

## Draft Planning Agreement

### Minister for Planning and Infrastructure and Bradcorp Wilton Park Pty 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**").

This Explanatory Note has been prepared jointly by the parties as required by clause 25E of the *Environmental Planning and Assessment Regulation 2000*.

#### Parties to the Planning Agreement

The parties to the Planning Agreement are Bradcorp Wilton Park Pty Limited ABN 69 086 388 212 (the "**Owner**") and the Minister for Planning and Infrastructure ABN 38 755 709 681 (the "**Minister**").

#### Description of the Subject Land

The Planning Agreement applies to those parts of the land the details for which are set out in Schedule 3 and shown in the plan forming Annexure A of the Planning Agreement (the "**Land**"). The site is referred to as Bingara Gorge and is located approximately 80km south-west of the City of Sydney and 35km west of Wollongong. The Bingara Gorge site covers approximately 450 hectares but the remaining residential developable land over which the Planning Agreement is to be registered totals approximately 175 hectares. The remainder of the site is primarily made up of community owned environmental protection and recreation ("**EPR**") lands, an 18 hole golf course and land upon which commercial, employment and community facilities are to operate (the "**Development**").

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

It is proposed that a Planning Agreement be entered into to replace an earlier State Development Agreement entered into on 14 September 2005 (the "**SDA**"). The SDA was entered into in connection with the Wollondilly Local Environment Plan 1991 (amendment number 56) gazetted on 16 September 2005 (the "**2005 LEP Amendment**"). The 2005 LEP Amendment was, for the purposes of section 93F(3)(b)(i) of the Act, a change to an environmental planning instrument.

The Wollondilly Local Environment Plan 1991 (which incorporates the 2005 LEP Amendment) was repealed and replaced by the Wollondilly Local Environment Plan 2011, which is the environmental planning instrument which the Planning Agreement is entered into in connection with.

Since the commencement of the development in 2005, development applications have been made in relation to the development. Development applications will continue to be made for the life of the development.

## **Summary of Objectives, Nature and Effect of the Planning Agreement**

The SDA provided that the Owner will make various Development Contributions towards State Infrastructure. Many of the Development Contributions set out within the SDA have now been provided by the Owner. The Planning Agreement provides that the remaining Development Contributions be provided by the Owner, comprising the following:

- a Sewage Treatment Plant to service the Development;
- a dedication of approximately 117 hectares of land as environmental protection and recreation lands for community ownership;
- the construction of sound barriers protecting residential lots bordering the F5 Hume Highway and Picton Road;
- the construction of an internal spine road through the Development; and
- the creation of a Natural Environmental Management Fund and Community Association Environment Fund for the EPR lands.

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

The objective of the Planning Agreement is to facilitate the delivery of the Owner'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 and the Owner 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 Owner 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. The Community Governance Structure (detailed in Annexure B to the Planning Agreement) will provide for the dedication of the environmentally protected lands and the establishment and funding of the Natural Environmental Management Fund and the Community Association Environment Fund.

## **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;
- the provision of public amenities or public services; and
- the conservation or enhancement of the natural environment.

The Minister and the Owner 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.

### **How the Planning Agreement Promotes the Public Interest**

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

### **How the Planning Agreement manages the issuing of subdivision certificates**

The Planning Agreement specifies that certain requirements of the Planning Agreement must be complied with before a subdivision certificate may be issued.

### **Whether the Planning Agreement conforms with any capital works program**

The Minister does not have a capital works program in place.

### **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 Owner to provide the items set out in this Explanatory Note under the heading "*Summary of Objectives, Nature and Effect of the Planning Agreement*".

This purpose represents an important public benefit, and the Owner'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.

The Minister has formed the opinion that the substance of the VPA is secured by suitable means.

### **Interpretation of Planning Agreement**

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