registration of an Easement on the title to the Land on the terms of the Easement as set out in Schedule 3 unless otherwise agreed by Council.	Prior to the issue of an Occupation Certificate for the Development.	N/A