

**Environmental Planning and Assessment Regulation 2000**  
**(Clause 25E)**

## **Explanatory Note**

### **Draft Planning Agreement**

**Under s93F of the Environmental Planning and Assessment Act 1979 ('EPA Act')**

#### **1. Parties**

The parties to the proposed Planning Agreement are:

- (a) Shoalhaven City Council (**the Council**)
- (b) The Minister for Planning and Infrastructure (**the Minister**)  
(both 'planning authorities' for the purposes of s93F of the EPA Act)
- (c) Greslon Pty Ltd (**Greslon**)
- (d) Hazcorp Pty Ltd (**Hazcorp**)
- (e) Revesby-Padstow Modern Homes Pty Ltd (**Revesby**)  
(all 'developers' for the purposes of s93F of the EPA Act)

#### **2. Description of the Subject Land**

The land the subject of the proposed Planning Agreement is:

- (a) Lot 5 DP 220678 (**Lot 5**, owned by Greslon)
- (b) Lot 1 DP 1087105 (**Lot 1**), Lot 4 DP 1087106 (**Lot 4H**) and Lot 38 DP 829129 (**Lot 38**) (owned by Hazcorp)
- (c) Lot 4 DP 220678 (**Lot 4R**, owned by Revesby)

Lot 5 and part Lot 38 are the subject of a development consent for subdivision granted by the Council, SF9665.

Lot 4R is the subject of a development consent for subdivision granted by the Council, SF9225.

Lot 1 and 4H are the subject of a project approval granted under the former Part 3A of the EPA Act by the Minister, MP06/0276.

#### **3. Description of Proposed Development Application**

The developers are proposing to apply for modification of the existing development consents and project approval that will:

- (a) remove requirements under SF9225 and SF9665 to carry out certain road works;

- (b) remove requirements to pay s94 contributions towards road works on Bishop Drive, Matron Porter Drive and Southern Link Road under SF9225 and SF9665; and
- (c) remove requirements to pay s94 contributions towards road works on Bishop Drive, Matron Porter Drive and Southern Link Road under MP06/0276 once the road works under the Planning Agreement have been completed.

#### **4. Summary of Objectives, Nature and Effect of the Draft Planning Agreement**

The draft Planning Agreement requires the developers to dedicate land and to carry out road works to construct Bishop Drive. These road works are included in the Council's Section 94 Contributions Plan as proposed infrastructure for which contributions will be sought (the Bishop Drive 05ROAD 2001).

Detailed plans of the required road works are included as an Annexure to the draft Planning Agreement. The road works to construct Bishop Drive are separated into three stages, with the last stage to be completed before the end of 2030.

Each stage of the road works must be completed prior to the issue of subdivision certificates for various stages of the proposed development. This means that the development will not be able to be progressed, unless the road works are complete. Accordingly, the road works will be carried out as the residential subdivisions progress and the demand for the infrastructure is created.

Once each stage of the road works is complete, the works will be handed over to the Council and the developers will be responsible for maintaining the works for a period of time.

The estimated cost of constructing Bishop Drive will exceed the contributions normally required to be paid by each of the developers towards those road works under the Council's Section 94 Contributions Plan. The Council therefore proposes to agree to the following:

- (a) Section 94 of the EPA Act will not apply to SF9225 and SF9665 so that contributions for Bishop Drive, Matron Porter Drive and Southern Link Road will not be required to be paid;
- (b) Section 94 of the EPA Act will not apply to MP06/0276 so that contributions for Bishop Drive, Matron Porter Drive and Southern Link Road will not be required to be paid once the Bishop Drive road works have been completed; and
- (c) The Council will contribute to the cost of constructing the Bishop Drive road works by paying to the developers:
  - (i) s94 contributions received from any other development towards the road works on Bishop Drive; and
  - (ii) s94 contributions received from Stages 1 to 6 of development approved under MP06/0267 towards road works on the Southern Link Road and Matron Porter Drive.

## **5. Assessment of the Merits of the Draft Planning Agreement**

### **The Planning Purposes Served by the Draft Planning Agreement**

The Planning Agreement will provide public road infrastructure. This infrastructure is required to adequately serve the subject development and the future residential development in the area.

### **How the Draft Planning Agreement Promotes the Objects of the Environmental Planning and Assessment Act 1979**

By providing public road infrastructure that will serve the future needs of residents in the local area, the Planning Agreement promotes the following objects under s5 of the EPA Act:

- (a) To encourage 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) To encourage the promotion and co-ordination of the orderly and economic use and development of land.
- (b) To encourage the provision of land for public purposes.

### **How the Draft Planning Agreement Promotes the Public Interest**

The draft Planning Agreement promotes the public interest by requiring the construction of public roads necessary for future development of the land.

### **How the Draft Planning Agreement Promotes the Objects of the Local Government Act 1993**

By requiring the provision of public road infrastructure that will serve the needs of future residents, the draft Planning Agreement would give the Council the ability to provide facilities appropriate to the current and future needs of the local community and the wider public. In this way, the draft Planning Agreement promotes the objects set out in s7 of the Local Government Act 1993.

### **How the Draft Planning Agreement Promotes the Elements of the Council's Charter**

By requiring the provision of public road infrastructure that will serve the needs of future residents, the Planning Agreement promotes the following element of the Council's charter (under s8 of the Local Government Act 1993):

- To provide directly or on behalf of other levels of government, after due consultation, adequate, equitable and appropriate services and facilities for the community and to ensure that those services and facilities are managed efficiently and effectively.

### **Whether the Draft Planning Agreement Conforms with the Authority's Capital Works Program**

The acquisition of land and road works to construct Bishop Drive were anticipated under the Council's s94 Contributions Plan. The Council considers that the arrangement under the draft Planning Agreement represents a significant reduction in Council's capital works liability for Bishop Drive and will have a positive effect on Council's capital works forward planning.

Under the Council's s94 Contributions Plan, Bishop Drive was to be completed by 2018. Under the draft Planning Agreement the works are to be completed in accordance with stages of the proposed development and at least by 2030. This extension of time has been given in light of the current market for residential development and will mean that the road is constructed as development progresses and demand for the infrastructure is created.

### **The Impact of the Draft Planning Agreement on the Public or Any Section of the Public**

The draft Planning Agreement will have a positive impact on the wider public because:

- (a) necessary public road infrastructure will be provided; and
- (b) Council's capital works liability for Bishop Drive will be reduced, allowing funds to be allocated to other public facilities and services.