

Explanatory Note

Minister for Planning (ABN 38 755 709 681) and Thomas Paul Property Group Pty Ltd (ACN 135 132 384)

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 Thomas Paul Property Group Pty Ltd (the **Developer**) and the Minister for Planning (the **Minister**).

Description of the Subject Land

The Planning Agreement applies to:

- Lot C of DP 443445 (the **Land**).

The Land is located at 5 Stockton Street, Morisset.

Description of the Proposed Development

The Developer is seeking to stage the subdivision of the Land for residential purposes into 18 Torrens title lots, 21 community title lots and 20 strata title lots in accordance with Development Application 277/2014 which has been lodged with Lake Macquarie City Council (**Proposed Development**). The developer 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 \$112,330 for the purposes of the provision of designated State public infrastructure within the meaning of clause 62 of the *Lake Macquarie Local Environmental Plan 2004* (**LEP 2004**).

The amount of the monetary contribution has been calculated on the basis of an estimate of the net developable area comprised in the Proposed Development.

The monetary contribution will be payable on the execution of the Planning Agreement. 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 62 of LEP 2004.

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

The Land is now affected by the *Lake Macquarie Local Environmental Plan 2014 (LEP 2014)* which was published on 12 September 2014 and came into force on 10 October 2014. 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 LEP 2004. The planning agreement references LEP 2004, not LEP 2014, for this reason.

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 62 of LEP 2004.

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 62 of LEP 2004.

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 62 of LEP 2004.

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, an occupation certificate or a subdivision certificate.