
Planning Agreement Explanatory Note

1 Introduction

The purpose of this explanatory note is to provide a plain English summary to support the notification of the draft planning agreement (**the Planning Agreement**) prepared under Subdivision 2 of Division 7.1 of Part 7 of the *Environmental Planning and Assessment Act 1979* (**the Act**).

This explanatory note has been prepared jointly by the parties as required by clause 25E of the *Environmental Planning and Assessment Regulation 2000*.

2 Parties to the Planning Agreement

- (i) Shellharbour City Council as the planning authority (**Council**)
- (ii) Dahua Group Sydney Project 6 Pty Ltd as the developer (**the Developer**)

3 Description of the subject land

The Planning Agreement applies to Lot 17 Deposited Plan 1168920 (**the Land**)

4 Description of the proposed change to the Shellharbour Local Environmental Plan 2013

The Developer is seeking an amendment to the planning controls for the Land in accordance with planning proposal no. PP0004/2018 (Department Ref: PP_2020_SHELL_002) (**the Planning Proposal**) and has made an offer to enter into the Planning Agreement in connection with the amendment to the *Shellharbour Local Environmental Plan 2013* as a result of the Planning Proposal.

The amendments to the planning controls outlined in the Planning Proposal are to facilitate development on the Land for residential, environmental management and electricity infrastructure purposes (**Proposed Development**).

5 Objectives, nature and effect of the Planning Agreement

The Planning Agreement is a voluntary agreement under s7.4 of the Act. The objectives of the Planning Agreement is to require the provision of development contributions by the Developer to the Council for public purposes in connection with the amendments to the *Shellharbour Local Environmental Plan 2013* as a result of the Planning Proposal and the Proposed Development.

The contributions required by the Developer under the Planning Agreement will be provided in the form of a monetary contribution paid to Council, in the amount of \$73,500 (**Monetary Contribution**).

The Monetary Contribution will be indexed from the date of the Planning Agreement to the date of payment in the same way monetary contributions under the Council's Local Infrastructure Contributions Plan 2019 are indexed.

Council must apply:

- (i) \$70,000 (as indexed) towards meeting the cost of Council's proposed upgrade works Yellow Rock Road from the intersection of Illawarra Highway to Wongawilli Street Tullimbar (**Road Upgrade Works**); and
- (ii) \$3,500 (as indexed) towards meeting the Council's administration costs reasonably incurred in connection with the Planning Agreement.

The Monetary Contribution required by the Planning Agreement will be provided before the first Subdivision Certificate is issued for the Proposed Development.

The Planning Agreement:

- does not exclude the application of s7.11, s7.12 or s7.24 of the Act to the Proposed Development,
- is required to be registered on the title to the Land,
- imposes restrictions on the Developer assigning an interest under the agreement or transferring any part on the Land, and
- provides a dispute resolution method for a dispute under the Agreement, being mediation.

6 Assessment of the merits of the Planning Agreement

In accordance with section 7.4(2) of the Act, the Planning Agreement requires monetary contributions for the public purpose of recoupment of the cost of Council providing road infrastructure comprising the Road Upgrade Works, and administration costs.

The Planning Agreement promotes the public interest by ensuring adequate provisioning is made for Council to finance, and carry out, the required Road Upgrade Works, improving road infrastructure in the locality.

The Planning Agreement promotes the objects of the Act by:

- promoting the social and economic welfare of the community by requiring monetary contributions to be paid to the Council to be used towards public road infrastructure (section 1.3(a))
- promoting the orderly and economic use and development of land and good design and amenity of the built environment by ensuring improved traffic conditions (section 1.3(c))
- promoting increased opportunity for community participation in environmental planning assessment through public notification of this agreement and opportunity for the public to make submissions in response to it (section 1.3(j)).

The Planning Agreement provides for a reasonable means of achieving the above planning purposes by requiring the provision of monetary contributions to the Council which is to be applied towards those purposes.

The Planning Agreement promotes the principles for local government in s8 of the *Local Government Act 1993* by:

- ensuring that lands and other assets are managed so that current and future local community needs can be met in an affordable way,
- providing a means by which Council can work with others to secure appropriate services for local community needs,
- ensuring that Council actively engages with the local community through the public notification of this Planning Agreement and allowing the wider community to make submissions to the Council in relation to the Agreement.

The Planning Agreement conforms with Council's 2020/21 and 2021/22 Capital Works Program which provides for the detailed design phase of the Road Upgrade Works to which the agreement relates.