

Planning Agreement Explanatory Note

4 - 12 Railway Street, Lidcombe

Marsdens Law Group

Level 1
49 Dumaresq Street
CAMPBELLTOWN NSW 2560

Tel: 02 4626 5077

Fax: 02 4626 4826

DX: 5107 Campbelltown



Planning Agreement Explanatory Note

4 - 12 Railway Street, Lidcombe

1 Introduction

This Explanatory Note has been prepared 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**) proposed to be entered into between the parties under section 7.4 of the *Environmental Planning & Assessment Act 1979* (NSW) (**EPA Act**).

2 Parties to the Planning Agreement

The parties to the Planning Agreement are as follows:

- (1) Cumberland Council (**Council**).
- (2) Lidcombe Property (NSW) Pty Limited, Peter James Darroch and Susan Rae Darroch (**Developer**).

3 Description of the Land

The land to which the Planning Agreement applies (collectively referred to as the **Land**) is set out in the table below.

Folio Identifier	Location
Lot 38 in DP222712.	4 - 12 Railway Street, Lidcombe
Lot 100 in DP793305.	
Lots 1, 6, 7 and 8 in DP397.	
Lot 101 in DP1248142.	

4 Summary of contribution, objects, nature and effect of the Planning Agreement

The Developer is seeking an amendment of the *Auburn Local Environmental Plan 2010* (**LEP**) in accordance with planning proposal number PP_2019_CUMBE_001_00 so as to allow those parts of the land zoned B4 under the LEP:

- (1) a minimum non-residential floor space ratio of 0.4:1; and
- (2) a maximum building height of:
 - (a) 45 metres (for the remainder of the site);
 - (b) 48 metres in of the south-east corner of the Land; and
 - (c) 55 metres in the north-east corner of the Land; and

-
- (3) bonus floor space ratio of 0.3:1 if a minimum of 0.6:1 non-residential floor space ratio is provided.

(Collectively referred to as the **Instrument Change**).

The Developer has offered to make the development contributions set out in the Planning Agreement if the Instrument Change is made.

The contributions (collectively referred to as the **Development Contributions**), to be provided by the Developer under the Planning Agreement are described in the table below.

Description of Contributions
Open Space Dedication of Lots 7 and 8 in DP 397 (forming part of the Land) free-of-cost to Council to be used for public purposes. The rehabilitation and embellishment of that land by the Developer as described in Schedule 4 to the Planning Agreement.
Road Widening Dedication of part of the Land (defined as the 'Road Widening Land' in the Planning Agreement) for the purposes of widening Raphael Street free-of-cost to Council, including associated road widening, intersection upgrade works, and subsequent ongoing maintenance works in respect of that land by the Developer.

The Planning Agreement contains schedules (being Schedules 3 and 4) setting out the specific details, timing and procedures for the delivery of the Development Contributions. Clauses 10.9 and 10.10 of the Planning Agreement also include certain requirements which must be complied with by the Developer before the issuing of an occupation certificate or subdivision certificate by Council in respect of the development of the Land.

The intent of the Planning Agreement is to ensure that public benefits in the form of the dedication of land, and carrying out of works, for public purposes is provided by the Developer to ensure existing communities do not bear those costs.

The nature of the Planning Agreement is a contractual relationship between the Council and the Developer for the provision of Development Contributions to support the development of the Land.

The effect of the Planning Agreement is that the Developer will contribute the Development Contributions in the manner provided for by the Planning Agreement.

5 Assessment of the merits of the Planning Agreement

5.1 The planning purposes served by the Planning Agreement

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

- (1) The provision of public amenities and public services.
- (2) The provision of transport or other infrastructure relating to land.

5.2 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) The promotion and co-ordination of the orderly and economic use and development of land.
 - (2) The provision of land for public purposes.
 - (3) The Planning Agreement will not preclude the public being provided with the opportunity for involvement and participation in development assessment. The public have been provided the opportunity to be involved with the development assessment and are invited to make comment on the Planning Agreement, particularly with regard to the public interest.

5.3 How the Planning Agreement promotes the Guiding Principles for Councils

The Planning Agreement promotes a number of the Guiding Principles for Councils under section 8A of the *Local Government Act 1993* (NSW), as follows:

- (1) This Explanatory Note is prepared for the purposes of keeping the local community and the State government (and through it, the wider community) informed about its activities and to ensure that its decision-making is transparent.
- (2) To manage lands and other assets so that current and future local community needs can be met in an affordable way which provides the best possible value for residents and ratepayers.
- (3) To act fairly, ethically and without bias in 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 promote the public interest by committing the Developer to make contributions towards local amenity improvements.

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

Not applicable.
