

Voluntary Planning Agreement

Explanatory Note

Flower Power Site, 124-144 Newbridge Road Moorebank

Explanatory Note

1. Introduction

This Explanatory Note has been prepared in accordance with clause 25E of the *Environmental Planning & Assessment Regulation 2000* (NSW).

The purpose of this Explanatory Note is to provide a plain English summary to support the notification of a draft planning agreement (**Planning Agreement**) between the parties under s93F of the *Environmental Planning & Assessment Act 1979* (NSW) (**EPA Act**).

1 Parties to the Planning Agreement

The parties to the Planning Agreement are:

- (1) Liverpool City Council (**Council**).
- (2) Syesun Pty Limited (**Developer**).

2 Description of the Subject Land

The land to which the Planning Agreement relates is set out in the table below.

Folio Identifier	Location
Cnr Lot 2, DP 602988	124-144 Newbridge Road Moorebank

3 Description of Proposed Development

The proposed development subject to a Development Application is set out in the table below.

Development Application	DA-309/2011
Description of development	Earthworks and associated filling to the Newbridge Road, Moorebank site owned by Flower Power in two stages. Stage 1 will be the filling of land immediately to the east & south of nursery site. Stage 2 involves the filling of the remaining site being the area of the retail plant nursery

Council must undertake the public exhibition of both the Draft Voluntary Planning Agreement (VPA) and an associated Explanatory Note as part of a statutory process. If the Council receives any comments on the documents after they are exhibited then:

- (1) the proposed planning agreement may be amended as a result of the comments; and
- (2) if the developer does not agree to the changes then the matter will be referred to the Council to decide whether to adopt the proposed changes or not.

4 Summary of objects, nature and effect of the Planning Agreement

The objective of this draft VPA is to amend the provisions of the VPA currently applicable to the site. The draft VPA sets out the terms of the amendments, the existing VPA remains, in all other respects valid and effective. The draft VPA seeks to ensure the recoupment of costs of infrastructure and service needs, generated by the development proposed within DA-309/2011. To this end, the offer made by the developer is largely based on the needs identified within:

- (1) **Growing Liverpool 2021(Community Strategic Plan)** – Urban Infrastructure meets the needs of a growing community; Council and the community work together to support environmental sustainability, Urban development is consistent with sustainability principles.
- (2) **Liverpool City Council Delivery Program Actions-** Manage the environmental health of waterways, Act as an environmental leader within the community, Provide a diverse range of recreation services, Raise community awareness and support action in relation to all environmental issues.
- (3) **Liverpool City Wide Recreation Strategy 2020 (December 2003)** – Develop high quality multipurpose open spaces which incorporate a range of unstructured recreation facilities suitable for all groups in the community; Develop, adopt and implement a shared pathway strategy for the LGA which links with Council’s existing local and regional cycleway and footpath network; Develop opportunities for the provision of a range of open space and recreation facilities which supports Liverpool’s role as the major regional centre for South Western Sydney; Implement indicative provision for open space and recreation facilities, more walking trails and support programs need to be developed in the LGA.
- (4) **Social Plan 2006-2008 (July 2006)** - Improving physical access to Council assets and community facilities; Providing accessible footpaths, ramps and amenities; Improve accessibility to sporting and recreational opportunities for families in Liverpool; Rehabilitating park amenities; Developing the concept of “creating a community”.
- (5) **Liverpool Contributions Plan 2001-** Recreation Facilities – including bushland reserves, outdoor passive facilities and bike paths (particularly linking development to schools and other destinations); Transport – including various pedestrian and traffic facilities, public transport facilities, frontage to public land uses and sub arterial roads; and Drainage – including detention basins, natural creek corridors and pipe infrastructure.
- (6) **NSW Floodplain Development Manual (May 2005)** - Land use planning limits and controls are an essential element in managing flood risk and the most effective way of ensuring future flood risk is managed appropriately.

Further, the developer has also offered contributions towards facilities that otherwise would not normally have been provided under Council's development contributions plan. The intent of this offer is to ensure it meets the needs generated by the development, as well as the Liverpool Local Government Area.

