

Explanatory Note

Minister for Planning and Infrastructure and Taisei Oncho Australia Pty Limited ACN 010 715 625 and NT Australia Pty Ltd ACN 003 725 442 and MMTR Pty Limited ABN 11066244871 as trustee for The Higgins Families Unit Trust ABN 97 177 008 961 and Almaty Pty Limited ABN 73 104 852 520 as trustee The Higgins Family Unit Trust No.1 ABN 26 433 684 402 and The Gateway (Port Macquarie) Pty Limited ABN 28 062 116 723 as trustee for the Gateway Unit Trust ABN 35 020 853 130 and Kevin Michael Gleeson and Carol Anne Gleeson and MEL Properties Pty Limited ABN 26 122 273 858 and Sovereign Hills Project Pty Ltd ACN 003 823 274

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 Taisei Oncho Australia Pty Limited ACN 010 715 625, NT Australia Pty Ltd ACN 003 725 442, MMTR Pty Limited ABN 11066244871 as trustee for The Higgins Families Unit Trust ABN 97 177 008 961, Almaty Pty Limited ABN 73 104 852 520 as trustee The Higgins Family Unit Trust No.1 ABN 26 433 684 402, The Gateway (Port Macquarie) Pty Limited ABN 28 062 116 723 as trustee for the Gateway Unit Trust ABN 35 020 853 130, Kevin Michael Gleeson and Carol Anne Gleeson and MEL Properties Pty Limited ABN 26 122 273 858 (the **Owner**) and Sovereign Hills Project Pty Ltd ACN 003 823 274 (the **Developer**) and the Minister for Planning and Infrastructure (the **Minister**).

Description of the Subject Land

The Planning Agreement applies to:

- Lot 40 Deposited Plan 1142520
- Lot 41 Deposited Plan 1142520
- Lot 42 Deposited Plan 1142520
- Lot 32 Deposited Plan 792453
- Lot 102 Deposited Plan 1106752
- Lot 3 Deposited Plan 1112929
- Lot 1 Deposited Plan 603648
- Lot 43 Deposited Plan 1158318

- Lot 62 Deposited Plan 1095861
- Lot 54 Deposited Plan 1175944
- Lot 51 Deposited Plan 1130161

Description of the Proposed Development

The Developer is seeking to subdivide the Subject Land to create residential 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 Planning Agreement provides that the Developer will make a monetary contribution of \$1,365.00 per residential allotment (and subject to CPI increases) for the purposes of the provision of designated State public infrastructure within the meaning of clause 6.1 of the *Port Macquarie Hastings Local Environmental Plan 2011*.

The monetary contribution for each lot will be payable prior to the issue of a Subdivision Certificate for the relevant allotment. The requirement for the timing of the payment is set out in Schedule 4 to 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 referred to in clause 6.1 of the *Port Macquarie Hastings Local Environmental Plan 2011*.

No relevant capital works program by the Minister is associated with this agreement.

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 infrastructure, facilities and services referred to in clause 6.1 of the *Port Macquarie Hastings Local Environmental Plan 2011*.

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 referred to in clause 6.1 of the *Port Macquarie Hastings Local Environmental Plan 2011*.

The Developer's offer to contribute towards the provision of State infrastructure will have a positive public impact as funds from the Developer will be available towards the provision of infrastructure, facilities and services referred to in clause 6.1 of the *Port Macquarie Hastings Local Environmental Plan 2011*.

Requirements relating to Construction, Occupation and Subdivision Certificates

The Planning Agreement does not specify requirements that must be complied with prior to the issue of a construction certificate or an occupation certificate.

Clause 3 of Schedule 4 of the Planning Agreement requires each instalment of the monetary contribution to be paid prior to the issue of the relevant subdivision certificate and therefore contains a restriction on the issue of a subdivision certificate within the meaning of section 109J(1)(c1) of the Act.