

Explanatory Note

Minister for Planning (ABN 38 755 709 681), SH Camden Valley Pty Limited (ACN 137 331 376) as trustee for the SH Camden Valley Unit Trust (ABN 46 767 052 801) and SH Camden Lakeside Pty Limited (ACN 137 331 394) as trustee for the SH Camden Lakeside Unit Trust (ABN 21 048 234 393)

Draft planning agreement and termination of earlier 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**); and
- the termination of the planning agreement between the (then) Minister for Planning and Infrastructure and SH Camden Lakeside Pty Limited dated 26 April 2012 (**Earlier Planning Agreement**).

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:

- The Minister for Planning (ABN 38 755 709 681) (the **Minister**); and
- SH Camden Valley Pty Limited (ACN 137 331 376) as trustee for the SH Camden Valley Unit Trust (ABN 46 767 052 801) and SH Camden Lakeside Pty Limited (ACN 137 331 394) as trustee for the SH Camden Lakeside Unit Trust (ABN 21 048 234 393) (the **Developer**).

Description of the Land

The Planning Agreement applies to the Land, which is defined in Schedule 3 of the Planning Agreement as Lot 50 in DP 1175424, Lot 101 in DP 1206855, Lot 1201 in DP 1187381 and Lot 1203 in DP 1187381 (the **Land**).

The Earlier Planning Agreement applied to Lot 101 in DP 1206855 (formerly Lot 2 in DP 1142394).

Description of the Development

The Developer is seeking to develop the Land for the purposes of a staged residential subdivision, golf course development and associated infrastructure.

Summary of Objectives, Nature and Effect of the Planning Agreement and the Earlier Planning Agreement

Clause 6.1 of the *Camden Local Environmental Plan 2010* (LEP) provides that the relevant consent authority must not grant development consent for the Development unless the Secretary has certified in

writing to the consent authority that satisfactory arrangements have been made to contribute to the provision of designated State public infrastructure referred to in clause 6.1 of the LEP.

The Land is not within a Special Contributions Area as defined by section 93C of the Act. The Developer has therefore offered to enter into this Planning Agreement with the Minister in order to enable the Secretary to provide the certification required by the LEP.

The Planning Agreement provides that the Developer will make a monetary contribution of \$158,244 per hectare of Net Developable Area of the Land towards designated State public infrastructure, as defined in Schedule 6 of the Planning Agreement (**Development Contribution**). The Development Contribution is payable in instalments, 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 parties to the Earlier Planning Agreement entered into the Earlier Planning Agreement in connection with the development of part of the Land, being Lot 2 DP 1142394 (**the Lakeside Land**). No development has commenced on the Lakeside Land. The parties to the Earlier Planning Agreement wish to revoke the Earlier Planning Agreement and the Planning Agreement will replace the Earlier Planning Agreement and apply to all of the Land, including the Lakeside Land. This is to ensure that the public benefits to be provided in relation to all of the Land, namely the provision of a monetary contribution, are consistent.

No relevant capital works program by the Minister is associated with the Planning Agreement.

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 infrastructure, facilities and services referred to in clause 6.1 of the LEP.

How the Planning Agreement which includes the revocation of the Earlier 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 which includes the revocation of the Earlier 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 object 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 which is consistent across the proposed development.

The Developer's offer to contribute towards the provision of State public 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 Development 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.