

MEMORANDUM

TO: *The Sydney Western City Planning Panel*
FROM: *Hawkesbury City Council*
SUBJECT: *11/12/2023 Final Briefing*
DATE: *12 December 2023*

This memorandum is provided to the Panel in response to J.D requesting further information regarding the interaction between the Planning agreements and the Concept Development Application. To this effect, Council raises the following points:

- The Planning Agreement was signed and executed on the 6th of September 2016 and was resultant of the Planning proposal in which the Hawkesbury Local Environmental Plan 2012 (Amendment No. 29) which was published on 30 September 2021.
- The application before the panel seeks the determination of a concept master plan pursuant to section 4.22 of the Environmental Planning & Assessment Act 1979 (the Act). Per clause (5) *"The consent authority, when considering under section 4.15 the likely impact of the development the subject of a concept development application, need only consider the likely impact of the concept proposals (and any first stage of development included in the application) and does not need to consider the likely impact of the carrying out of development that may be the subject of subsequent development applications."*
- Further, pursuant to section 7.7 (2), *"a consent authority cannot refuse to grant development consent on the ground that a planning agreement has not been entered into in relation to the proposed development..."*.
- It remains Council's position that a condition of consent requiring compliance with VPA matters derivative of a Planning Proposal remain outside of the scope of considerations for the Concept Masterplan approval. Further as no subdivision of allotments has been sought within works associated with stage 1 of the consent, Section 4.22 of the Act denotes that consent authorities do not need to consider the likely impacts of development that may be the subject of subsequent development applications.
- In this respect, Council after consultation with its strategic departments, can recommend the imposition of an advisory note to the following effect should the panel deem it necessary. *"All subsequent Development applications are subject to the terms of the Planning Agreement executed for the 'Jacaranda' precinct."*

Happy to discuss as needed,

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