

Schedule 2 - Explanatory Note

Environmental Planning and Assessment Regulations 2000 (Clause 25E)

Explanatory Note

1 Planning Agreement

Under section 93F of the Environmental Planning and Assessment Act 1979 (NSW) and Clause 25E of the Environmental Planning and Assessment Regulations 2000

2 Parties

Penrith City Council ABN 43 794 422 563 of 601 High Street, Penrith New South Wales (**Planning Authority**)

Celestino Developments SSP Pty Ltd ABN 67 607 351 842 of 642 Great Western Highway, Pendle Hill, NSW 2145 (**Developer**)

3 Description of Subject Land

The Land is located in the suburb of Luddenham, on the south side of the Sydney Water Pipeline and the western side of Luddenham Road and is legally described as: Lot 201 and part Lot 202 in DP 1152191, known as 565-609 Luddenham Road, Luddenham. The Land is currently rural/agricultural, largely comprising open grasslands and dams, on undulating topography.

4 Description of Proposed Development

4.1 Planning Proposal

The Planning Proposal aims to facilitate the Development by amending the *Penrith Local Environmental Plan 2010 (Penrith LEP)*, to rezone the Land from RU2 Rural Landscape to:

- (a) B4 Mixed Use;
- (b) B7 Business Park; and
- (c) RE1 Public Recreation;

The Developer intends to submit Development Applications to the Planning Authority to facilitate development of the Land for the purposes of:

- approximately 340,000sqm of research and development floor space;
- approximately 100,000sqm of education floor area and associated student accommodation;
- a Town Centre comprising up to 30,000sqm of retail space;
- 3,400 dwellings;
- a primary school site;
- new roads and infrastructure; and
- landscaping open space, sporting fields and parks

5 Summary of Objectives, Nature and Effect of the Draft Planning Agreement

5.1 Objectives and Nature

The objective of the draft Planning Agreement is to facilitate the delivery of appropriate local infrastructure to meet the needs of the new community expected both on the site and more widely in Penrith City through Works, Dedication Land and Monetary Contributions associated with the rezoning of the Land, and the proposed Development.

The nature of the draft Planning Agreement is a contractual relationship between Penrith City Council and the Developer for the provision of Works, Dedication Land and Monetary Contributions to support the rezoning of the Land, and proposed Development, and how they will be provided.

Effect

The effect of the draft Planning Agreement is that the Developer must provide new local infrastructure and monetary contributions in a number of stages to satisfy Council standards.

The draft Planning Agreement:

- (a) Contains a schedule for the Works required in relation to the above Development Contribution including the timing for the delivery of these Works.
- (b) Provides for the dedication of the Dedication Land including the timing for the dedication of the Dedication Land. The Developer may elect to manage the Dedication Land under a Management Plan instead of being dedicated it to The Planning Authority. However, this can only occur following negotiations between the Planning Authority and the Developer on the arrangements for managing the land in the Management Plan
- (c) Contains a schedule for the Monetary Contributions required, including the timing for the delivery of these Monetary Contributions.
- (d) The Monetary Contributions include amounts payable for *Open Space, Library Facilities and Cultural Facilities based on amounts set out in the Planning Authority's section 94 contributions plan.*

- (e) Provides that the Development Contributions are made in place of contributions normally required under s94 and s94A of the Act.
- (f) Will apply to any future development of the Land for the purposes described in the Agreement, irrespective of who owns the Land.

6 Assessment of the Merits of the Draft Planning Agreement, including the impact on the public or any relevant section of the public

The draft Planning Agreement satisfies the objectives described in Part 4 through the Developer making Monetary Contributions, carrying out the Works, and dedicating or managing the Dedication Land to meet the infrastructure needs, additional demand, and impacts created by the Development and its new community, and to ensure that existing communities which may be affected do not bear the cost of meeting these needs, additional demand and impacts.

The positive impact on the public is that the new/additional infrastructure will be publicly accessible for use and enjoyment by all.

7 Other Matters

7.1 How the draft Planning Agreement promotes public interest and one or more of the objects of the Act

The draft Planning Agreement promotes the public interest by:

- Ensuring appropriate local infrastructure is delivered in a timely manner to meet the needs of the new community;
- providing Development Contributions comprising and
- providing for the carrying out of those required Development Contributions in a timely manner in connection with the Development;

and therefore promotes the objects of the *Environmental Planning and Assessment Act 1979* as set out in s5(a)(ii) of that Act.

7.2 How the draft Planning Agreement promotes one or more of the elements of the council's charter under Section 8 of the Local Government Act 1993

- (a) The draft Planning Agreement is consistent with Council's charter under section 8 of the Local Government Act 1993:
 - (i) to have regard to the long term and cumulative effects of its decisions;
 - (ii) 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;

- (iii) to engage in the long term strategic planning on behalf of the local community; and
- (iv) to keep the local community and the State government (and through it, the wider community) informed about its activities.

7.3 The planning purpose/s served by the draft Planning Agreement

The draft Planning Agreement will provide for a reasonable means of achieving the planning purpose by the co-ordinated provision of local and State infrastructure and associated land dedication to enable the Development to occur and accommodate demand for additional housing and employment in a growing city.

7.4 Whether the draft Planning Agreement conforms with Council's capital works program

The draft Planning Agreement conforms with Council's capital works program as it provides infrastructure in a coordinated, fully funded manner consistent with Council's adopted standards and historic levels of provision.