The agreement between the developer and the Council, the various facilities and their corresponding values, are described in the table below.

Development Contribution	Value
Dedication of embellished River Foreshore Land to Council	Nil value attributed
Embellishment of the River Foreshore Land (including removal of fill and waste, management of any site contamination)	\$200,000
Development of a Vegetation Management Plan	\$5,000
Program of works for weed removal, and regeneration and revegetation of land within 40m of the Georges River with indigenous species as described in the Vegetation Management Plan	To be determined by a Council approved Vegetation Management Plan

Maintenance works described in the vegetation management plan for 12 months following dedication of land to Council	To be determined by a Council approved Vegetation Management Plan
Construction of bike/pedestrian path through public open space which is adjacent to the Georges River	\$105,000
Construction of pedestrian path along the northern boundary of the site within the Newbridge Road verge	\$37,500
Contribution to assist with the purchase of a property within the Moorebank Floodplain Voluntary Acquisition Scheme area	\$450,000
TOTAL VALUE	\$797,500

It is noted that additional value will be generated through the dedication of land and undertaking of weed control, revegetation and maintenance however the values of these items are not determined.

5 Assessment of the merits of the Planning Agreement

5.1 The planning purposes served by the Planning Agreement

In accordance with Section 93F(2) of the EPA Act, the Planning Agreement promotes the following public purpose:

- (1) the provision of (or the recoupment of the cost of providing) public amenities or public services,
- (2) the provision of (or the recoupment of the cost of providing) transport or other infrastructure relating to land,
- (3) the conservation or enhancement of the natural environment.

The planning agreement provides for a reasonable means of achieving provision of those items, by coordinating the dedication of the works or land with the reasonable development of the land. The reasonable staging of the provision works and land will ensure that the viability of development is not unduly compromised and also that the remaining development capacity at any point would be sufficient to justify the outstanding items.

5.2 How the Planning Agreement promotes the public interest

In accordance with the objects of the EPA Act, the Planning Agreement promotes the public interest in the following manner:

- (1) Public ownership (as opposed to private land owners) will ensure the proper management, development and conservation of the Georges River corridor as a resource for the purpose of promoting the social and economic welfare of the community and a better environment.
- (2) Provides for the use of the open space along the Georges River for public recreation, considering its natural constraints. The timing of the delivery of land an infrastructure ensures the co-ordination of the orderly and economic use and development of the land within the site.
- (3) The dedication of the open space along the Georges River constitutes the provision of land for public purposes, being recreation, transport and drainage.
- (4) Requires the provision of a contribution toward the purchase of a dwelling within the Moorebank Floodway Voluntary Acquisition Scheme for flood mitigation purposes.

- (5) The planning agreement makes provision for the delivery of pathways and vegetation embellishment, which seeks to improve local open space and recreation opportunities.
- (6) Public ownership (as opposed to private land owners) of the open space along the Georges River will ensure the protection of the environment, including the protection and conservation of flora and fauna, including threatened species, populations and ecological communities. The planning agreement also makes provision for the removal of weeds, regeneration of existing vegetation and replanting of vegetation to restore and enhance the natural environment.
- (7) The planning agreement intends to include all the items in which the developer is required to dedicate land free of cost, pay a monetary contribution toward, or provide any other material public benefit, or any combination of them, to be used for or applied towards a public purpose.
- (8) The planning agreement will not preclude the public being provided with the opportunity for involvement and participation in development assessment. The public have been provided the opportunity to be involved with the draft LEP and are invited to make comment on this planning agreement, particularly with regard to the public interest.

