

Draft Planning Agreement

Minister for Planning and Delfin Lend Lease Limited

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 Subdivision 2 of Division 6 of Part 4 of the *Environmental Planning and Assessment Act 1979* (the "**Act**") which applies to the Development by the operation of s75R(4) of 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* (the "**Regulation**").

Parties to the Planning Agreement

The parties to the Planning Agreement are Delfin Lend Lease Limited (ABN 88 000 966 085) (the "**Developer**") and the Minister for Planning.

The Developer has made an offer to enter into the Planning Agreement in connection with:

- o a request to change the *State Environmental Planning Policy (Major Development) 2005* (the "**Major Development SEPP**") to list the Calderwood site as a State Significant Site in Schedule 3 of the Major Development SEPP and to rezone that land.
- o an application for Concept Plan approval under Part 3A of the Act for the development of the site.

Description of the Subject Land

The Planning Agreement applies to those parts of the land the details for which are set out in Part 1 of Schedule 3 of the Planning Agreement (the "**Land**").

The Calderwood site is located approximately 20km south-west of Wollongong and 10km west of Shellharbour Centre. The Land is approximately 700 hectares in area and is bounded by Illawarra Highway to the south and Marshall Mount Road to the north.

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

The Developer is seeking the re-zoning of the Land under the Major Development SEPP and a Part 3A Concept Plan approval to facilitate development of approximately 4,800 dwellings, 3 School Sites, 50 hectares of land for a mix of uses including employment, retail and commercial uses, provision of open space, internal roads, associated infrastructure and community facilities and land for riparian corridors and conservation.

The development proposal is set out in the application for Concept Plan approval, which was exhibited from April to June 2010. A copy can be found at <http://majorprojects.planning.nsw.gov.au/>

Summary of Objectives, Nature and Effect of the Planning Agreement

The Planning Agreement provides that the Developer will make various Development Contributions towards State infrastructure, comprising the following:

- a contribution of \$5,647 per Dwelling for State transport infrastructure; and
- the dedication of a total of 13 hectares of land for education purposes comprising:
 - 1 public primary school site at 3 hectares;
 - 1 public primary school site at 4 hectares, incorporating a special needs unit of 1 hectare; and
 - 1 public high school site at 6 hectares.

The contributions for education purposes exceed the requirements for this development by 3.31 hectares and will service a wider area. The Planning Agreement therefore enables the Developer to receive a credit for the additional 3.31 hectares of land following a valuation process for the first public primary school site. This credit can be used to offset some of the transport contributions under the Planning Agreement.

The Planning Agreement contains a schedule (being Schedule 4) setting out the timing for delivery of the Developer's Development Contributions.

The objective of the Planning Agreement is to facilitate the delivery of the Developer's Development Contributions and to make provision for infrastructure to meet certain demands created by the Development. The nature of the Planning Agreement is a contractual relationship between the Minister for Planning and the Developer for the provision of Development Contributions to support the Development and how they will be provided.

The effect of the Planning Agreement is that the Developer will contribute the Development Contributions in the manner provided for by the document.

Assessment of Merits and Impact of Planning Agreement

The Planning Agreement satisfies the objective of making provision for infrastructure to meet certain demands created by the Development. Arising from the Planning Agreement, the public will gain the benefit of the Development Contributions and the Minister for Planning (or the Minister for Education and Training if nominated by the Minister for Planning) will become the beneficiary of the dedication of the School Sites to be used for two public primary schools (one incorporating a special needs unit of 1 hectare) and one high public high school.

The Planning Purpose of the Planning Agreement

In accordance with section 93F(2) of the Act, the Planning Agreement has the following public purposes:

- the provision of transport or other infrastructure relating to land; and
- the provision of public amenities or public services.

The Minister for Planning and the Developer have assessed the Planning Agreement and hold the view that the provisions of the Planning Agreement provide a reasonable means of achieving the public purposes set out above. This is because the Development Contributions will assist the Government in providing infrastructure needed to accommodate future housing and growth in the region as anticipated in the Illawarra Regional Strategy.

How the Planning Agreement Promotes the Public Interest

The Planning Agreement promotes the public interest by committing the Developer to make contributions towards State infrastructure.

How the Planning Agreement Promotes the Objects of the Act

The Planning Agreement promotes the following objects of the Act:

- 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;
- the promotion and co-ordination of the orderly and economic use and development of land;
- the provision of land for public purposes; and
- ecologically sustainable development.

The Planning Agreement promotes the objects of the Act set out above by requiring the Developer to provide the items set out in this Explanatory Note under the heading "*Summary of Objectives, Nature and Effect of the Planning Agreement*" for the purposes of providing State transport infrastructure and education facilities.

This purpose represents an important public benefit, and the Developer's offer to contribute towards this purpose will provide an important positive impact on the public who use the infrastructure and services to which these purposes relate.

Interpretation of Planning Agreement

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