

DRAFT Explanatory Note:

Canterbury Bankstown Council and Hailiang Property
Campsie Pty Ltd

Proposed Planning Agreement

Prepared in accordance with clause 205 of the
Environmental Planning and Assessment Regulation 2021

15 September 2022



Level 7, 151 Clarence Street
Sydney NSW 2000
Australia

T +61 2 8289 5800
F +61 2 9247 1315
Ref 3273112

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1. Introduction

Clause 205(1) of the *Environmental Planning and Assessment Regulation 2021* (**the Regulation**) requires that an explanatory note must be prepared to accompany a planning agreement.

The explanatory note must address the requirements of clause 205(1)(a)-(b) of the Regulation. This explanatory note has been prepared to address these requirements.

Additionally, in preparing the explanatory note, the planning authority must consider any relevant practice note prepared by the Planning Secretary under clause 203(6). The relevant practice note is *Planning agreements: Practice note – February 2021* published by the former NSW Department of Planning, Industry and Environment (now the Department of Planning and Environment).

This practice note has been considered by the parties in the course of preparing this explanatory note.

2. Summary of objectives, nature and effect

2.1 Parties and offer

A draft planning agreement (**the agreement**) has been prepared. The proposed parties to the agreement are:

- the Canterbury Bankstown Council (**the Council**) on one hand; and
- Hailiang Property Campsie Pty Ltd (**the Developer**) on the other.

The agreement to which this explanatory note relates has been the subject of an offer by the Developer.

2.2 Land

The land to which the agreement applies is:

- Lot 3 DP 337683;
- Lot A DP 355656;
- Lot B DP 355656;
- Lot A DP 416123;
- Lot B DP 416123;
- Lot 13 DP 3995;
- Lot 15 DP 3995
- Lot A DP 391661; and
- Lot B DP 391661

This Land is commonly known as 445 Canterbury Road, Campsie.

The agreement also applies to certain Council land on which works are to be carried out:

- the Perry Street public road reserve;
- the Stanley Street public road reserve;
- the Una Street public road reserve;
- the Unara Street public road reserve between the intersection of Beamish Street, and Stanley Street; and
- the Canterbury Road public road reserve between the intersection of Scahill Street, and Robertson Street.

2.3 Instrument change, the development and the development application(s)

The agreement relates to:

- an 'Instrument Change' sought by the Developer; and
- future development of the Land to which the agreement applies for the purposes of a hospital made possible by the 'Instrument Change'.

The 'Instrument Change' means any change to environmental planning instruments insofar as it applies to the Land such that:

- the maximum building height for a hospital on the Land is RL 72.75;
- the floor space ratio for a hospital on the Land is 5.1:1; and
- there are no other new or amended provisions of an environmental planning instrument (when compared with what was in place 1 September 2022) that would have the practical effect of preventing the realisation of a hospital of the height, bulk and scale anticipated by the above numerical maximums.

2.4 Objectives

The objective of the agreement is to provide a mechanism by which contributions can be made to benefit the community.

2.5 Nature

The agreement will be a voluntary agreement under section 7.4 of the *Environmental Planning and Assessment Act 1979 (the Act)*.

An agreement of this kind may require a developer to dedicate land free of cost, pay a monetary contribution, or provide any other material public benefit to be used for or applied towards a public purpose.

In this particular case, the agreement provides that the developer will:

- dedicate to the Council an area of land with frontage to Canterbury Road, the approximate dimensions of which are to be:
 - 3.5 metres wide along the site frontage of Canterbury Road;
 - 86 metres in length; and

- 300m² in area;
- dedicate to the Council an area of land for a pedestrian through site link, the approximate dimensions of which are to be:
 - 6 metres wide along the eastern boundary of the Land;
 - 33 metres in length; and
 - 200m² in area.
- dedicate to the Council an area of land for laneway, the approximate dimensions of which are:
 - 9 metres wide;
 - 765m² in area.
- payment to the Council of a monetary contribution of \$25,000 for a cycleway from the site to the Cooks River;
- payment to the Council of a monetary contribution of \$75,000 to assist the Council with the future acquisition of 80 Duke Street, Campsie (private property) to create a new public park;
- the provision of public art on the land at a value of approximately \$150,000 inclusive of GST (although, to avoid double dipping, the contribution is to be proportionately scaled back for a development if there are other obligations to provide public art);
- the provision of a public park within the Land by way of embellishment, an easement in gross to provide for public access and a positive covenant to provide for ongoing maintenance and repair;
- the construction of a new kerb ramp pair on Stanley Street, crossing Perry Street;
- the construction of four new zebra-type pedestrian crossings; and
- the construction of two bus stop shelters on Canterbury Road, with associated signage.

The agreement outlines these obligations are triggered by the 'Instrument Change' and the occupation of the development made possible by that change.

2.6 Effect

In general terms, the making of the contributions are timed in a way that is practicable for the developer and supports the redevelopment of the Land.

The contributions are to be made prior to the issue of an occupation certificate for any part of the Land.

The agreement provides for the enforcement of the Agreement by a suitable means if there is a breach by the developer.

Where it is relevant to a development application, a consent authority must take into consideration a planning agreement — or any draft planning agreement — that a developer has entered into or offered to enter into (respectively).

However, a planning agreement cannot impose an obligation on a planning authority to actually grant a development consent. A merit assessment of the proposed development must still be carried out.

3. Assessment of the merits of the proposed agreement

3.1 Impact on the public or any relevant section of the public

The Agreement has a positive impact on the public and promotes the public interest. The development contributions will improve the safety and amenity of the public domain.

3.2 Promotion of the public interest and the objects of the Act

The agreement promotes the following objects of the Act:

- Section 1.3(a):
to promote the social and economic welfare of the community...by the proper management, development and conservation of the State's natural and other resources,
- Section 1.3(c):
to promote the orderly and economic use and development of land
- Section 1.3(g):
to promote good design and amenity of the built environment...

3.3 Whether the planning agreement conforms with the planning authority's capital works program, if any

The agreement does not conform with the Council's capital works program. This is because the contribution has arisen outside of the Council's capital works program.

3.4 Whether the agreement specifies that certain requirements of the agreement must be complied with before a construction certificate, occupation certificate or subdivision certificate is issued

The agreement requires the making of development contributions prior to the issue of an occupation certificate.

The agreement does not specify any requirements that must be complied with before a construction certificate or subdivision certificate is issued.

4. Status of this explanatory note

This explanatory note has been agreed by parties proposing to enter into the agreement.

The parties have agreed that this explanatory note is not to be used to assist in construing the agreement.