5.3 How the Planning Agreement promotes the elements of Council's charter

The planning agreement promotes a number of elements of the council's charter under section 8 of the *Local Government Act 1993*, as follows:

- (1) Public ownership (as opposed to private land owners) of the Georges River foreshore land will permit Council to exercise community leadership in the management of riparian land.
- (2) The provision of shared bicycle/pedestrian paths under the planning agreement would allow Council to exercise its function to provide transport in a manner that is consistent with ecological sustainable development as well as being popular in European and Asian communities, consistent with the principles of multiculturalism.
- (3) The provision of public recreation space along the Georges River foreshore provides for the passive recreation needs of children and families.
- (4) Taking public ownership of the George River foreshore with a management plan in place will permit Council to the opportunity to properly, develop, protect, restore, enhance and conserve the environment of the area for which it will then be responsible, in a manner that is consistent with and promotes the principles of ecologically sustainable development.
- (5) The planning agreement provides that land along the Georges River is dedicated and embellished by the Developer, substantially free of weeds and free of contamination that would pose a risk to human health or the environment, having regard for the long term and cumulative effects of Council's decision to take ownership of the land.
- (6) Taking public ownership of the land adjacent to the Georges River under the agreement is consistent with Council's responsibility as the custodian and trustee of public assets which it must then effectively account for and manage.
- (7) The exhibition of the planning agreement facilitates the involvement of members of the public and future users of the facilities, while council staff were involved in the development of the agreement.
- (8) The planning agreement provides recreational and transport facilities for local purposes without the need to raise funds by the imposition of rates, charges or fees.
- (9) The planning agreement provides for the provision of a contribution toward purchase of a house within the Moorebank Floodway Voluntary Acquisition Scheme area which will seek to mitigate flood impacts.

- (10) Taking public ownership of flood liable land under the agreement is consistent with Council's responsibility as the custodian and trustee of public assets which it must then effectively account for and manage.
- (11) This explanatory note is prepared for the purposes of keeping the local community and the State government (and through it, the wider community) informed about its activities.
- (12) The planning agreement makes it 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.

5.4 Relationship with Council's capital works program

- (1) The agreement provides for the completion of works by the developer and the dedication of land to Council. As such conforms with, or rather has no immediate implication for the Council's capital works program. Should the developer default on the delivery of the works by the required completion date and the Council is required to call on the Bank Guarantee, the Council would then be responsible for the completion of that work, although the timing would be at its discretion.

5.5 Development concept relating to the planning agreement

- (1) DA-309/2011 proposes works on the Flower Power site at Moorebank. The development of this site generates the need for additional infrastructure to serve the public benefit. The agreement allows for the provision of appropriate facilities and works which provide for an improved river foreshore, critical drainage and transport infrastructure and opportunities for recreation which will have long term benefits for residents and the general community.

Annexure A – Value of the Developer Contribution in the form of Works Pursuant to the Voluntary Planning Agreement

VALUE OF THE DEVELOPER CONTRIBUTION IN THE FORM OF WORKS PURSUANT TO THE VOLUNTARY PLANNING AGREEMENT	
Item	Amount
Embellishment of the Georges River Foreshore Land (including removal of fill and waste, management of any site contamination)	\$200,000
Development of a Vegetation Management Plan	\$5,000
Program of works for weed removal, and regeneration and revegetation of land within 40m of the Georges River with indigenous species as described in the Vegetation Management Plan	To be determined by a Council approved Vegetation Management Plan
Maintenance works described in the vegetation management plan for 12 months following dedication of land to Council	To be determined by a Council approved Vegetation Management Plan
Construction of bike/pedestrian path through public open space which is adjacent to the Georges River	105,000
Construction of pedestrian path along the northern boundary of the site within the Newbridge Road verge	\$37,500
Total	\$347,500
VALUE OF THE DEVELOPER CONTRIBUTION IN THE FORM OF LAND TO BE DEDICATED TO COUNCIL PURSUANT TO THE VOLUNTARY PLANNING AGREEMENT	
Dedication of land adjacent the Georges River to Council (approximately 8550square meters).	Nil value attributed
Total	\$0
CONTRIBUTIONS PAYABLE TO COUNCIL PURSUANT TO THE VOLUNTARY PLANNING AGREEMENT	
Contribution to assist with the purchase of a property within the Moorebank Floodplain Voluntary Acquisition Scheme area	\$450,000
Total	\$450,000
TOTAL VALUE OF THE DEVELOPER CONTRIBUTION IN THE FORM OF LAND TO BE DEDICATED TO COUNCIL AND WORKS AND CASH CONTRIBUTION PURSUANT TO THE VOLUNTARY PLANNING AGREEMENT	
Total Value of Developer contribution	
Total	\$797,500