

Appendix 2

Explanatory Note (Clause 9)

Environmental Planning and Assessment Regulation 2000

(Clause 25E)

Explanatory Note

1 Introduction

The purpose of this explanatory note is to provide a plain English summary of the Deed of Variation (**Variation Deed**) to the planning agreement between Huntlee Pty Ltd (**Land Owner**) and the Minister for Planning (**Minister**), executed by the Minister on 4 September 2013 (**Planning Agreement**).

This explanatory note has been prepared jointly by the parties as required by clause 25E of the Environmental Planning and Assessment Regulation 2000 (**Regulation**).

2 Parties to the Variation Deed

The parties to the Variation Deed are the Land Owner and the Minister.

The Land Owner made an offer to enter into the Planning Agreement in connection with a transitional Part 3A project application (**Stage 1 Application**) for subdivision and associated infrastructure works for Stage 1 of the Huntlee development.

The Land Owner has also proposed to enter into the Variation Deed to vary the Planning Agreement so that the Planning Agreement applies to the land to which Mod 5 relates.

3 Description of the Subject Land

The Variation Deed applies to the same land to which the Planning Agreement applies, plus:

- (a) the additional land to which Mod 5 applies, being part of Lot 143 in DP1231921 and Lot 1033 in DP1222292 (being land formerly comprising part of Lot 444 in DP1197589 and Lot 5 in DP729973) as depicted in the plan at Appendix 1 to the Variation Deed; and

- (b) Lots 2 to 4 in DP729973, being land to which the Stage 1 Application as approved on 24 April 2013 applies, but was originally omitted in the Planning Agreement
(collectively, **Additional Land**).

4 Description of the Project Approval and Mod 5

On 24 April 2013, the Planning Assessment Commission, as delegate of the Minister, determined to approve the Stage 1 Application (**Project Approval**).

The Project Approval permitted, subject to conditions, the subdivision of the Land for 1,473 residential allotments, 14 super lots and 1 allotment for a primary school and associated infrastructure including landscaping, bulk earthworks, public open space, recreation areas, roads, drainage and utility services.

On 4 September 2013, the Land Owner entered into the Planning Agreement with the Minister, for the provision by the Land Owner of contributions towards designated State infrastructure, as contemplated by condition E6 of the Project Approval.

On 5 July 2016, approval was granted to Mod 5 to the Project Approval (**Mod 5**) to, among other things, extend the boundary of the land to which the Project Approval applies.

Condition 7 of Mod 5 amended Condition E6 to the Project Approval to require the Planning Agreement to be amended so that it applies to all of the land to which Mod 5 applies.

The Variation Deed amends the Planning Agreement as contemplated by Condition 7 of Mod 5 (Condition E6 of the Project Approval).

5 Summary of Objectives, Nature and Effect of the Variation Deed

5.1 Objectives of the Variation Deed

The objective of the Variation Deed is to amend the Planning Agreement so that it applies to the same land to which Mod 5 applies.

The Planning Agreement, as varied by the Variation Deed, provides that the Land Owner will make various contributions towards designated State infrastructure as set out in Schedule 3 to the Planning Agreement.

The objective of the Planning Agreement, as varied by the Variation Deed, is to facilitate the delivery of the Development Contributions.

5.2 Nature of the Variation Deed

The Variation Deed is a Deed of Variation to the Planning Agreement under clause 25C(3) of the Regulation.

5.3 Effect of the Variation Deed

The effect of the Variation Deed is to amend the Planning Agreement so that it applies to the Additional Land.

The Planning Agreement, as varied by the Variation Deed, requires Development Contributions to be made by the Land Owner in relation to each Net Developable Hectare comprised in a proposed Plan of Subdivision for the Land (including the Additional Land).

6 Assessment of Merits of the Variation Deed

6.1 How the Variation Deed is for a Planning Purpose and Promotes the Public Interest

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

- (a) the provision of public amenities or public services; and
- (b) the provision of transport infrastructure relating to the land.

The Minister and the Land Owner have assessed the Planning Agreement, as varied by the Variation Deed, and both hold the view that the provisions of the Planning Agreement, as varied by the Variation Deed, provide a reasonable means of achieving the public purpose 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 by the Lower Hunter Regional Strategy.

The Planning Agreement, as varied by the Variation Deed, promotes the public interest by committing the Land Owner to make contributions towards State infrastructure.

6.2 How the Variation Deed promotes the Objects of the Act

The Planning Agreement, as varied by the Variation Deed, promotes the following objects of the Act:

- (a) the proper management and development of towns and villages for the purpose of promoting the social and economic welfare of the community.
- (b) the promotion and co-ordination of the orderly and economic use and development of land; and
- (c) the provision of land for public purposes.

The Planning Agreement, as varied by the Variation Deed, promotes the objects of the Act set out above by requiring the Land Owner to make a contribution towards State transport infrastructure and education facilities.

6.3 Whether the Variation Deed specifies that certain requirements of the agreement must be complied with before a construction certificate, occupation certificate or subdivision certificate is issued

The Planning Agreement, as varied by the Variation Deed, requires the Land Owner to provide the Regional Road Contributions (calculated on a Net Developable Area basis) prior to the issue of a subdivision certificate for that part of the land subject of that subdivision certificate. Further, the transfer of the Education Contribution Land must be transferred or dedicated prior to the issue of a Subdivision Certificate in respect of that part of the Land comprising the 800th dwelling that is to be developed as part of Stage 1. The Road Improvement Works are to be completed in stages and for each stage, prior to the Subdivision Certificate issued for the relevant number of dwellings as identified in Annexure F to the Planning Agreement.

6.4 Interpretation of the Variation Deed

This Explanatory Note is not to be used to assist in construing the Variation Deed.