

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 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 Jacfin Pty Ltd (the "**Developer**") and the Minister for Planning and Infrastructure ("**Minister**").

The Developer owns and intends to develop certain land within the Western Sydney Employment Area. A concept plan (MP10_0127) (**Concept Plan**) and a project approval for Stage 1 (MP10_0128) (**Stage 1 Project Approval**) were approved by the Director-General on 24 October 2011. The Developer has lodged a modification application in relation to the Concept Plan and the Stage 1 Project Approval (**Modification Application**). The Developer has made an offer to enter into the Planning Agreement in connection with the Modification Application.

Description of the Subject Land

The Planning Agreement applies to Lot 121 DP 1175762 (the "**Land**"). The Land is located off Old Wallgrove Road in the Blacktown City Local Government Area.

Description of the Proposed Development

The Concept Plan granted concept approval for an industrial and an employment park and associated infrastructure on 105 hectares of land in the Ropes Creek Precinct of the Western Sydney Employment Area ("Proposed Development"). The Proposed Development will be developed over 5 stages. The Stage 1 Project Approval granted approval for the subdivision of the Land and the development of two warehouse and distribution facilities and associated infrastructure. The Modification Application seeks to exclude part of the land subject to the Concept Plan and the Stage 1 Approval as a result of a compulsory acquisition of that land by Transgrid for electricity transmission infrastructure. The Modification Application also seeks approval to remove Warehouse Building 1 and associated infrastructure from the Stage 1 Approval.

Summary of Objectives, Nature and Effect of the Planning Agreement

The Planning Agreement provides that the Developer will make monetary contributions of \$180,000 per hectare of net developable area (subject to indexation).

The monetary contribution will be payable in stages and will be calculated by reference to the net developable area of the Land to which a Planning Application relates. The

requirements for the timing of the payments are set out in Schedule 4 to the Planning Agreement.

The Planning Agreement is required to be registered on title.

To secure the obligation to provide the monetary contribution the Developer has agreed to provide Bank Guarantees to the Minister.

The Planning Agreement allows the Developer to provide works in kind or to dedicate land in lieu of its obligation to pay all or part of the monetary contribution. The Landowner is only required to provide a works in kind contribution or a land contribution for a component of the Development in accordance with Schedules 4 and 5 of the Planning Agreement, where (1) a Development Approval for any further stage of the Development requires such a contribution to be made; or (2) the parties agree that such a contribution will be made in conjunction with a component of the Development.

The Planning Agreement allows the Developer to utilise credits for Excess Contributions to offset against its obligations to pay development contribution for future components of the Development or for development of land which the Developer owns within the Western Sydney Employment area for the purpose of Regional Infrastructure. Excess Contributions credits equate to the difference between the sum of the actual cost of any works in kind or land dedication (capped) and any monetary contribution provided by the Developer for a stage of the Development.

While the Minister has no obligation to use or expend the monetary contribution for a particular purpose, the objective of the Planning Agreement is to facilitate the delivery of the Developer's contributions towards the provision of regional transport infrastructure and services (including the Erskine Park Link Road Network) in accordance with clause 29 of *State Environmental Planning Policy (Western Sydney Employment Area) 2009*.

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 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 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; and
- the provision of land for public purposes.

The Planning Agreement promotes the objects of the Act set out above by requiring the Developer to make a contribution towards the provision of regional transport infrastructure and services (including the Erskine Park Link Road Network).

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 regional transport infrastructure and services (including the Erskine Park Link Road Network).

Requirements relating to Construction Certificates and Subdivision Certificates

The Planning Agreement provides that the monetary contribution, referable to the net developable area of the land to which the application relates, must be paid prior to the issue of the subdivision certificate or construction certificate relevant to the first Development Approval approved for that component of the Development, whichever occurs first.

Where the Developer is required to or the parties have agreed that the Developer should provide a works in kind contribution or a land contribution for a component of the Development, the monetary contribution for that component of the Development may be reduced, in part or in full, by the sum of the estimated cost of any works in kind or land contribution agreed between the parties in a Contributions Estimate Notice for that component of the Development (see clauses 5 and 6 of Schedule 4 to the Planning Agreement).

Interpretation of Planning Agreement

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