

Draft Planning Agreement for the Rezoning at Louisiana Road Hamlyn Terrace

Explanatory Note

Introduction

The purpose of this Explanatory Note is to provide a plain English summary to support the notification of the proposed planning agreement (the "**Planning Agreement**") prepared under section 93F of the *Environmental Planning and Assessment Act 1979* (the "**Act**").

Parties to the Planning Agreement

The parties to the Planning Agreement are AV Jennings Properties Limited (the "**Developer**"), the Minister for Planning (the "**Minister**"), Orlit Proprietary Limited ("**Orlit**") (being a subsidiary of AV Jennings Properties Limited) and the Minister for Disability Services.

The Developer has made an offer to the Minister to enter into the Planning Agreement in connection with the Minister making *Wyang Local Environmental Plan 1991 (Amendment No. 163)* ("**LEP 163**").

Description of the Subject Land

The Planning Agreement applies to the following land (the "**Land**");

- Lots 43 and 47 in Deposited Plan 7091
- Lot 4 in Deposited Plan 208596
- Lot A in Deposited Plan 381268
- Lots 1 and 2 in Deposited Plan 514442
- Lot 2 in Deposited Plan 208596
- Lot 1 in Deposited Plan 432827
- Lots A and B in Deposited Plan 31271.

Description of the Proposed Change to the Environmental Planning Instrument and of the Development

The Developer is seeking changes to *Wyang Local Environmental Plan 1991* (the "**Wyang LEP**"). This change will be effected by the Minister making LEP 163.

The effect of the changes to the Wyong LEP will be to rezone the Land to:

- permit residential subdivision (and eventual residential development) of parts of the Land; and
- recognise land with constraints that should not be intensively developed.

A draft of LEP 163 was publicly exhibited for 71 days from Wednesday, 23 December 2006 to Wednesday, 21 February 2007 in accordance with section 66 of the Act.

The Minister for Disability Services has purchased part of the Land from the Developer, namely Lot 1 in Deposited Plan 432827 and Lots A & B in Deposited Plan 31271 (the "**DADHC Land**").

Once the Minister makes LEP 163, the Minister for Disability Services intends to make development applications under this Act to develop the DADHC Land.

Once the Minister makes LEP 163, the Developer and Orlit intend to make development applications under the Act to develop the Land other than the DADHC Land (the "**Development**").

Summary of Objectives, Nature and Effect of the Planning Agreement

The Planning Agreement provides that the Developer will provide a contribution towards regional infrastructure of \$1,870,000 on the terms of the Planning Agreement given the costs arising as a consequence of the Development. It is intended that these funds will contribute towards regional road upgrades.

The objective of the Planning Agreement is to facilitate the payment of the Developer's contribution to the Minister. The Planning Agreement contains a schedule for delivery of the contribution. Under the schedule, the Developer's contribution must be made in two instalments – the first on or prior to the creation of the first residential lots from the land and the second on or prior to the creation of the 200th lot. The contribution will also be secured by a Bank Guarantee and by registration of the Planning Agreement on the titles to the Land. Once registered on title, regardless of who purchases the Land, it cannot be subdivided unless contributions have been delivered in accordance with the Planning Agreement.

The contribution payable under the Planning Agreement is subject to indexation.

Because the Minister for Disability Services has purchased the DADHC Land from the Developer, the Planning Agreement allows, for the relevant amount of contributions to be paid by the Minister for Disability Services, with the amount payable by the Developer to be reduced accordingly.

The Planning Agreement and LEP 163 contain mechanisms so that once the contributions have been delivered, the Land can be subdivided and the subdivided lots sold will be free of the requirement to pay further contributions.

Assessment of the Merits of the Planning Agreement

The Planning Agreement promotes the public interest by making provision for the Developer and the Minister for Disability Services to make contributions towards regional infrastructure.

By requiring the Developer and the Minister for Disability Services, who will both benefit from the Minister rezoning the Land, to make contributions towards regional infrastructure, the orderly and economic use and development of land is promoted by the Planning Agreement.

The Planning Agreement serves the planning purpose of timely provision of infrastructure by recouping some of the costs of upgraded regional infrastructure.

Interpretation of Planning Agreement

This Explanatory Note is not to be used to assist in construing the Planning Agreement.