

Draft Planning Agreement

Minister for Planning and Infrastructure and Jacfin Pty Ltd

Explanatory Note

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 Jacfin Pty Ltd (the “**Landowner**”) and the Minister for Planning and Infrastructure (the “**Minister**”).

The Landowner owns and intends to develop certain land within the Western Sydney Employment Area. The Landowner has made a concept plan application (MP10_0129) and a project application (MP10_0130) to the Director-General of the Department of Planning and Infrastructure under the (former) Part 3A of the Act. The Landowner has made an offer to enter into the Planning Agreement in connection with the project application. The Planning Agreement will only apply to the land the subject of the project application (stage 1).

Description of the Subject Land

The Land is that part of Lot A DP 392643 comprising 7.98 hectares and identified as Lot 100 and also comprising 1.59 hectares identified as the ‘Proposed Road (Local Road)’ and the ‘Proposed Road (Regional Road)’ on the plan marked Annexure A attached to the Planning Agreement. The Land is located at Horsley Park off Burley Road within the Penrith City Local Government Area.

Description of the Proposed Development

The project application for stage 1 involves the construction and operation of a warehouse, storage and distribution facility, new access road, the augmentation and extension of existing utilities and subdivision of the site.

Summary of Objectives, Nature and Effect of the Planning Agreement

The Planning Agreement provides that the Landowner will make a monetary contribution of \$1,436,400 (subject to indexation).

The monetary contribution will be paid prior to the issue of a subdivision certificate or a construction certificate, whichever occurs first. The amount of the monetary contribution has been calculated on basis of \$180,000 per hectare of net developable area for the project application.

The amount of this monetary contribution can be reduced if before the issue of a subdivision certificate or a construction certificate, whichever occurs first, the Landowner agrees with the Minister to provide works in kind (construction of the Regional Road 1) and dedicate that part of the Regional Road 1 that is on the Land at no cost to the Minister. The amount of the reduction of the monetary contribution is the equivalent of the estimated cost of the works in kind and the value of the land to be dedicated.

To secure the obligation to provide the monetary contribution the Landowner has agreed to provide a Bank Guarantee to the Minister. The Landowner has agreed to provide a separate Bank Guarantee to the Minister to secure the provision of the works in kind.

The Planning Agreement is required to be registered on the title.

The objective of the Planning Agreement is to facilitate the delivery of the Landowner's contributions towards the provision of regional transport infrastructure and services (including the Erskine Park Link Road Network).

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) transport or other infrastructure relating to the land.

The Minister and the Landowner 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 Landowner makes appropriate contributions towards the provision of regional transport infrastructure and services (including the Erskine Park Link Road Network).

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 regional transport infrastructure 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 Landowner to make a contribution towards the provision of regional transport infrastructure and services (including the Erskine Park Link Road Network).

The Landowner's offer to contribute towards the provision of State infrastructure will have a positive public impact as funds from the Landowner will be available towards the provision of regional transport infrastructure and services (including the Erskine Park Link Road Network).

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 subdivision certificate within the meaning of section 109J(1)(c1) of the Act and a construction certificate within the meaning of section 109F(1)(a) of the Act.