

Environmental Planning and Assessment Regulation 2021 (Section 205)

Explanatory Note for planning agreement under section 7.4 of the Environmental Planning and Assessment Act 1979

1-13 Parramatta Road, Annandale

1 Introduction

The purpose of this Explanatory Note is to provide a plain English summary to support the notification of a draft Planning Agreement (**Planning Agreement**) under section 7.4 of the *Environmental Planning and Assessment Act 1979* (**Act**), prepared in connection with a development at 1-13 Parramatta Road, Annandale (D/2017/161) (**Development Consent**).

This Explanatory Note has been prepared jointly by the parties to the Planning Agreement as required by clause 205 of the *Environmental Planning and Assessment Regulation 2021* (**Regulation**). The parties have considered the Planning Agreements Practice Note dated February 2021 issued by the Planning Secretary under clause 25B(2) of the *Environmental Planning and Assessment Regulation 2000* (NSW) (now section 203(6) of the Regulation).

This explanatory note explains what the Planning Agreement is proposing and how it delivers public benefit.

In this Explanatory Note, capitalised terms have the meaning given to those terms in the Planning Agreement unless otherwise defined.

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

2 Parties to the Planning Agreement

The parties to the Planning Agreement are:

- (a) Inner West Council ABN 19 488 017 987 (**Council**);
- (b) Eranna Pty Ltd ACN 638 515 349 (**Registered Owner**); and
- (c) Eranna Development Pty Ltd ABN 44 638 578 588 (**Developer**).

3 Land subject to the Planning Agreement

The Planning Agreement applies to:

- (a) Lot 50 in DP 456784
- (b) Lot 52 in DP 1248353
- (c) Lot 53 in DP 1248353

and known as 1-13 Parramatta, Annandale (**Land**).

The Planning Agreement is to be registered on the title to the Land.

4 Description of the Planning Agreement

The objectives of the Planning Agreement are to facilitate the delivery by the Developer and the Registered Owner of:

- (a) the construction on the eastern boundary of the site adjacent to Johnston's Creek of a 3.5 metre wide, 45-metre-long pedestrian and cycle pathway that in part is limited in height and depth, incorporating 2 metre wide concrete stairs, a 1.5 metre wide ramped access to a public lift and an accessible public lift giving access to Parramatta Road and lighting within the pedestrian / cycle pathway;
- (b) the dedication to Council of a cycle / pedestrian pathway which contains a 3.5 metre wide, 45-metre-long pedestrian / cycle pathway that in part is limited in height and depth and which incorporates a 2-metre-wide concrete stairs, a 1.5 metre wide ramped access to a public lift and an accessible public lift giving access to Parramatta Road and lighting within the pedestrian and cycle pathway. The north portion of 11.13m² is limited in height to RL7.6 – RL10.88, the middle portion of 4.6m² is limited in depth to RL7.6 and the south portion of 10m² is limited in height to RL15.60;
- (c) the construction of a 760mm wide, 45-metre-long pedestrian footpath along McCarthy Lane, Annandale and a vehicular turning bay and pedestrian space at the eastern end along McCarthy Lane, Annandale to link with the pedestrian / cycle pathway; and

- (d) the dedication to Council of the 760mm wide, 45-metre-long pedestrian footpath along McCarthy Lane, Annandale and a vehicular turning bay and pedestrian space at the eastern end along McCarthy Land Annandale to link with the pedestrian / cycle pathway.

(Together Contributions).

The Planning Agreement is a binding commitment by the Developer and the Registered Owner to provide the Contributions which will also bind any future owners of the land because it will be registered on the title.

The effect of the Planning Agreement will be to oblige the Developer and the Registered Owner to provide the Contributions before its development of the Land is completed.

The Contributions required by the Planning Agreement will be provided in addition to contributions under the Contributions Plan.

To secure the obligations of the Developer and the Registered Owner under the Planning Agreement, the terms of the Planning Agreement require the provision of security in the form of bank guarantee or performance bond for the amounts stipulated in the Planning Agreement.

