



Explanatory Note

To

Draft Voluntary Planning Agreement

Between

**Shoalhaven City Council and V.L. Stuart, Town
and Country Developments**

October 2011

File No. DS11/1357

EXPLANATORY NOTE

Draft Voluntary Planning Agreement

Section 93F of the Environmental Planning & Assessment Act 1979
Clause 25E of Environmental Planning & Assessment Regulations 2000

1. Parties

- 1.1 **The Council of the City Shoalhaven** of Council Administrative Centre, Bridge Road, Nowra NSW 2541 (**Council**);
- 1.2 **Town and Country Developments Pty Limited** (ACN 002 691 929) – 90 Mullers Lane, Berry, NSW 2535 (**Town & Country Developments**); and
- 1.3 **Vicki Lynn Stuart** - 90 Mullers Lane, Berry, NSW 2535 (**V L Stuart**).

2. Description of Land to which the proposed Voluntary Planning Agreement applies

- 2.1 The area to be transferred to Council being part of Lot 1 DP 120417 (**Land**), is identified in Schedules 1 & 4 to the Agreement, and is described as Footpath Land 1 and Footpath Land 2.
- 2.2 A right of footway will also be granted to Council over the area described as the Walkway Land, as identified in Schedules 1 & 4.
- 2.3 The land is owned by Town & Country Developments & V.L Stuart (**the developer**).

3. Description of Proposal

History

- 3.1 Council received a Development Application on the 23 November 2010 to develop three (3) retail shops and associated works on the land DA10/2514.
- 3.2 The plan was prepared on the basis that the developer had agreed to transfer Footpath Land 1 and Footpath Land 2 to Council in lieu of additional car spaces (3.2 car spaces) required for the proposed Development.
- 3.3 The developer has also agreed to Grant Right of Footway over the Walkway Land to Council to provide unrestricted access from Prince Edward Avenue to Redbank Lane.

- 3.3 On 19 April 2011 Council resolved to prepare a voluntary planning agreement in relation to DA10/2514 for commercial development containing three (3) retail shops and associated works, and the DA consent was issued on 20 April 2011.
- 3.4 Subsequently a Section 96 amendment was lodged and this explanatory statement is now being exhibited alongside the voluntary planning agreement and DS11/1357.

Current Proposal

- 3.5 The developer to transfer to Council at no cost to Council, a portion of the land fronting Prince Edward Avenue and a portion of land fronting Redbank Lane (being Footpath Land 1 & Footpath Land 2) .
- 3.6 The developer to provide to Council a Right of Footway over Walkway Land at no cost to Council.
- 3.7 The developer to undertake streetscape works within the land transferred to Council, at no cost to Council, including footpath paving and planting.

4. Summary of Objectives, Nature & Effect of Draft Planning Agreement

4.1 Objectives of proposed Planning Agreement

4.1.1 The objectives of the Planning Agreement are to:

- (a) transfer land fronting Prince Edward Avenue and Redbank Lane to Council to retain Footpath Lands in public ownership ;
- (b) provide a Right of Footway over the Walkway Land to ensure unrestricted right of pedestrian access from Prince Edward Avenue to Redbank Lane.
- (c) provide streetscape works on the land to be transferred to Council and Walkway Land over which a Right of Footway will be granted.

4.2 Nature and effect of proposed Planning Agreement

- 4.2.1 The proposed Voluntary Planning Agreement requires the developer to transfer land currently in their ownership to Council, for footpath purposes.

- 4.2.2 the proposed Planning Agreement requires the developer to provide to Council a Right of Footway over Walkway Land at no cost to Council. to provide unrestricted pedestrian access from Prince Edward Avenue to Redbank Lane.
- 4.2.3 The proposed Planning Agreement requires the developer to survey the land to be transferred, and transfer to Councils ownership at no cost to Council.
- 4.2.4 The proposed Planning Agreement requires the developer to provide streetscape works (including footpath paving and planting) at no cost to Council.
- 4.2.5 Immediately upon entering into the proposed Planning Agreement the developer will be required to hold the land on trust for Council subject to the Agreement.

5. Assessment of the Merits of the Draft Planning Agreement

5.1 The Planning Purposes

The proposed Planning Agreement ensures public access to footpaths, and the proposed Planning Agreement ensures unrestricted public access from Prince Edward Avenue to Redbank Lane with the granting of right of Footway over the Walkway Land

5.2 Promotion of Objects of the Act

The proposed Planning Agreement promotes the following objectives of the Act by:

- (a) encouraging the provision of land for public purposes;
- (b) providing for the increased opportunity for public involvement and participation in environmental planning and assessment.

5.3 Promotion of the Public Interest

The proposed Planning Agreement promotes the public interest by providing for the transfer of land to Council of Footpath Land 1 and Footpath Land 2, and the granting of right of footway over the Walkway Land. The transfer of lands and creation of the right of footway, will ensure unrestricted public access to, through and around the subject land and proposed development.

5.4 Promotion of the Council's Charter

The proposed Planning Agreement promotes the elements of the Council's Charter by allowing Council to:

- 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 by ensuring car parking and footpaths provides for unrestricted public access.
- engage in long-term strategic planning on behalf of the local community by providing for the transfer of land to Council to ensure it is properly managed, developed, protected, restored, enhanced and conserved for the local community; and
- keep the local community and the State government (and through it, the wider community) informed about its activities. This Explanatory Note has been prepared to assist the community and State government in understanding the proposed Planning Agreement.

5.5 Conformance with Capital Works Program

The proposed Planning Agreement does not involve any capital works and therefore conformance with the Capital Works Program is not necessary.

5.6 Impact on the Public

The proposed Planning Agreement allows for the retention of land in public ownership for pedestrian access.

Signed on behalf of the Developer: _____

Signed on behalf of the Council: _____

Dated: _____