

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

Explanatory Note

Planning Agreement

Under s93F of the Environmental Planning and Assessment Act 1979 ('EP&A Act')

1. Introduction

This Explanatory Note has been prepared in accordance with clause 25E of the *Environmental Planning & Assessment Regulation 2000* (NSW).

The purpose of this Explanatory Note is to provide a plain English summary to support the notification of a draft planning agreement (**Planning Agreement**) between the parties under s93F of the *Environmental Planning & Assessment Act 1979* (NSW) (**EPA Act**).

2. Parties

The parties to the proposed Planning Agreement are:

- (a) Shoalhaven City Council (**Council**); and
 - (b) CVC Mezzanine Finance Pty Ltd (**Developer**),
- for the purposes of s93F of the EPA Act.

3. Description of the Subject Land

The land the subject of the proposed Planning Agreement is:

- (a) Lot 14 DP 625320, Lot 15 & 16 DP 598678 being 190-198 Princes Highway, South Nowra (the **CVC Land**)
- (b) Part Lot 102 DP 603500 being 188 Princes Highway, South Nowra (**Lot 102**),

4. Description of Proposed Development Application

The CVC Land and part Lot 102 are the subject of an Application for development consent for an approval to construct a Masters Home Improvement Centre, Service Station, Fast Food Restaurant and two bulky goods retailing tenancies with associated access and parking, the details of which are more fully set out in the Development Application DA 13/2064 (**Development**).

The Developer is proposing a Planning Agreement that will waive the requirement to pay monetary contributions that would otherwise be levied under the provisions of s94 of the EPA Act having regard to the value of the contributions proposed in the Planning Agreement to be made by the Developer.

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

The Objective of the Planning Agreement is to enable the provision of the proposed Quinns Land/Old Southern Road Link (Internal Service Road) as proposed by Shoalhaven City Council. The provision of this road would not otherwise be the case upon the strict application of the relevant Contributions Plan.

The Planning Agreement requires the developer to:

- Acquire Land being part of Lot 102 (**Acquired Land**)
- Dedicate Land to Council being part of the CVC Land as well as the Acquired Land (**Land Dedication**).
- Construct the following Road Works :
 - Intersection at the round about at Princes Highway and Central Ave (**Round About**).
 - Internal Service Road from the Round About to enable vehicle access to the Development in accordance with the submitted DA plans.
 - Closure of northern service road, creation of cul-de-sac and new entrance to Lot 102.
 (collectively the **Road Works**).

The Road Works are not presently included in the Council's Section 94 Contributions Plan as proposed infrastructure for which contributions could be sought. .

Concept plans of the Road Works and Land Dedication are included as an Annexure to the Planning Agreement.

The estimated value of the Acquired Land, Dedicated Land and the cost of the Road Works exceeds the total contributions that would otherwise be required to be paid by the Developer under Council's applicable Section 94 Contributions Plan.

Assessment of the Merits of the Planning Agreement

6. The Planning Purposes Served by the Planning Agreement

The Planning Agreement will provide for dedication of land and construction of public road infrastructure. The dedicated land will become part of future public road infrastructure in this area. This infrastructure is required to adequately serve the subject development and the future development of the area.

Further, In accordance with section 93F(2) of the EPA Act, the Planning Agreement promotes the following public purpose:

- (a) the provision of public amenities and public services; and
- (b) the monitoring of the planning impacts of development of the Land.

7. How the Draft Planning Agreement Promotes the Objects of the Environmental Planning and Assessment Act 1979

By dedicating land and 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.

To encourage the provision of land for public purposes.

8. How the Planning Agreement Promotes the Public Interest

In accordance with the objects of the EPA Act, the Planning Agreement promotes the public interest in the following manner:

- (a) by requiring the dedication of land and the construction of public roads necessary for future development of land in the locality.
- (b) the proper management, development and conservation of land; and
- (c) the Planning Agreement will not preclude the public being provided with the opportunity for involvement and participation in development assessment. The public have been provided the opportunity to be involved with the development assessment and are invited to make comment on the Planning Agreement, particularly with regard to the public interest.

9. How the Draft Planning Agreement Promotes the Objects of the Local Government Act 1993

By requiring the dedication of land and 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.

10. How the Planning Agreement Promotes the Elements of the Council's Charter

The Planning Agreement promotes a number of elements of Council's Charter under section 8 of the *Local Government Act 1993* (NSW), as follows:

- (1) The exhibition of the Planning Agreement facilitates the involvement of members of the public, while council staff were involved in the development of the Planning Agreement.
- (2) This explanatory note is prepared for the purposes of keeping the local community and the State government (and through it, the wider community) informed about its activities.
- (3) The Planning Agreement makes it clear that Council has a statutory role as consent authority for development and that the Planning Agreement is not

intended to unlawfully influence the exercise of its regulatory functions, ensuring that Council will act consistently and without bias, particularly where an activity of the Council is affected.

- (4) Ensuring that appropriate services for the community are managed efficiently and effectively by the carrying out of the Development to adequately serve future development of the area.
- (5) To have regard to the long term and cumulative effects of its planning decisions by ensuring the Development is carried out to a high standard.

11. Whether the Planning Agreement Conforms with the Authority's Capital Works Program

The Land Dedication and construction of the Road Works were not anticipated under the Council's s94 Contributions Plan. The Council considers that the arrangement under the Planning Agreement represents a significant planning benefit that would otherwise not have been achieved by the strict application of the Contribution Plan. As the Planning Agreement has surplus value to contributions that would be charged under Council's Contributions Plan, entry into the Planning Agreement will have a positive effect on Council's capital works forward planning.

12. The Impact of the Planning Agreement on the Public or Any Section of the Public

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

- (a) necessary land and public road infrastructure will be provided; and
- (b) Council's capital works liability for the provision of public facilities in the future will be reduced, allowing funds to be allocated to other public facilities and services.