

## Schedule 3 Explanatory Note

### Explanatory Note

#### *Environmental Planning and Assessment Regulation 2000 (NSW)*

#### (Clause 25E)

#### Planning Agreement

Under section 93F of the *Environmental Planning and Assessment Act 1979 (NSW)*

#### (a) Parties

**Settlers Estate Pty Limited (ABN 84 139 894 956)** – Level 2, 7 Charles Street, Parramatta NSW (**Developer**)

**Penrith City Council (ABN 43 794 422 563)** – 601 High Street, Penrith NSW (**Council**)

#### (b) Description of Subject Land

(i) The subject land is 731-769 Great Western Highway (French Street), Werrington NSW, being Lots 50-58 in DP 1069025.

(ii) The Developer is the owner of the subject land.

#### (c) Description of Proposed Development Application

(a) The proposed development is documented in development consents DA 11/0546 (as modified by DA 11/0546.01 and DA 11/0546.02), Development Consent DA12/1361, and Development Consent DA14/0994.

(b) A new development application to be lodged with Council for the purpose of creating in Stage 1 on Lots 56-58, small lot housing, a riparian corridor and B7 employment land Superlot (Draft DA No. 1).

(c) A new development application to be lodged with Council for the purpose of creating in Stage 5, Lot 55, small lot housing (Draft DA No. 2).

(d) A new application to Council pursuant to section 96 of the *Environmental Planning and Assessment Act 1979* for Stage 2 on Lot 50 for the purpose of replacing the approval under DA 12/1361 for 250 apartments in four Residential Flat Buildings with small housing lots for detached housing and to amend the side corner housing lots to smaller lot configurations in Stage 3 and Stage 4 on Lot 50 (Draft Section 96 Application). These proposed amendments to the Development are mapped in Schedule 4.

#### (d) Summary of Objectives

The objectives of the draft Planning Agreement are to:

- (a) dedicate land to Council for the purposes of providing a stormwater system and riparian corridor;
- (b) provide a range of road works, infrastructure works and facility services; and

- (c) provide monetary contributions to Council,

in order to provide a benefit for the public and to address the impacts of the proposed development on the locality and the need for additional infrastructure works and facilities to address these impacts.

**(e) Nature and Effect of the Draft Planning Agreement**

The draft Planning Agreement requires the Developer to provide the following dedicated land, works and monetary contributions:

- (a) dedication to Council of land for the purposes of a new open space corridor, new roads inclusive of a vehicle crossing, pedestrian footpath, shared bicycle/pedestrian path and a pedestrian and bicycle link.
- (b) contribution works, including:
  - construction of roads in accordance with the current Development Consents;
  - construction and development of stormwater system, to satisfy the entire development of the Land;
  - construction and development of stormwater management and riparian corridor pursuant to the conditions of the Development Consent; and
  - construction and development of bicycle paths and bus facilities to service the entire Land.

The obligations of the Developer are in place of those contributions imposed under section 94, section 94A and section 94EF of the *Environmental Planning and Assessment Act 1979* (NSW) in connection with the proposed development.

All relevant monetary and non-monetary contributions under this deed are to be paid or provided prior to or at the time of release of the subdivision certificate. Prior to the issuing of a subdivision certificate for any part of the Development, the Developer is to pay or deliver that part of the total agreed monetary and non-monetary contributions required by this Agreement as is proportionate to the part of the Development concerned, applying the monetary rates and timing nominated in Schedule 1.

**(f) Assessment of the Merits of the Draft Planning Agreement**

The Draft Planning Agreement has merit as a negotiated agreement which will achieve its planning purposes.

**(g) The Planning Purposes Served by the Draft Planning Agreement**

In accordance with section 93F(2) of the *Environmental Planning and Assessment Act 1979* (NSW), the Planning Agreement promotes the following public purposes:

- (a) the provision of (or the recoupment of the cost of providing) public amenities or public services;
- (b) the provision of (or the recoupment of the cost of providing) transport or other infrastructure relating to land;

- (c) the funding of recurrent expenditure relating to the provision of public amenities or public services, affordable housing or transport or other infrastructure;
- (d) the monitoring of the planning impacts of development; and
- (e) the conservation or enhancement of the natural environment.

**(h) How the Draft Planning Agreement Promotes the Objects of the Environmental Planning and Assessment Act 1979 (NSW)**

The draft Planning Agreement promotes the following objects of the *Environmental Planning and Assessment Act 1979* (NSW):

- (a) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment;
- (b) the promotion and coordination of the orderly and economic use and development of land;
- (c) the protection of land for public purposes; and
- (d) the provision and coordination of community services and facilities.

The draft Planning Agreement provides for a reasonable means of achieving those purposes.

**(i) How the Draft Planning Agreement Promotes the Public Interest**

The Planning Agreement will promote the public interest by achieving its planning purposes to the benefit of the public in a manner acceptable to the parties.

**(j) How the Draft Planning Agreement Promotes the Elements of the Council's Charter**

The draft Planning Agreement promotes Council's Charter under section 8 of the *Local Government Act 1993* (NSW) by:

- (a) the provision of adequate, equitable and appropriate services and facilities for the community in the form of providing land, road works, infrastructure works, corner park embellishment works and monetary contributions;
- (b) ensuring that the services and facilities are managed efficiently and effectively; and
- (c) properly managing, developing, protecting, restoring, enhancing and conserving 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.

**(k) Whether the Draft Planning Agreement conforms with the Council's Capital Works Program**

The draft Planning Agreement conforms with Council's Capital Works Program to the extent that it will supplement the Program by providing works and infrastructure and

additional public facilities that will provide a public benefit. Also, it will provide contributions that Council would not normally be able to provide.

**(l) Whether the Draft Planning Agreement specifies that certain requirements must be complied with before an occupation certificate is issued**

The draft Planning Agreement provides that all development contributions including dedication of land, works, provision of infrastructure, and monetary contributions, must be delivered prior to release of the subdivision certificate (rather than the issue of any occupation certificate) for the part of the proposed development to which the contribution relates in accordance with the *Environmental Planning and Assessment Act 1979* (NSW).

**(m) The Impact of the Draft Planning Agreement on the Public or Any Section of the Public**

The draft Planning Agreement impacts on the Public by promoting the Public's interest as outlined above.

**(n) Other Matters**

None