

Explanatory Note

**Minister for Planning and Infrastructure, Hixson Pty Limited,
Dandaloo Pty Ltd, Alsim Pty Limited, Leppington Pastoral Co Pty Ltd,
Greenfields Development Company No.2 Pty Ltd and Greenfields
Development Company Pty Ltd**

Draft Planning Agreement

Introduction

The purpose of this explanatory note is to provide a plain English summary to support the notification of the draft 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 Hixson Pty Limited (**Hixson**), Dandaloo Pty Ltd (**Dandaloo**), Alsim Pty Limited (**Alsim**), Leppington Pastoral Co Pty Ltd (**LPC**), Greenfields Development Company No.2 Pty Ltd (**GDC2**), Greenfields Development Company Pty Ltd (**GDC**) and the Minister for Planning and Infrastructure (the **Minister**).

For the purposes of the Planning Agreement and this explanatory note, Hixson, Dandaloo and GDC2 together are referred to as 'the Developers' and individually are referred to as a "Developer".

Description of the Subject Land

The Planning Agreement applies to:

- Lot 24 of DP 31996
- Lot 25 of DP 31996
- Lot 26 of DP 31996
- Lot 27 of DP 213330
- Lot 2 of DP 1173813
- Lot 17 of DP 31996
- Lot 293 of DP 708154
- Lot 7 of DP 1173813

This land is referred to in the Planning Agreement and this explanatory note as 'the Land'.

Description of the Proposed Development

The Developers are seeking to develop the land for approximately 2,200 to 2,600 Urban Lots (**Proposed Development**) and have made a conditional offer to the Minister to enter into the Planning Agreement in connection with the Proposed Development.

Summary of Objectives, Nature and Effect of the Planning Agreement

The Land is in the Catherine Fields (Part) Precinct within the South West Growth Centre. Hixson, Dandaloo and LPC own land in the Precinct and have asked the Minister to make a State environmental planning policy (**Draft SEPP**) to amend *State Environmental Planning Policy (Sydney Region Growth Centres) 2006* to rezone Catherine Fields (Part) Precinct to enable residential development.

The development of the Catherine Fields (Part) Precinct is being progressed through the precinct acceleration protocol process. Valad Commercial Management Pty Ltd (Valad), the previous owner of Hixson's land, entered into an initial planning agreement with the Minister where Valad was required to cover the precinct planning costs and prepare a Services Infrastructure Strategy and Implementation Plan for Catherine Fields (Part) Precinct prior to the public exhibition of the Draft SEPP.

After the initial planning agreement was entered into, Valad transferred its interest in the land forming part of the Catherine Fields (Part) Precinct to Hixson. Hixson now owns that land, and, therefore, will be party to this Planning Agreement.

Precinct planning has now progressed to the stage where the Developers are required to enter into this Planning Agreement to provide the key infrastructure to enable the whole Precinct to be developed for residential uses. The Planning Agreement will be between the Minister and the Developers, LPC (as additional land owner), and Alsim and GDC (as guarantors).

The contributions must be made by the Developers in the manner set out in Schedule 4 to the Planning Agreement.

The Developers are required to register the Planning Agreement on the title to the Land in accordance with section 93H of the Act.

Security is provided primarily by way of a corporate guarantee and an indemnity in favour of the Minister provided by the Alsim (which will guarantee Hixson's and Dandaloo's performance under this Planning Agreement) and GDC (which will guarantee GDC2's and LPC's performance under this Planning Agreement).

In addition, the Minister has a right to compulsorily acquire the Education Land (which is required to be transferred under the terms of the Planning Agreement) for a nominal amount if the Developers fail to transfer it.

The objective of the Planning Agreement is to facilitate the delivery of the Developers' contributions towards the provision of infrastructure, facilities and services required so that the Precinct can be developed for residential uses.

This Planning Agreement provides that the Developers will make the following State public infrastructure contributions.

Road Improvement Works

The Developers will construct Stages 1 to 6 of the Road Works, which consists of upgrades to Oran Park Link Road (i.e. Oran Park Drive), construction of the full length of Rickard Road

within the Precinct and constructing an intersection between Oran Park Drive and Rickard Road.

A description of each stage of the Road Works is set out in clause 1.2 of the Planning Agreement. Oran Park Drive will be upgraded to be a four lane divided road. Rickard Road will be a four lane road. The Road Works are shown in Annexure A to the Planning Agreement and the estimated cost of constructing Stages 1 to 6 is \$23,000,000.

The Planning Agreement sets out in Schedule 4 when each stage of the Road Works must be completed.

Education Land

Under the terms of the Planning Agreement, the Developers and/or LPC are required to dedicate some of the Land to create one school site, the indicative location for which is shown as the “Indicative Primary School Site” on Annexure A to the Planning Agreement and which is of an approximate area of 2 hectares.

