

Explanatory Note for Draft Planning Agreement – 185-191 O’Riordan Street, Mascot

The purpose of this Explanatory Note is to provide a plain English Summary to support the notification of a draft Planning Agreement (“**the Planning Agreement**”) under Section 93F of the *Environmental Planning and Assessment Act 1979* (“**the Act**”).

This Explanatory Note has been prepared jointly between the parties as required by Clause 25E of the *Environmental Planning and Assessment Regulation 2000* (“**the Regulation**”).

This Explanatory Note is not be used to assist in construing the Planning Agreement.

Parties

The Goodman Funds Management Australia Limited as responsible entity for the Goodman Australia Industrial Trust No.3 (ABN 69 000 123 071) (“**Goodman Funds**”) and Goodman Property Services (Aust) Pty Limited (ABN 40 088 981 793) (“**Goodman Property**”) and The Trust Company Limited as custodian for the Goodman Australia Industrial Trust No. 3 (ACN 004 027 749) (“**the Landowner**”) has made an offer to the City of the Botany Bay (“**the Council**”) to enter into a Planning Agreement in relation to a Development Application (DA-08/287) approved on 7 July 2010 and as amended by a Section 96 application approved on 17 December 2015 by City of Botany Bay.

Description of subject land

The land to which the Planning Agreement applies is described as follows:

185-191 O’Riordan Street, Mascot being the land comprised in Certificate of Title Folio Identifier 1/1213409 formerly known as “**the Motorcade Site**”, and which previously comprised Title Folio Identifier 1/878949 and Folio Identifier 1/804703.

Description of the development to which the Planning Agreement applies

On 7 July 2010 Council approved a Development Application 08/287 lodged by Goodman Property for the demolition, site remediation, erection on the Motorcade Site for a ten (10) storey commercial/retail building, bridge link, retail and showroom (“the East Tower”) (“**the Stage 1 DA**”) and Development Application 08/289 for the erection of a twelve (12) storey commercial/retail building, bridge link, retail and cafe (“the West Tower”) (“**the Stage 2 DA**”) together with associated car parking, road work and public domain works.

By letter dated 16 May 2008, which accompanied the Stage 1 DA and the Stage 2 DA,

Goodman Property offered to enter into a planning agreement in respect of the developments proposed on the Motorcade Site requiring Goodman Property to make a monetary contribution.

Consent Condition No. 3(a) of DA08/287 required the applicant of the development application to enter into and execute a Planning Agreement for the following works:

- Footpath work for the subject site from Bourke Road to King Street;
- The undergrounding of the power poles along the site frontage;
- The relocation of two figs into Mascot Memorial Park; and
- The provision of a regional children's playground within Mascot Park

The Planning Agreement is in addition to the Section 94 Contributions required in Conditions 3(b) of the Development Consent (DA08/287).

On 24 December 2014, Goodman Property submitted a modification application pursuant to Section 96(1A) of the Act. The application sought a number of amendments, including modification to Condition 3(a) of the Stage 1 Development Consent (DA08/287):

- Upgrading of footpath along the site frontage from Bourke Street to King Street
- Undergrounding of power poles along the site frontage; and
- Payment of \$226,718.95 by way of additional contributions to Council that will not be off set against any contributions required under s.94 of the Act.

As part of the assessment of the Section 96 application, it came to Council's attention that a number of items that were required in the original Planning Agreement were no longer relevant, being the relocation of the two fig trees which have been determined to be unfeasible and the provision of a children's playground which has already been constructed at Council's expense. Hence, the applicant has agreed to provide monetary contribution in lieu of the provision of the children's playground. The Section 96(1A) application was approved by Council on 17 December 2015.

Summary of Objectives, Nature and Effect of the Planning Agreement

In accordance with Condition 3(a) of the Stage 1 Development Consent (DA08/287), Goodman Funds, Goodman Property and the Landowner offer to provide to Council the following:

- i) The construction of all footpaths and kerb and guttering works along the frontages of the Motorcade Site to Bourke Road and O'Riordan Street, in accordance with Condition 75 of the Stage 1 Consent;
- ii) The relocation underground of all power cabling presently located on poles along the frontages of the Motorcade Site to Bourke Road and O'Riordan Street and the replacement of existing street lighting associated therewith, in accordance with Condition 47 of the Stage 1 Consent; and
- iii) Payment of \$226,718.95 being in lieu of the costs previously incurred by the Council for the upgrading of Lionel Bowen Reserve and Mascot Oval to be put towards future upgrade works.

Assessment of the Merits of the Proposal

a) How the Planning Agreement promotes the public interest and one or more of the objects of the Act

The Planning Agreement promotes the following objectives of the Act:

- the promotion of the social and economic welfare of the community and a better environment;
- the protection, provision and co-ordination of communication and utility services; and
- the provision and co-ordination of community services and facilities.

The Planning Agreement will result in an improvement to the public infrastructures and facilities to the Mascot area.

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

The Planning Agreement promotes the following elements of the Council's charter under Section 8 of the Local Government Act 1993 (NSW):

- to bear in mind that it is the custodian and trustee of public assets and to effectively plan for, account for and manage the assets for which it is responsible.

b) The impact of the Planning Agreement on the public or any section of the public

The Planning Agreement is likely to benefit the public and local community as it will improve existing infrastructures in the immediate vicinity of the site.

c) The planning purpose or purposes of the Planning Agreement

The development contributions proposed to be provided under the Planning Agreement will be used to achieve the following purposes:

- i) Enhance the existing footpath and pedestrian experience along the frontages of the Motorcade Site to Bourke Road and O'Riordan Street;
- ii) Improve the existing streetscape by relocating all underground power cabling presently located on poles along the frontages of the Motorcade Site to Bourke Road and O'Riordan Street; and
- iii) The provision of a monetary contribution may result in the future upgrade/improvement to the Lionel Bowen Reserve and Mascot Oval.

d) Whether the Planning Agreement conforms with Council's capital works program

The Planning Agreement does not conform with Council's Capital Works Program as no funds have been specifically allocated for these works. However, the footpath works from Bourke Road to King Street and the undergrounding of the power poles along the site frontage will be undertaken by the developer under Council supervision.

e) Compliance of certain requirements prior to issue of construction, occupation or subdivision certificates.

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

- i) **Within 14 days of execution of the planning agreement:**
 - o Payment of monetary contribution of \$226,718.95 being in lieu of the costs previously incurred by the Council for the upgrading of Lionel Bowen Reserve and Mascot Oval to be put towards future upgrade works .
- ii) **A construction certificate is issued:** Nil
- iii) **An occupation certificate is issued:**
 - o Construction of all footpaths and kerb and guttering works along the frontages of the Motorcade Site to Bourke Road and O'Riordan Street, in accordance with Condition 75 of the Stage 1 Consent; and
 - o Procure the relocation underground of all power cabling presently located on poles along the frontages of the Motorcade Site to Bourke Road and O'Riordan Street and the replacement of existing street lighting associated therewith, in accordance with Condition 47 of the Stage 1 Consent; and
- iv) **A subdivision certificate is issued:** Nil.