

Explanatory Note

Draft Voluntary Planning Agreement Development Application (DA-920/2012) for the redevelopment of 5 Viscount Place, Warwick Farm

1. Introduction

The purpose of this explanatory note is to provide a summary of the exhibited voluntary planning agreement (the “**Planning Agreement**”) prepared under Subdivision 2 of Division 6 of Part 4 of the Environmental Planning and Assessment Act 1979 (“**Act**”).

The explanatory note has been prepared jointly by the parties as required by Clause 25E of the Environmental Planning and Assessment Regulation 2000.

2. Parties to the Draft Planning Agreement

The parties to the Planning Agreement are:

- (a) Gazcorp Pty Ltd (“**Developer**”); and
- (b) Liverpool City Council (“**Council**”).

The Developer has made an offer to enter into the Planning Agreement with Council in connection with a Development Application which affects the land within the suburb of Warwick Farm.

3. Description of Subject Land

The Planning Agreement applies to the land contained within the following Certificate of Title Folio Identifiers:

| Lot Description | Address | Zone |
|-------------------------------|-----------------------------------|----------------------------|
| Lot 23 in DP 1190437 | 5 Viscount Place, Warwick Farm | B5 Business Development |
| Part Lot 101 in DP 1043160 | 5 Viscount Place, Warwick Farm | B5 Business Development |

4. Description of the Development Application

The Developer lodged a Planning Proposal with Council in May 2011 requesting an amendment to the Liverpool LEP 2008 to permit "retail premises" on the site. The Planning Proposal received Gateway Determination on 13 January 2012 and was published in the NSW Government Gazette on 20 June 2013. The rezoning permits retail use of the site (with Council's consent) provided that the total gross floor area of all retail premises on the site does not exceed 19,000 square metres, and the gross floor area of any individual retail premises on the site does not exceed 1,200 square metres.

On 28 March 2012 the Developer lodged a Development Application with Council to use the existing building on the site as retail premises comprising a retail outlet centre and associated car parking. The Development Application proposes the fitout and reuse of the existing building to facilitate the proposed development. The existing building shell will be fitted out to create 62 tenancies with sizes ranging from 24 square metres to 1,028 square metres. 501 car spaces will be provided for the benefit of the development. The Council determined to approve the Development Application on 23 December 2013 and the Consent was issued to the Developer on 9 January 2014.

5. Summary of objectives, nature and effect of the Planning Agreement

The objective of the Planning Agreement is to secure appropriate development contributions to be applied towards Council's Town Improvement Fund. A small portion of the development contribution will also be applied to cover Council's legal and administrative costs of entering into the Planning Agreement.

The Town Improvement Fund provides for expenditure within the Town Improvement District (which includes the area of the Liverpool City Centre) on projects which improve all or any of the following aspects of the locality:

- image,
- role;
- urban design;
- safety;
- recreation;
- public art;
- heritage;
- economic development; and
- general amenity.

The Planning Agreement requires the Developer to pay a Monetary Contribution of \$100,000 to Council (indexed in accordance with CPI). The allocation of the Monetary Contribution is as follows:

- (a) contribution to Town Improvement Fund: \$95,000; and
- (b) contribution to Council's administration costs: \$5,000,

The Town Improvement Fund contribution will be payable prior to the issue of a Construction Certificate for the development of any part of the development. The administration contribution will be payable within 5 business days of the date that the Planning Agreement becomes operative.

The Planning Agreement excludes the operation of sections 94 and 94A of the Act but does not exclusive the operation of section 94EF of the Act.

6. **Assessment of the merits of the Planning Agreement**

The Planning Agreement is likely to benefit the local community by providing funding for the provision of projects which improve the amenity of the local area. Therefore the Planning Agreement is likely to have a positive impact on the public users of the Liverpool City Centre.

7. **How the Planning Agreement promotes the public interest and one or more of the objects of the Act**

The Planning Agreement promotes the public interest by:

- (a) requiring the Developer to provide a monetary contribution for investment in projects which improve the public amenity of the local area; and
- (b) providing funding to support Council's costs of performing its administrative functions.

The Agreement promotes the objects of the Act by making resources available to Council for a range of uses which may include:

- (a) the proper management and development of the Liverpool City Centre area to promote the social and economic welfare of the community and a better environment;
- (b) the provision and co-ordination of community services and facilities; and
- (c) the promotion and co-ordination of the orderly and economic use and development of land.

8. **How the Planning Agreement promotes the elements of Council's charter**

The Planning Agreement will promote the Council's charter under Section 8 of the *Local Government Act 1993* as the development contributions will help Council to:

- (a) Provide adequate, equitable and appropriate services and facilities for the community by providing funding for projects which improve local amenity; and
- (b) Effectively plan for, account for and manage the assets within the Liverpool City Centre area.
- (c) Provide a range works which are consistent with the adopted Council Delivery Program and Operational Plan.
- (d) Facilitate the involvement of members of the public and future users of the facilities, through public exhibition noting that Council staff were involved in the development of the agreement.
- (e) Keep the local community and the State government (and through it, the wider community) informed about Council activities.

- (f) Make clear that Council has a statutory role as consent authority for development and that the agreement is not intended to unlawfully influence the exercise of its regulatory functions, ensuring that it would act consistently and without bias, particularly where an activity of the council is affected.

9. **Planning purposes served by the Planning Agreement**

The Agreement promotes the public interest by providing funds to enhance the amenity of the Liverpool City Centre area to support the needs of the local community and businesses.

Further the agreement recognises the potential impact of the development on surrounding retail centres, and contributes to the ongoing improvement of the Liverpool City Centre as the regional city for South West Sydney.

10. **Assessment of whether the Planning Agreement provides a reasonable means of achieving the intended planning purposes**

The Planning Agreement provides a reasonable means of achieving the above-stated planning purposes because it will provide revenue to an established fund which has responsibility for the strategic co-ordination and management of the improvements to the Liverpool City Centre area.

11. **Assessment of whether the Planning Agreement conforms with Council's capital works program**

The Capital Works Program is included within Council's Delivery Program and Operational Plan. All expenditure under the Town Improvement Fund is undertaken in accordance with Council's adopted Delivery Program and Operational Plan.

The Town Improvement Fund specifically is collected from the commercial operations with view to facilitating the ongoing improvement of the Liverpool City Centre. It is noted that the Delivery Program and Operational Plan are publicly exhibited prior to consideration and adoption by Council.

12. **Requirements to be satisfied prior to certifications being given**

The Developer must pay the Town Improvement Fund contribution prior to the issuing of a Construction Certificate.

The Developer's contribution to Council's costs must be paid on the date that the Planning Agreement is entered into and will therefore be paid prior to the issuing of a Construction Certificate.

13. **Interpretation of the Planning Agreement**

This explanatory note is not to be used to assist in construing the Planning Agreement.

END.