
Explanatory Note

(Clause 25E of the Environmental Planning and Assessment Regulation 2000)

Draft Planning Agreement

Under s93F of the Environmental Planning and Assessment Act 1979 (the Act)

(Providing for Monetary Contribution)

1 Parties:

WAVERLEY COUNCIL (Council) and

MODEL INDUSTRIES PTY LTD ACN: **149 623 870** (Developer)

2 Description of Subject Land:

The whole of the land being Lot A in Deposited Plan 356552 and known as:

6 Edward Street, Bondi NSW is the Subject Land under the Draft Planning Agreement.

3 Description of Approved Development

Demolition of existing single residence and erection of a new residential flat building with 4 units and a basement car park.

4 Summary of Objectives, Nature and Effect of the Draft Planning Agreement:

The Draft Planning Agreement assists Council in achieving its objectives in respect to the Bondi Beach Precinct Area programs and policies as referred to in its Planning Agreement Policy 2014.

The Draft Planning Agreement is made in connection with an offer to make provision towards a public purpose under Council's Planning Agreement Policy and Bondi Beach Precinct Area programs and policies, in particular the upgrade of Thomas Hogan Reserve, as the proposed development includes a building which exceeds the floor space ratio permitted under Council's planning controls.

The Draft Planning Agreement is a contractual relationship between Council and the Developer whereby the Developer is to pay a Monetary Contribution and is a Planning Agreement under subsection 2 of Division 6 of Part 4 of the Environmental Planning & Assessment Act, 1979 (the Act).

The Monetary Contribution to be paid by the developer comprises a payment of \$137,500 (as required by condition no: 12 of the Development Consent No:DA-520/2014. The Draft Planning Agreement contains certain requirements as to timing to be met by the Developer (see part 6 of this Explanatory Note). This Monetary Contribution must be made by the developer prior to the issue of any occupation certificate for the development. The Monetary Contribution will be allocated by Council towards the said public purpose.

5 **Assessment of the merits of the Draft Planning Agreement:**

The Planning Purposes Served by the Draft Planning Agreement

- The provision of improved open space/public amenity in the Council Local Government area;
- To seek to provide a standard for reserves that is comparable to other reserves in the local government area;
- The Draft Planning Agreement achieves these purposes by ensuring that the Monetary Contributions are paid to Council prior to occupation of the new development, and by requiring Council to apply the funds towards the upgrade of Thomas Hogan Reserve as soon as practicable.

How the Draft Planning Agreement Promotes the Public Interest

- Public Interest is promoted by virtue of the Draft Planning Agreement because it facilitates the upgrade of an area of open space for the use of the public; and
- Provides funds for increased public amenity appropriate for the current and future residents of the local Bondi Beach Precinct community;

How the Draft Planning Agreement Promotes the Objects of the Environmental Planning and Assessment Act, 1979 (EP&A Act)

The powers of Council to address matters relating to reserves / open space, include Object 5(a)(iv) of the Act which is to encourage the provision of land for public purposes. Under Part 4, Division 6, Subdivision 2 (Planning Agreements) of the EP&A Act, Council may enter into a Draft Planning Agreement for any purpose consistent with its Planning Agreement Policy. An appropriate means of meeting the said objectives under the Act and of participation in the Council's Policies and Programs relating to the Bondi Beach Precinct is by way of a Planning Agreement, as such, under the Draft Planning Agreement, the relevant provisions of the Act are addressed.

How the Draft Planning Agreement promotes elements of the Council's charter under section 8 of the Local Government Act, 1993

The Draft Planning Agreement provides a means by which the Council shows a regard for the long term and cumulative effects of its decisions. The Council is conscious of a need for and the upgrade of public reserves in its Local Government area and how its decisions and policies impact upon seeking to fulfil this need.

The Draft Planning Agreement allows Council to effectively plan for and manage public assets for which it is responsible.

In addition, the Draft Planning Agreement is a means by which the Council can implement its various policies and programs in respect to the Bondi Beach Precinct Area and the Council's Planning Agreement Policy 2014. In doing so, Council exercises community leadership in an area of concern to the local and wider community.

Conformity with the Council's Capital Works Program

The Draft Planning Agreement is not inconsistent with the Council's Capital Works Program.

6 Compliance with certain requirements prior to the issue of construction, occupation or subdivision certificates

The following requirements of the Draft Planning Agreement must be complied with before:

- (i) any construction certificate is issued:
 - the Draft Planning Agreement when finalised and executed must be registered under s93H of the Act.
 - a Bank Guarantee for the Development Contribution in a form acceptable to Council must be delivered to Council.
- (ii) any occupation certificate is issued:
 - The Development Contribution is to be paid to Council.

This explanatory note has been prepared by Waverley Council and the Developer jointly. This explanatory note is not to be used to assist in construing the Draft Planning Agreement.