

# Explanatory Note

## Minister for Planning

and

**Ozy Investments Pty Ltd** (ACN 163 521 382) in its capacity as trustee of  
Ozy Investment Trust

## 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 Ozy Investments Pty Ltd (ACN 163 521 382) in its capacity as trustee of Ozy Investment Trust, Diana Sangari and Mohammad Hubi (collectively the **Developer**) and the Minister for Planning (the **Minister**).

### Description of the Subject Land

The Planning Agreement applies to:

- Lot 6 DP 793897

as described in Schedule 3 of the Planning Agreement (the **Subject Land**).

The Subject Land is located at 20 Macquarie Place, Tahmoor NSW.

### Description of the Proposed Development

The Developer is seeking to undertake residential subdivision of the Subject Land into approximately 36 residential lots in accordance with Development Application 10.2015.845.1 which has been lodged with Wollondilly Shire Council (**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 \$9,145 per lot of the Subject Land created for the purpose of residential accommodation (subject to indexation in accordance with the Planning Agreement), excluding any residue lot and super lot, on the Subject Land to which each subdivision certificate application relates, for

the purposes of the provision of designated State public infrastructure within the meaning of clause 6.1 of the *Wollondilly Local Environmental Plan 2011 (LEP)*.

The parties agree that no contribution amount will be payable in relation to any lot created for the purpose of residential accommodation that contains a lawfully constructed dwelling located on the Subject Land on the date of commencement of the Planning Agreement.

The Developer is to pay to the Minister or the Minister's nominee each contribution amount 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 Security to the Minister of \$20,000 as set out in Schedule 5 to the Planning Agreement 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.

## **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 **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 Subject 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 requires payment of each contribution amount 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.

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