

Environmental Planning and Assessment Regulation 2000

(Clause 25E)

EXPLANATORY NOTE

DRAFT PLANNING AGREEMENT – NORDS WHARF

1. Introduction

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

The Planning Agreement was previously the subject of public notification under section 93G of the Act. The Planning Agreement has been amended to include provisions for further security in the form of bank guarantees. There are no changes from the previously notified Planning Agreement to the level or nature of the contributions sought to be provided.

2. Parties

The parties to the Planning Agreement are the Minister for Planning and Infrastructure, the Minister administering the *National Parks and Wildlife Act 1974* (the **Ministers**) and Coal & Allied Operations Pty Ltd (the **Developer**). This explanatory note has been prepared jointly by the parties.

3. Description of Subject Land

The Planning Agreement applies to land at Nords Wharf owned by the Developer and held under the following titles:

- (a) Part of Folio Identifier 5/736170,
- (b) Part of Folio Identifier 6/746077, and
- (c) Part of Folio Identifier 12/854197,

(the **Land**)

The Land is shown on the plans attached as Annexure A to the Planning Agreement.

4. Description of the Development

The Developer proposes to develop part of the Land for urban purposes, and transfer part of the Land to the Minister administering the *National Parks and Wildlife Act 1974* as "Environmental Offset Land" (the **Development**).

In order to facilitate the Development, the Developer has sought an amendment to the environmental planning instruments applying to the Land and has applied for a Concept Plan Approval.

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

The Developer has offered to enter into the Planning Agreement with the Ministers.

The objectives of the Planning Agreement are to ensure that the Development occurs in a way that is consistent with the Lower Hunter Regional Conservation Plan (released by the Department of Environment and Climate Change on 11 March 2009) and the Lower Hunter Regional Strategy (released by the Department of Planning on 17 October 2006) and to provide infrastructure contributions in relation to the proposed development. The Strategies aim to:

- (a) increase public ownership of certain land in the Lower Hunter region for dedication as a conservation reserve; and
- (b) enhance the development potential of certain other land in the Lower Hunter region.

To achieve these objectives, the Planning Agreement requires the Developer to undertake certain activities and provide funds for certain purposes during the course of the Development (the **Contributions**). The Contributions required are:

- (a) the transfer of approximately 117 ha of Environmental Offset Land to the Crown for conservation purposes;
- (b) the provision of a 3000m² Emergency Services Site (either by dedicating land already held by the Developer in Catherine Hill Bay, or by funding the acquisition of appropriate land);
- (c) upgrade of the intersection at Awabakal Drive and the Pacific Highway to the RTA's satisfaction (or a financial contribution towards these works of equivalent value); and
- (d) various specified land remediation and reserve establishment works (as identified in the "Environmental Audit Report for Southern Conservation Estates" prepared by RPS Harper Somers O'Sullivan, dated January 2009).

By requiring these Contributions, the Planning Agreement will help ensure that the Development occurs in an appropriate way, enhancing the social and economic welfare of the community and protecting the natural environment.

The Planning Agreement, and the requirements in it for the Developer to provide these Contributions, do not exclude the application of sections 94, 94A and 94EF of the Act.

The Planning Agreement does specify that certain requirements of the agreement must be complied with before a construction, occupation or subdivision certificate is issued.

The obligations of the Developer are secured by registration of the Planning Agreement as well as by the provision of Bank Guarantees.

6. Assessment of the Merits of the Planning Agreement

6.1 How the Planning Agreement promotes the objects of the Act

The Contributions required by the Planning Agreement are consistent with and promote the objects in section 5 of the Act. In particular:

- (a) the requirements to transfer Environmental Offset Land and to undertake various specified land remediation and reserve establishment works promote:
 - (i) Section 5(a)(i) - "proper management, development and conservation of natural and artificial resources, including...cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment";
 - (ii) Section 5(a)(iv) - "the provision of land for public purposes";
 - (iii) Section 5(a)(vi) - "the protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities, and their habitats"; and
 - (iv) Section 5(a)(vii) - "ecologically sustainable development"

- (b) the requirements to provide an Emergency Services Site, upgrade the intersection at Awabakal Drive and the Pacific Highway and provide funding for the proposed acquisition of land adjacent to Gwandalan Public School promote:
 - (i) Section 5(a)(i) - "proper management, development and conservation of natural and artificial resources, including...cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment";
 - (ii) Section 5(a)(ii) - "the promotion and co-ordination of the orderly and economic use and development of land"; and
 - (iii) Section 5(a)(v) - "the provision and co-ordination of community services and facilities".

6.2 The planning purposes served by the Planning Agreement

The planning purposes that are served by the Planning Agreement are, amongst other things, the:

- (a) provision of infrastructure; and
- (b) enhancement of the natural environment.

The Parties consider that the Planning Agreement provides an effective means of achieving these planning purposes in relation to the Land.

6.3 How the Planning Agreement promotes the public interest

The Planning Agreement promotes the public interest by requiring the Developer to make Contributions that are intended to positively affect the economic and social wellbeing of the community, and the ecological wellbeing of the natural environment. The Contributions have been targeted so that both residents of and visitors to the Lower Hunter area will benefit from the Planning Agreement.

7. Further information

Copies of the Concept Plan Approval application and the Planning Agreement are available on the Department of Planning website.