

Sheaffes Road Proposed VPA

Minister for Planning

and

Duncan McPhail ,
Scott Property Enterprises Pty Limited ACN 003 885 096
Glanmire Developments Pty Limited ACN 093 407 535
Prestons Development and Project Management Pty Limited ACN 085 958 809

Explanatory Note

Introduction

The purpose of this explanatory note is to provide a plain English summary to support the notification of the proposed 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*.

Parties to the Planning Agreement

The parties to the Planning Agreement are Duncan McPhail, Scott Property Enterprises Pty Limited ACN 003 885 096, Glanmire Developments Pty Limited ACN 093 407 535, Prestons Development and Project Management Pty Limited ACN 085 958 809 (together, the "**Developer**") and the Minister for Planning.

Description of the Subject Land

The Planning Agreement applies to part of Lot 401 DP 1110562, and is located at 160 Sheaffes Road, Kembla Grange as indicated on Attachment A to the Planning Agreement ("**Subject Land**"). The subject land is owned by Duncan McPhail, Scott Property Enterprises Pty Limited ACN 003 885 096, Glanmire Developments Pty Limited ACN 093 407 535, Prestons Development and Project Management Pty Limited ACN 085 958 809.

Description of the Proposed Development

The Developer's consultant SMEC Urban has lodged development application 2013/1355 on behalf of the Developer with Wollongong City Council for a 50 lot subdivision, one open space lot, one residue lot and the construction of a water quality basin ("**Proposed Development**"). The Developer has made an offer to the Minister to enter into the Planning Agreement in connection with the Proposed Development.

The Proposed Development is located within the West Dapto Urban Release Area.

Summary of Objectives, Nature and Effect of the Planning Agreement

The Planning Agreement provides that the Developer will make a monetary contribution of \$52,511 per hectare of net developable area (as indexed under CPI in accordance with the Planning Agreement) for the purposes of the provision of designated State public infrastructure within the meaning of clause 6.1 of the *Wollongong Local Environmental Plan (West Dapto) 2010* (the **LEP**).

The amount of the monetary contribution will be paid in instalments calculated on the basis of an estimate of the net developable area for each development application. The instalments are

payable prior to the issue of each relevant subdivision certificate as set out in Schedule 4 to the Planning Agreement.

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

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 LEP

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

The Land is now affected by the *Wollongong Local Environmental Plan (LEP 2009)* which repealed the *Wollongong Local Environment Plan (West Dapto) 2010 (LEP 2010)*. Clause 1.8A of this plan provides that a development application that was made before the commencement of the plan that has not been finally determined before that commencement must be determined as if the plan had not commenced. Therefore, the development the subject of the development application, to which the planning agreement applies, must be determined under the provisions of the LEP 2010. The planning agreement references LEP 2010, not LEP 2009, for this reason.

Assessment of the Merits of the 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 purposes:

- 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 provision of the Planning Agreement provides a reasonable means of achieving the public purposes set out above. This is because it will ensure that the development makes an appropriate contribution towards the provision of required infrastructure, facilities and services referred to in clause 6.1 of the LEP.

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 LEP.

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 LEP.

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.

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.

Interpretation of Planning Agreement

This Explanatory Note is not to be used to assist in construing the Planning Agreement.