The school site is being identified through the precinct planning process. The timing for when the site must be dedicated (by reference to Urban Lot production thresholds) is set out in Schedule 4 to the Planning Agreement. Before the land is dedicated by the Developers and/or LPC for the school sites the Minister must notify the Developers and/or LPC that the land is required by the Minister for the purpose of a school. If the Minister issues that notice,, the transfer and dedication provisions in Schedule 4 will be triggered. If not, the land will not be required to be dedicated.

In the event that the Education Land is not transferred when required, the Planning Agreement contains a provision (clause 2.5 of Schedule 4) that enables the Minister to compulsorily acquire the Education Land for a nominal amount.

Electricity Substation Land

Under the terms of the Planning Agreement, the Developers and/or LPC are required to transfer, for an amount of consideration as agreed between the Developers and Endeavour Energy, a site on the Land to enable the creation of an electricity substation to service the precinct by the time set out in Schedule 4 to the Planning Agreement or as otherwise agreed between Endeavour and the Developers. An indicative location of the substation site has been determined through the precinct planning process and is identified on Annexure A of the Planning Agreement.

Sydney Water Infrastructure Works

Under the terms of the Planning Agreement the Developers will need to fund or construct wastewater services comprising a sewer trunk main near the South Creek corridor from the precinct through to Sewage Pumping Station 1169 (presently located in the Oran Park precinct) before the creation of the 500th urban lot and a pump station at a time and a destination to be determined by Sydney Water. The estimated cost of constructing the works is \$6,000,000. The infrastructure will be required to be constructed as per Sydney Water’s requirements.

The Developers may provide alternative systems to the above for providing wastewater and water services as agreed between the Developers and Sydney Water and the Developers will be required to enter into an agreement with Sydney Water to facilitate the works.

Offset for Future Special Infrastructure Obligations

The Planning Agreement gives the Developers and/or LPC the capacity to carry out the Road Works and to provide the Education Land as an alternative to making a Special Infrastructure Contribution (**SIC**) under the *Environmental Planning and Assessment (Special Infrastructure Contribution – Western Sydney Growth Areas) Determination 2011 (Determination)*.

SIC credits can only be issued to the Developers and/or LPC for the Actual Cost of the Road Works and the Market Value of the Education Land and only once the relevant obligations have been performed under the Planning Agreement.

The Developers are not entitled to SIC credits for the Electricity Substation Land and the Sydney Water Infrastructure Works.

The SIC credits may be credited to the Developers or their nominees and those credits can be used anywhere in the Growth Centres area to offset their liability to make a SIC under the Determination. The SIC credits can also be transferred to others after they have been issued.

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 provision of (or the recoupment of the cost of providing) public amenities or public services.

The Minister, the Developers and/or LPC have assessed the Planning Agreement and both 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 the Developers and/or LPC make appropriate contributions towards the provision of the infrastructure, facilities and services that are required if the Minister is to make a State environmental planning policy that amends *State Environmental Planning Policy (Sydney Region Growth Centres) 2006* to rezone the whole precinct to enable residential development.

How the Planning Agreement Promotes the Public Interest

The Planning Agreement promotes the public interest by ensuring that an appropriate contribution is made towards the provision of infrastructure, facilities and services to satisfy needs that arise from development of the Land.

How the Planning Agreement Promotes the Objects of the Act

The Planning Agreement promotes the objects of the Act by encouraging:

- the promotion and co-ordination of the orderly and economic use and development of land.

The Planning Agreement promotes the objects of the Act set out above by requiring the Developers and/or LPC to make a contribution towards the provision of infrastructure, facilities and services that are required if the Minister is to make a State environmental planning policy that amends *State Environmental Planning Policy (Sydney Region Growth Centres) 2006* to rezone the Precinct to enable residential development.

The Developers' and LPC's offer to contribute towards the provision of State public infrastructure will have a positive public impact as funds from the Developers and LPC will be available towards the provision of the required infrastructure, facilities and services for the Precinct.

Requirements relating to Construction, Occupation and Subdivision Certificates

The only requirement which the Planning Agreement specifies must be complied with prior to the issue of a construction certificate is the requirement for one or more developers to enter into a Sydney Water Developer Works Deed before the issue of a construction certification for subdivision works on the Land.

The Planning Agreement requires some of the contributions to be made prior to the issue of the relevant subdivision certificate and therefore contains restrictions on the issue of a subdivision certificate within the meaning of section 109J(1)(c1) of the Act.

Conditional Offer

The Developers, LPC, Alsim and GDC have made a conditional offer to enter into the exhibited Planning Agreement and their offer is subject to them obtaining the required corporate approvals to the terms of the exhibited Planning Agreement.

The Minister will not execute any planning agreement other than a Planning Agreement substantially in the form notified and only when an executed Agreement is received from the Developers, LPC, Alsim and GDC.

The Minister does not propose to accelerate the rezoning of Catherine Fields (Part) Precinct until the Planning Agreement has been executed by all the parties.