

Draft Planning Agreement

Minister for Planning, Minister for Climate Change and the Environment, Misthold Pty Limited and Huntlee Pty Ltd

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**").

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 Misthold Pty Limited and Huntlee Pty Ltd (collectively the "**Developer**"), the Minister for Climate Change and the Environment and the Minister for Planning.

The Developer has made an offer to enter into the Planning Agreement in connection with a request to change the *State Environmental Planning Policy (Major Development) 2005* (the "**Major Development SEPP**") to list the Huntlee Town Centre as a State Significant Site in Schedule 3 of the Major Development SEPP and to rezone that land.

The re-zoning proposal is set out in the State Significant Site Study ("**SSS Study**") prepared on behalf of Huntlee Pty Ltd which is on exhibition from 29 September 2010 to 29 October 2010 and a copy of which can be found at

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=4094

Description of the Subject Land

The Planning Agreement applies to those parts of the land the details for which are set out in Table 1 and Table 2 of Schedule 2 of the Planning Agreement.

Description of the Proposed Change to the Environmental Planning Instrument

The Developer is seeking the re-zoning of the Huntlee site as identified in the SSS Study under the Major Development SEPP to re-zone that land to facilitate development of up to approximately 7,500 Dwellings, up to approximately 200 hectares of employment lands, up to approximately 173 hectares of rural lands and up to approximately 624 hectares of conservation lands on a stage by stage basis and which may comprise, subject to any amendments necessary:

- up to approximately 5,600 dwellings in residential zones of varying sizes covering up to 612 hectares;
- employment lands totalling up to approximately 200 hectares including a mixed use town centre with up to approximately 1,700 residential dwellings;
- rural residential development covering up to approximately 93 hectares to achieve up to approximately 200 lots;

- rural lands covering up to approximately 173 hectares;
- the provision of associated infrastructure including upgrades to road, sewerage and water infrastructure and the dedication of land for education and health services, community facilities and utilities;
- up to approximately 624 hectares of conservation land including:
 - (i) approximately 607 hectares of conservation land within Huntlee;
 - (ii) “Persoonia Park” (approximately 17 hectares).

As noted above, the re-zoning proposal is outlined in the SSS Study which can be accessed at http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=4094 until 29 October 2010.

Summary of Objectives, Nature and Effect of the Planning Agreement

The Planning Agreement provides that the Developer will make various environmental conservation offset contributions, comprising the following:

- transfer of up to approximately 5,612ha of environmentally significant land for environmental conservation which is proposed to be dedicated under the *National Parks and Wildlife Act 1974* (the “**Conservation Offset Lands**”) including:
 - approximately 607 hectares of conservation land within Huntlee;
 - “Persoonia Park” (approximately 17 hectares); and
 - up to 4988 hectares of conservation land elsewhere within the Lower Hunter Region.
- if required by the Minister for Climate Change and the Environment, the demolition and/or removal of any dwellings, houses, sheds or dumped motor vehicles on the Conservation Offset Lands;
- a contribution of \$100,000 towards the conservation of *Persoonia pauciflora* (which is listed as a critically endangered flora species under *Threatened Species Conservation Act 1995* and the Commonwealth *Environmental Protection and Biodiversity Conservation Act 1999*); and
- a contribution of \$1,000,000 towards the management of the Conservation Offset Lands.

The extent of the area of land to make up the Conservation Offset Lands and demolition/removal work required is to be determined by the Minister for Climate Change and the Environment having regard to recommendations in an Environmental Audit Report which is to be prepared.

Some of the Conservation Offset Lands have been dedicated as State Forest. If dedication of State Forest land is not consistent with dedication under the *National Parks and Wildlife Act 1974*, then that land may also be excluded from the Conservation Offset Lands.

The Planning Agreement contains a schedule (being Schedule 5) setting out the timing for delivery of the Developer’s Contributions.

The objective of the Planning Agreement is to facilitate the delivery of the Developer’s Contributions.

Assessment of Merits of Planning Agreement

The Planning Purpose of the Planning Agreement

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

- the conservation or enhancement of the natural environment.

The Minister for Planning, Minister for Climate Change and the Environment 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 purpose set out above. This is because it will ensure that environmental conservation lands identified in the Lower Hunter Regional Conservation Strategy will be transferred into public ownership.

How the Planning Agreement Promotes the Public Interest

The Planning Agreement promotes the public interest by

- committing the Developer to assist with the conservation or enhancement of the natural environment;
- achieving the transfer into public ownership of environmental conservation lands that are identified in the Lower Hunter Regional Conservation Strategy;
- securing funding towards the costs of managing those lands and for preparing a recovery plan for *Persoonia pauciflora*.

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;
- 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
- 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 provision of land and monetary contributions for the conservation and enhancement of the natural environment.

This purpose represents an important public benefit, and the Developer's offer to contribute towards this purpose will have a positive public impact as important conservation lands will be vested in State government ownership and funding will be secured to assist in the management of those lands.

Interpretation of Planning Agreement

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