

Explanatory Note

Minister for Planning and Infrastructure, Stockland Development Pty Limited, Stockland Corporation Ltd, Winten Developments Pty Limited, Winten (14) Pty Limited and Woorong Park Pty Limited

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**).

A version of this draft planning agreement was publicly notified previously. Subsequent to that notification, further negotiations between the parties has resulted in amendments to the draft planning agreement. The amended draft planning agreement is now being notified as required by the Act.

Parties to the Planning Agreement

The parties to the Planning Agreement are Stockland Development Pty Limited (**Stockland**), Stockland Corporation Ltd (**Stockland Guarantor**), Winten (14) Pty Limited (**Winten**), Woorong Park Pty Limited (**Woorong Park**) Winten Developments Pty Limited (**Winten and Woorong Park Guarantor**) and the Minister for Planning and Infrastructure (the **Minister**).

For the purposes of the Planning Agreement and this explanatory note, Stockland and Winten together are referred to as 'the Developer'.

Description of the Subject Land

The Planning Agreement applies to:

- Lot 3 of DP 235714
- Lot 4 of DP 235714
- Lot 6 of DP 235714
- Lot 11 of DP 1178982
- Lot 12 of DP 1178982
- Lot 13 DP 1178982

Description of the Proposed Development

The Developer is seeking to develop the land for approximately 2,400 Urban Lots (**Proposed Development**) and has 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 Marsden Park which is a precinct within the North West Growth Centre. Stockland and Woorong Park 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 the whole precinct to enable residential development.

The development of the Marsden Park Precinct is being progressed through the precinct acceleration protocol process. Woorong Park and Winten (No 25) Pty Ltd have previously entered into an initial planning agreement with the Minister where the developers were required to cover the precinct planning costs and prepare a Services Infrastructure Implementation Plan for Marsden Park prior to the public exhibition of the Draft SEPP.

After the initial planning agreement was entered into Winten (No 25) Pty Ltd transferred its interest in part of the land forming part of the Marsden Park Precinct to Stockland. Stockland now owns part of the land that will be the subject of this Planning Agreement, and has options to purchase the remainder of the land from Woorong Park.

Precinct planning has now progressed to the stage where the Developer is required to enter into this Planning Agreement to provide the key infrastructure to enable the whole precinct to be developed for residential uses. The delivery of this key infrastructure will be based on two planning agreements – this Planning Agreement and a second planning agreement which will be between the Minister, Winten (14) Pty Limited, Winten Developments Pty Limited and Woorong Park Pty Limited (together referred to as Winten), the other major landowner in the Marsden Park Precinct.

The contributions must be made by the Developer in the manner set out in Schedule 4 to the Planning Agreement. The Planning Agreement sets out that the Developer is a reference to Winten (14) until such time as Stockland exercises its first option to purchase part of the land from Woorong Park (Purchase Trigger Date) and thereafter the Developer is a reference to Stockland.

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

Further security is provided by way of a corporate guarantee and an indemnity in favour of the Minister provided by the Stockland Guarantor (which will guarantee Stockland's performance under this Planning Agreement after the Purchase Trigger Date) and the Winten and Woorong Park Guarantor (which will guarantee Winten and Woorong's performance upon entry into this Planning Agreement, and any residual liabilities after the Purchaser Trigger Date).

In addition, the Minister has a right to compulsorily acquire any land required to be transferred under the terms of the planning agreement (and that the Developer fails to transfer) for \$1.00.

The objective of the Planning Agreement is to facilitate the delivery of the Developer's 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 Developer will make the following State public infrastructure contributions:

Road Improvement Works

The Developer will construct Stages 1A, 1B and 2 of the upgrade to Richmond Road, between Grange Avenue and the South Creek Flood Plain, to a principal arterial road. A description of each stage of the Road Works is set out in clause 1.1 of the Planning Agreement. The upgrade will generally be to a four lane divided road configuration (with the capacity for others to build an

additional two lanes within the median). The Road Works Plan is attached in Annexure A to the Planning Agreement.

The estimated cost of constructing Stages 1A, 1B and 2 of this upgrade to Richmond Road is \$25,000,000 including land acquisition costs.

In addition to upgrading the relevant portion of Richmond Road the Developer will also be required to dedicate the land to be used for the road and the intersection at no cost to government

The Planning Agreement provides that the Developer must enter into a Road Works Agreement with the Roads and Maritime Services (**RMS**) for each stage of the Road Works. The Planning Agreement also sets out when each stage of the Road Works must be completed.

Education Land

Under the terms of the Planning Agreement the Developer is required to dedicate some of its land to create a school site defined as the Northern Primary School (Education Land) which is of an approximate area of 3 hectares.

The school site has been identified through the precinct planning process. Refer to Annexure B of the Planning Agreement for the locations of this site. 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 Developer for the school site the Minister must notify the Developer that the land is required by the Minister for the purpose of a school. If so, the transfer and dedication provisions in Schedule 4 will be triggered. If not, the land will not be required to be dedicated.

The Planning Agreement contains a provision (clause 3.2 of Schedule 4) that enables the Minister to acquire the sites for \$1 under the *Land Acquisition (Just Terms Compensation) Act* if the Developer does not transfer the sites when they are required.

Electricity Substation Land

Under the terms of the Planning Agreement the Developer is required to dedicate a site on the Land to enable the creation of an electricity substation to service the precinct before the creation of the 1st Urban Lot. The location of the substation site has been determined through the precinct planning process and is identified on Annexure B of the Planning Agreement.

The Planning Agreement contains a provision (clause 4.1 of Schedule 4) that if the Developer does not transfer this site to the Minister prior to the creation of the 1st urban lot, the Minister is able to acquire the site for \$1 under the *Land Acquisition (Just Terms Compensation) Act*.

Sydney Water Infrastructure Works

Under the terms of the Planning Agreement the Developer will need to fund or construct wastewater services comprising a sewer trunk main (approximately 6 km) from the precinct through to Riverstone and a pump station at a destination to be determined by Sydney Water before the creation of the 300th urban lot. The estimated cost of constructing the works is \$12,000,000. The infrastructure will be required to be constructed as per Sydney Water's requirements.

The Developer will also need to fund or construct an upgrade and extension of existing pipework from the Minchinbury Water System to provide water to the precinct before the creation of the 1st urban lot. The infrastructure will be required to be constructed as per Sydney Water's requirements.

The Developer may provide alternative system/s to the above for providing wastewater and water services as agreed between the developer and Sydney Water and the Developer 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 Developer the capacity to carry out the Road Improvement 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 Developer for the Actual Cost of the Road Improvement Works and the Market Value of the Education Land and once the relevant obligations have been performed under the Planning Agreement.

The Developer is not entitled to SIC credits for the Sydney Water Infrastructure Works.

The SIC credits may be credited to the Developer or its nominee and those credits can be used anywhere in the Growth Centres to offset the liability for SIC under the Determination.

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 and the Developer 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 Developer makes 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 Developer 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 whole precinct to enable residential development.

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

Requirements relating to Construction, Occupation and Subdivision Certificates

The Planning Agreement does specify requirements that must be complied with prior to the issue of a construction certificate (see schedule 7, clause 1, item 3 of table).

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