The public benefits to be provided under the Planning Agreement are summarised as follows:

- (a) A link to the broader pedestrian and cycle network linking Annandale to the surrounds;
- (b) The construction and dedication to Council of a through site pedestrian and cycle pathway 3.5 metres wide that in part is limited in height and depth linking McCarthy Lane to Parramatta Road at Annandale;
- (c) The construction and dedication to Council of public stairs, a 1.5-metre-wide ramped access to a public lift and a publicly accessible lift providing access to Parramatta Road at Annandale;

- (d) The construction of a shared pedestrian space and vehicular turning bay at the eastern end of McCarthy Lane, Annandale; and
- (e) The construction and dedication to Council of an upgraded pedestrian footpath 760mm wide and 45 metres long on the southern side of McCarthy Lane, Annandale.

5 Assessment of the merits of the Planning Agreement

5.1 How the Planning Agreement promotes the public interest and one or more of the objects of the Act

The Planning Agreement provides a pedestrian and cycle pathway that is a link in the NSW Government's Parramatta Road Corridor Urban Transformation Strategy which Council's Urban Amenity Improvement Program is part of.

In doing so, the Planning Agreement promotes the following objects of the Act:

- (a) to promote the social welfare of the community (section 1.3(a));
- (b) to promote the orderly and economic use and development of land (section 1.3(c));
- (c) to promote good design and amenity of the built environment (section 1.3(g)).

The delivery of the Contributions under the Planning Agreement will be in the public interest because they will result in the provision of social public infrastructure. The provision of these items will promote the social and economic welfare of the community.

5.2 How the Planning Agreement promotes the objects of the Local Government Act 1993 (LG Act) and the elements of the Council's charter

The Planning Agreement promotes the exercise by Council of its functions in accordance with the guiding principles set out in Chapter 3 of the LG Act because it will assist Council to provide infrastructure for the benefit of the community in the area of the Land and the wider community through access to the cycle / pedestrian pathway and pedestrian footpath.

The Planning Agreement will help Council deliver its Urban Amenity Improvement Program.

5.3 The impact of the Planning Agreement on the public or any section of the public

The scope of the Planning Agreement will benefit the local and wider community as it will create a pedestrian and cycle link between McCarthy Lane and Parramatta Road, Annandale, and provide a pedestrian footpath along McCarthy Lane, Annandale.

5.4 Whether the Planning Agreement conforms with Council's capital works program

The works forming part of the Contributions in the Planning Agreement are not part of Council's capital works program.

5.5 The planning purpose or purposes of the Planning Agreement

The public purpose of the Planning Agreement is the provision of infrastructure that will provide a public benefit in terms of improving a pedestrian and cycling access between McCarthy Lane and Parramatta Road, Annandale, and a pedestrian footpath along McCarthy Lane, Annandale. The Contributions to be delivered under the Planning Agreement will ensure that there is pedestrian and cycling infrastructure for the local and wider community, producing a good planning outcome from the future development of the Land.

5.6 Compliance of certain requirements prior to issue of construction, occupation, or subdivision certificates

The Contributions under the Planning Agreement must be provided in accordance with the timing provisions as set out in the Planning Agreement being:

- 5.6.1 Provision of instrument enabling public access to the pedestrian / cycle pathway, stairs, access ramp, public lift and footpath and dedication to Council as a freehold lot and public road respectively prior to the first occupation certificate for a residential apartment on the Land that relies on the Development Consent.
- 5.6.2 The construction of a pedestrian / cycle path 3.5 metres wide and 45 metres long limited in height and depth adjacent to Johnson's Creek

and associated lighting prior to the first occupation certificate for a residential apartment on the Land that relies on the Development Consent.

- 5.6.3 The construction of shared pedestrian space and vehicular turning bay at the eastern end of McCarthy Lane, Annandale, enabling public access before the issue of the first occupation certificate for a residential apartment on the Land that relies on the Development Consent.
- 5.6.4 The construction of a 760mm wide, 45 metres long pedestrian footpath along McCarthy Lane, Annandale.
- 5.6.5 The construction of stairs 2 metres wide, an access ramp 1.5 metres wide to the public lift and a public lift adjacent to Parramatta Road, Annandale, enabling public access before the issue of the first occupation certificate for a residential apartment on the Land that relies on the Development Consent.
- 5.6.6 The Developer is to submit to Council for approval detailed drawings of the Developer's Works and a detailed costs estimate (certified by a quantity surveyor) for the Developers Works at least 1 month prior to obtaining a construction certificate for any construction works located above the basement levels or for any public domain works (whichever is earlier) in relation to the Development Consent.