

Environmental Planning and Assessment Regulation 2000 (Clause 25E)

Explanatory Note

Introduction

Clause 25E of the Environmental Planning and Assessment Regulation 2000 requires a planning authority (The Minister for Planning and Infrastructure) proposing to enter into an agreement that amends a planning agreement under Section 93F of the Environmental Planning and Assessment Act 1979 (**Amending Agreement**) to prepare an explanatory note about the Amending Agreement.

This explanatory note relates to the Amending Agreement proposed to be entered into by the Minister and the Land Owners in respect of land at North Cooranbong.

The Amending Agreement amends the planning agreement between the Minister and the Land Owners dated 12 January 2010 (**Planning Agreement**).

Parties

The Minister for Planning and Infrastructure ABN 38 755 709 681 of Level 33 Governor Macquarie Tower, 1 Farrer Place, Sydney NSW 2000 (**Minister**)

Johnson Property Group Pty Limited ABN 58 102 465 814 of Level 3, 338 Kent Street Sydney NSW 2000 (**Developer**), Australasian Conference Association Ltd ACN 000 003 930 of 148 Fox Valley Road Wahroonga NSW 2076, Avondale Greens Pty Ltd ABN 33 099 742 542 and Avondale Greens Developments Pty Ltd ABN 27 106 910 598 both of Level 3, 338 Kent Street Sydney NSW 2000 (collectively, the **Land Owners**).

Description of the land to which the Amending Agreement applies

The land to which the Amending Agreement applies is located at North Cooranbong and is as described in Schedule 2 to the Amending Agreement (the **Land**).

Description of concept plan approval

The approved concept plan provides for residential development on the Land and certain additional land, for up to 2,500 low and medium density lots, as described in the Environmental Assessment Report documentation that was publicly exhibited from 25 June 2008 to 28 July 2008.

Summary of objectives, nature and effect of the Amending Agreement

The Amending Agreement provides for payment of monetary contributions towards the cost of public facilities, conservation and vegetation offsets, the dedication of land for education facilities and, if agreed, the carrying out and handing over of works for the purpose of public facilities.

Specifically the Amending Agreement provides for the following:

- **Environmental offset** - either a monetary contribution of \$2,640,000 or the acquisition of environmental offset land acceptable to the Minister.
- **Road improvement works** - improvement works to Dora Creek Road, Morisset Road or other road improvement works as agreed.
- **Public school land** - dedication and servicing of approximately 2.893 ha of land.

- **Monetary Contribution** - a monetary contribution to be determined at the rate of \$108,676 per hectare of Net Developable Area with provision for offset for market value of the public school land and the value of any improvement works.
- **Bank Guarantees** - the Land Owners are required to provide security by way of Bank Guarantees as follows:
 - an initial Bank Guarantee for \$428,414.67 to be provided prior to the issue of a subdivision certificate which relates to the 48th lot; and
 - additional Bank Guarantees, as required, based on the Planning Applications lodged by the Land Owners.

Assessment of the merits of the Amending Agreement

This explanatory note sets out the following:

- The planning purposes served by the Amending Agreement.
- How the Amending Agreement promotes the public interest and one or more objects of the Environmental Planning and Assessment Act 1979.

The planning purposes served by the Amending Agreement

The Amending Agreement provides for a monetary contribution or the provision of infrastructure:

- to meet the demands generated by the development for new public infrastructure, and
- to mitigate the potential impacts of the development.

The Amending Agreement will:

- provide for appropriate management of potential environmental impacts arising from the development,
- enable the Land to be developed in a timely and efficient manner to promote economic development, and
- enable the provision of:
 - improvement works to Dora Creek Road, Morisset Road or other improvement works as agreed
 - land for a school
 - conservation and vegetation offsets

How the Amending Agreement promotes the public interest and one or more objects of the Environmental Planning and Assessment Act 1979

The Amending Agreement promotes the following objects of the Environmental Planning and Assessment Act 1979 as contained in section 5 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 provision and co-ordination of community services and facilities, and
- 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.

Requirements relating to Construction, Occupation and Subdivision Certificates

The Amending Agreement specifies that instalment payments must be paid prior to the issue of the relevant subdivision certificate. The Amending Agreement does not specify requirements that must be complied with prior to the issue of a construction certificate or an occupation certificate.