

Explanatory Note

Hornsby Shire Council (Planning Authority) and Trumen Norman Thornleigh Pty Ltd ACN 625 229 496

Draft Planning Agreement

1. Introduction

The purpose of this explanatory note is to provide a plain English summary to support the notification of the draft planning agreement (the **Planning Agreement**) prepared under Subdivision 2 of Division 7.1 of Part 7 of the Environmental Planning and Assessment Act 1979 (the **Act**).

This explanatory note has been prepared jointly by the parties as required by clause 25E of the Environmental Planning and Assessment Regulation 2000 (the **Regulation**).

2. Parties

Hornsby Shire Council (the Council)

Trumen Norman Thornleigh Pty Ltd of National Trust Centre (Part of), Upper Fort Street, Observatory Hill, Millers Point 2000 New South Wales (**Developer**) (ACN: 625 229 496)

3. Description of Subject Land

Lot 2 DP 211095 known as 50a Duffy Avenue, Thornleigh, 2120 New South Wales (the **Subject Land**)

3. Description of Proposed Development

On 19 December 2019, the Hornsby Local Planning Panel resolved to approve DA/510/2018 for the Torrens title subdivision of one lot into six as a staged development.

The approval included an extra condition requiring the retention of additional trees adjoining Sefton Road (trees 36, 39 and 42-45). Consequently, the monetary value of the VPA has been reduced from what was originally proposed.

Trees on site located within the front setback to Sefton Road were planted as part of an industrial development in the 1970's (application No. 134/76). 15 of these planted trees are species consistent with Blue Gum High Forest (BGHF).

The Developer has made an offer to the Council to enter into the Planning Agreement in connection with the removal of these 15 trees.

Condition 23 of DA/510/2018 requires that the applicant must prepare and enter into a Voluntary Planning Agreement (VPA) with Hornsby Shire Council. The Consent is structured such that this Agreement is entered into prior to issuance of a Construction Certificate, however the Developer has applied to Council through a Section 4.55 (1A) application to have the Condition relocated in the Consent so that the Agreement is entered into prior to issuance of a Subdivision Certificate.

4. Summary of Objectives, Nature and Effect of the Planning Agreement

The Planning Agreement seeks to offset the proposed loss of fifteen (15) trees from the subject site by the making of a monetary contribution to the Council for the purpose of replanting, restoration and enhancement of existing threatened species communities located upon on Council managed lands.

The Planning Agreement provides that the Developer will make a monetary contribution of \$79,478.00 for this purpose.

The monetary contribution will be payable prior the issuance of a relevant Subdivision Certificate.

5. Assessment of the Merits of the Planning Agreement

The Planning Purposes of the Planning Agreement

The Planning Agreement will facilitate the use of the subject site for industrial and employment generating purposes whilst at the same time providing for the replanting and reinstatement of endangered ecological communities upon lands under Council's control.

The agreement is considered an overall public benefit and is considered to promote elements of the Council Charter (Section 8 of the *Local Government Act 1993*).

How the Planning Agreement Promotes the Public Interest

The Draft Planning Agreement promotes the public interest by offsetting the proposed loss of fifteen trees from the subject site through the payment of a monetary contribution which will allow for the restoration and enhancement of existing threatened species communities located upon Council managed lands.

How the Planning Agreement Promotes the Objects of the Act

The Planning Agreement promotes the objects of the Act, as outlined in section 1.3 of the Act, by:

- promoting of the orderly and economic use and development of land.

In support of the above it is noted that:

1. The proposal provides for a compensatory offset in recognition of the loss of fifteen trees from the site.

2. The offset will allow for the restoration and enhancement of existing threatened species communities located upon Council managed lands.
3. The on-going management of threatened species communities upon lands under the care and control of council is considered to provide for a superior outcome in this instance noting that the subject vegetation is not endemic species and occupies land zoned for industrial purposes preventing the orderly use of the land.

Requirements relating to Construction, Occupation and Subdivision Certificates

The Planning Agreement proposes payment of the contribution prior to the issuance of a relevant Subdivision Certificate.