

Explanatory Note

Minister for Planning and Infrastructure, 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 Winten (14) Pty Limited (**Developer**), Winten Developments Pty Limited (**Guarantor**) and Woorong Park Pty Limited (**Landowner**), and the Minister for Planning and Infrastructure (the **Minister**).

For the purposes of the Planning Agreement and this Explanatory Note, the Developer, the Guarantor and the Landowner are together referred to as 'the Developer'.

Description of the Subject Land

The Planning Agreement applies to:

- Lot 4 of DP 1078187
- Lot 5 of DP 1078187
- Lot 10 of DP 1178982
- Lot 7 of DP 1078187
- Lot 8 of DP 1078187
- Lot 9 of DP 1078187

Description of the Proposed Development

The Developer is seeking to develop the land for approximately 3,600 Urban Lots (**Proposed Development**) and has made an 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. The Developer is one of two developers that own land in the precinct and have asked the Minister to make a State environmental planning policy (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. The Landowner and Winten (No 25) Pty Ltd have previously entered into a 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 first planning agreement was entered into Winten (No 25) Pty Ltd transferred its interest in part of the land in the precinct to Stockland Development Pty Ltd (**Stockland**).

Precinct planning has now progressed to the stage where the Developer is required to enter into a second 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, Woorong Park Pty Limited and Stockland, the other major landowner in the precinct.

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

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

Security is provided by way of a corporate guarantee and an indemnity in favour of the Minister provided by the Guarantor. Security is also provided by way of bank guarantee if the Developer does not provide the required financial report as per clause 6.2 of the Planning Agreement.

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 3 and 4 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 1.2 of the Planning Agreement under the definitions 'Stage 3 Road Works' and 'Stage 4 Road Works'. 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 Work Plans are attached in Annexure A to the Planning Agreement.

The estimated value of constructing Stages 3 and 4 of this upgrade to Richmond Road is \$33,000,000, including land acquisition costs.

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 provide two school sites. The Developer will dedicate some of its' land to create the first site (8 hectares), suitable for a school catering for kindergarten to year 12 students (referred to as the K-12 School), and provide a monetary contribution to fund the acquisition of the second site (3 hectares), suitable for a primary school (referred to as the Eastern Primary School).

The school sites have been identified through the precinct planning process. Refer to Annexure B of the Planning Agreement for the locations of these sites. The timing for when the first site must be dedicated (by reference to Urban Lot production thresholds) and the monetary contribution for the second site must be provided (by reference to the issue of each Subdivision Certificate) is set out in Schedule 4 to the Planning Agreement. Before the Developer is required to transfer the land for the K-12 School site, the Minister must notify the Developer that the land is required for the purpose of a school.

The Planning Agreement contains a provision (clause 3.2 of Schedule 4) that enables the Minister to acquire the K-12 School site for \$1 under the *Land Acquisition (Just Terms Compensation) Act* if the Developer does not transfer the site when required.

Sydney Water Infrastructure Works

Under the terms of the Planning Agreement the Developer will need to fund or construct that portion of the sewer trunk main, associated pump station requirements, (approximately 6 km) from the precinct through to Riverstone to service 2,400 lots or another suitable system in accordance with Sydney Water requirements before the 401st lot. The Developer will then complete the remainder of the required Sydney Water Infrastructure Works in accordance with clause 1 of schedule 4. The infrastructure will be required to be constructed as per Sydney Water's requirements.

The Developer will also need to agree with Sydney Water Corporation prior to the creation of the 1st lot about when it needs to fund or construct either an upgrade to the Minchinbury Water System or other water servicing solution agreed with Sydney Water to provide water to the precinct. The infrastructure will be required to be constructed as per Sydney Water's requirements.

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**). 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.

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 or an occupation certificate.

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.