

EXPLANATORY NOTE

Proposed Draft Planning Agreement: Land Swap between Northern Beaches Council and Frasers Property to provide for the southern portion of Central Local Park.

Introduction

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 & Assessment Act 1979* (the “**EPA Act**”) prepared in connection with Development Application XXXXXXXX

Frasers Property Australia (the “**Developer**”) and Northern Beaches Council (the “**Council**”) have entered into an agreement to exchange parcels of land. The Developer will give land adjacent to Fern Creek to Council for the creation of the southern section of Central Local Park and the Council will give land to the Developer at the southern section of their property, south of the proposed new road, for the construction of housing.

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

1 Parties

Northern Beaches Council (the “**Council**”)
Frasers Property Australia (the “**Developer**”)

2 Description of subject land

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

Lot 5, DP 736961 – 9 Fern Creek Road, Warriewood
Lot 11, DP 1092788 – 11 Fern Creek Road Warriewood
Lot 12, DP 1092788 – 12 Fern Creek Road, Warriewood
Lot 13, DP 1092788 – 13 Fern Creek Road Warriewood

3 Description of proposed change to environmental planning instrument/development application

The following changes will be made to Pittwater LEP 2014:

Proposed Zoning Changes – Pittwater LEP 2014

The land along Fern Creek at Lot 5, DP 736961, Lot 11, DP 1092788 & Lot 12, DP 1092788 (9, 11 and 12 Fern Creek Road) will change from being zoned entirely R3 Medium Density Residential to being zoned partially R3 Medium Density Residential and partially RE1 Public Recreation.

Lot 13, DP 1092788 (13 Fern Creek Road) will be rezoned in its entirety from R3 Medium Density Residential to RE1 Public Recreation.

Proposed Amendments to Pittwater LEP 2014

Amendments to Land Zoning Map Sheet LZN_012 – Rezone the northern portion of the subject sites between the proposed extension to Fern Creek Road and Fern Creek RE1.

Amendment to Height of Buildings Map Sheet HOB_012 – Amend the maximum height of buildings to 8.5 metres for the land to be rezoned RE1 Public Recreation and 10.5 metres for the developable portion of 9 Fern Creek Road.

Amendments to Part 6, Clause 6.1(3) to replace wording
“Sectors 901C & 901G Not more than 28 dwellings or less than 23 dwellings” and “9 Fern Creek Road – No dwellings”

with

“Sectors 901C, 901G and 9 Fern Creek Road – Not more than 52 dwellings”.

4 Summary of objectives, nature and effect of the proposed draft Planning Agreement

The objective of the Planning Agreement is to enable Council to fulfil its obligations to provide public open space on the southern side of Fern Creek for the residents of Warriewood Valley in line with the *Warriewood Valley S.94 Contributions Plan* adopted by Council on 15 December 2014. The S.94 Contributions Plan has identified the subject land as forming the southern section of Central Local Park and providing passive open space for residents.

The land swap will allow for a one (1) hectare parcel of land (exclusive of the creekline corridor) adjacent to Fern Creek to be developed as the southern adjunct to the existing Central Local Park on the northern side of Fern Creek. It is Council's intention that the park will be generally linear in shape, will be joined to the northern sector of park by a footbridge over Fern Creek and will provide passive recreation opportunities along with picnic tables, bbqs and shelters.

Benefit can also be seen in the transfer of Council owned land that is more suitable for development to Frasers Property so that this land can be developed for housing in an economic and orderly manner in accordance with the provisions of the *Warriewood Valley Strategic Review* and *Warriewood Valley Strategic Review Addendum Report*.

5 Timing of delivery of the public community benefit.

Note: Information is to be provided on the timing of delivery of the proposed benefits in relation to the issuing of construction, occupation or subdivision certificates.

Once this Voluntary Planning Agreement has been signed and the land parcels transferred to their new owners, Council can commence work on the Southern section of Central Local Park. Money has been allocated in the 2018/2019 budget for these works.

6 The assessment of the merits of the proposed draft Planning Agreement will be assessed against:

a) The planning purposes served by the proposed draft Planning Agreement

In accordance with Section 93F(2) of the EPA Act 1979, this planning agreements proposed the following public purpose;

- *The provision of (or the recoupmnt of the cost of providing) public amenities or public services.*

The parties have assessed this Planning Agreement and state that the provisions of this Planning Agreement, being the swapping of land between the parties to promote the orderly and economic development of the land for its best and highest use, provide a reasonable means of achieving the public purpose. In particular, meeting the public open space requirements of the *Warriewood Valley S.94 Contributions Plan* for the provision of public open space in Warriewood Valley and the housing requirements of the *Warriewood Valley Strategic Review* and *Warriewood Valley Strategic Review Addendum Report*.

b) How the proposed draft Planning Agreement promotes the objects of the Environmental Planning and Assessment Act 1979

In accordance with the EPA Act 1979, this Planning Agreement promotes its intent to encourage

(ii) the promotion and coordination of the orderly and economic use and development of the Land; and

(v) the provision and co-ordination of community services and facilities;

The Planning Agreement achieves these objectives by transferring land better suited to open space to Council and land better suited to residential development to the Developer.

c) How the proposed draft Planning Agreement promotes the Public Interest

This Planning Agreement's intent is to promote the Public Interest through the swapping of Council owned land not ideally suited in shape or location for public open space with Developer owned land that is better located and suited for this purpose. This has been achieved without Council spending additional money on land purchase.

This ensures that public open space is located in an accessible area and is of sufficient size to provide long term enjoyment and a variety of recreational opportunities for local residents into the future.

The provision of housing in an orderly and economic fashion in accordance with the requirements of the *Warriewood Valley Strategic Review*, *Warriewood Valley Strategic Review Addendum Report* and *A Plan for Growing Sydney* is another public benefit of the Planning Agreement.

d) How the proposed draft Planning Agreement promotes the elements of Council's charter under Section 8 of the Local Government Act 1993

This Planning Agreement promotes the above elements of the Council's Charter:

- to properly manage, develop, protect, restore, enhance and conserve the environment of the area for which it is responsible, in a manner that is consistent with and promotes the principles of ecologically sustainable development
- to have regard to the long term and cumulative effects of its decisions
- 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
- to engage in long-term strategic planning on behalf of the local community
- to exercise its functions in a manner that is consistent with and promotes social justice principles of equity, access, participation and rights

The Planning Agreement promotes the above elements of the Council's Charter by providing appropriately located and sized public open space to benefit current and future residents of Warriewood and surrounding areas while ensuring that adequate land for residential development purposes is maintained.

e) Whether the proposed draft Planning Agreement conforms with Council's capital works program

The Planning Agreement confirms with Council's capital works program as money for the completion of the southern section of Central Local Park has been allocated in the 2018/2019 capital works budget.

f) The impact of the proposed draft Planning Agreement on the public or any section of the public

The Planning Agreement will have a positive impact on members of the public through the provision of well designed, high quality public open space which is linked by a series of pedestrian routes and cycleways to other public open space and facilities in the Warriewood locality.

State whether the agreement, amendment or revocation specifies that certain requirements of the agreement must be complied with before a construction certificate, occupation certificate or subdivision certificate is issued.

There are no requirements which need to be met prior to the release of construction certificate, occupation certificate or subdivision certificate.

Signed and Dated by All Parties