

3 May 2019

Executive Director, Infrastructure & Delivery
Department of Planning and Environment (DPE)
GPO Box 39
SYDNEY NSW 2000

By email: Martin.Reason@planning.nsw.gov.au
John.Borg@planning.nsw.gov.au

ATTENTION: Mr Martin Reason/ Mr John Borg

Dear Martin/John

RE: DRAFT PLANNING AGREEMENT
MINISTER FOR PLANNING (Minister), ROADS AND MARITIME SERVICES
(RMS) AND KINGSHILL DEVELOPMENT NO.1 PTY LTD, KINGSHILL
DEVELOPMENT NO.2 PTY LTD (KHD)
KINGS HILL URBAN RELEASE AREA (URA)

Reference is made to the subject draft Planning Agreement (draft Kingshill VPA) which is currently on public exhibition until 4 May 2019.

Reference is also made to the landowner meeting held at the Department of Planning & Environment (DPE) Sydney office on 5 April 2019 and the subsequent teleconference on 16 April 2019 attended by Martin Reason and John Borg from DPE, John Gilmour on behalf of Gwynvill Trading Pty Ltd and the writer.

This correspondence has been prepared on behalf of Gwynvill Trading Pty Ltd (Gwynvill) being the registered proprietor of Lot 481 DP 804971 and Lot 4822 DP 852073 (Gwynvill Land) within the Kings Hill URA.

The draft VPA has been reviewed and the following comments are made on behalf of Gwynvill:

1. Background

KHD have offered to enter into the draft VPA with the Minister and RMS to:

- Provide Development Contributions - Monetary Contribution, Education Land Contribution, Road Works Land Contribution, and Drainage Channel Land Contribution to facilitate the development of the Kings Hill URA.
- Enable the Secretary to provide the Satisfactory Arrangements Certificate required by Clause 6.1 of the Port Stephens LEP 2013 regarding the Development of the KHD land for predominantly residential purposes.

The draft VPA establishes the Initial Development Cap applicable to the KHD Land, being 250 Development Units with access only off Newline Road.

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The draft VPA includes requirements for the subdivision of any part of the Land which would result in the Initial Development Cap being exceeded.

2. Clause 2.1 – Operation - it is noted the draft VPA operates only if it is executed by all parties and a Development Consent has been issued for the Development.

The Agreed Terms of the draft VPA defines Development to be the development of the Land for predominantly residential purposes into Urban Lots to enable the erection of a maximum of 2,300 Dwellings on the Land.

Comment: What is the anticipated date at which the draft VPA will become operable in accordance with the provisions of Clause 2.1?

Clause 3 - Application of sections 7.11, 7.12 and 7.24 of the Act - it is noted that Schedule 1 confirms sections 7.11 and 7.12 of the Act are not excluded in respect of the Development.

Comment: The confirmation of the Section 7.11 development contributions proposed to be collected by Port Stephens Council (PSC) with respect to the Kings Hill URA is important to ensure that the overall cost to Development is understood. This is particularly important given the quantum of the Monetary Contributions the subject of the draft VPA for the Eastern Catchment Land may be in the vicinity of \$37,000 per Development Unit.

What consultation has been undertaken with PSC with respect to the proposed Section 7.11 development contributions applicable to the Kings Hill URA?

The Monetary Development Contribution in the draft VPA is based on full cost recovery to the State Government with respect to the URA Infrastructure Value and the Eastern Catchment Infrastructure Value.

It is therefore important that due consideration is given to the overall quantum of contributions that will be levied within the Kingshill URA by either state government (through the draft Kingshill VPA) or Port Stephens Council through its Section 7.11 Contribution Plans which are anticipated to still be subject to review.

It is also important that the same equitable terms are established with all landowners in the URA through the application of identical Monetary Contributions prior to the issuing of Clause 6.1 Satisfactory Arrangements Certification in relation to any development within the Kings Hill URA.

It is noted that Section 7.24 of the Act is excluded with respect to the Development.

Clause 4.1 Developer to provide Development Contributions - it is noted that KHD have agreed to make Development Contributions in accordance with Schedule 2. Please refer to comments below with respect to Schedule 2.

Clause 7 Restrictions on issue of Development Consents, Construction Certificates and Subdivision Certificates

Clause 7 confirms that the Developer may subdivide the Land up to the Initial Development Cap with access only off Newline Road and must not apply for any Subdivision Certificate that will result in the exceedance of the Initial Development Cap until the RMS have provided written notification to the Developer confirming the opening of the Interchange to traffic.

Comment: Is it intended that the provisions of Clause 7(b) will apply to Subdivision Certificates for Boundary Adjustments that do not result in additional dwelling entitlements or Boundary Adjustments for the creation of separate lots for transfer of Land Contributions or environmental management areas?

Clause 8 Access roads and infrastructure delivery –

Comment - the intent of Clause 8 to allow owners of landholdings adjoining the KHD Land to access the Interchange is acknowledged and supported. The Clause raises a few issues with respect to the future delivery of access roads and infrastructure as follows:

- PSC will be the relevant roads authority referred to in Clause 8.

Has there being consultation with PSC (being the relevant road authority) with respect to what will be required to achieve.. *The satisfaction of the relevant roads authority under an appropriate arrangement without authority, dedicated or transferred land for the purpose of a public road... to enable the future construction of a public road running north south from the Interchange up to the southern boundary of Lot 481 in DP 804971?*

- What arrangements are proposed to be put in place in the draft VPA to deliver the future construction of the public road and associated services infrastructure (e.g. water supply, sewer, electrical & telecommunications) linking the Interchange to the southern boundary of Lot 481 in DP 804971.

.Clause 10.3 Best endeavours

Comment - the intent of Clause 10.3 to facilitate the construction of the Drainage Channel Works in conjunction with the Road Works is acknowledged and supported. It is important that every effort is made to reduce the overall costs which may be achieved by undertaking the Drainage Channel and Road Works as a single construction project.

Schedule 2 Development Contributions

Comment - Monetary Contributions the draft VPA will result in Monetary Contributions applicable to land within the Eastern Catchment of \$37,010 per Development Unit. It is noted from the landowner briefing on 5 April 2019, that the calculation of the Monetary Contributions is based on full cost recovery to the State government.

Given the quantum of the Monetary Contribution per lot for development in a regional area, has any consideration been given to an alternate model that does not require full cost recovery to the State government?

The importance of securing the state government approval for the funding of the upfront cost of the URA Infrastructure Value and the Eastern Catchment Infrastructure Value is acknowledged and supported. The draft VPA provides the basis for the equitable sharing of the associated costs across the URA.

However, given the quantum of the proposed Monetary Contributions it is reasonable to also seek a level of permanent state government funding towards the Infrastructure required to establish the Kings Hill URA being the one of the largest URAs in the Hunter region.

It is also noted that Clause 2.2 provides for the adjustment of the Development Contribution Rates based on an updated forecast of the Unit Factor (yield), the URA Infrastructure Value and the Eastern Catchment Infrastructure Value once the RMS have entered into contracts for the construction of the Road Works and the Drainage Channel Works.

It is acknowledged that the current URA Infrastructure Value and Eastern Catchment Infrastructure Value include contingencies in the order of 40% in their calculation. It goes without saying that it will be important that best endeavours are made to ensure that the actual cost of the Infrastructure Work are kept to a minimum to ensure the viability of the future development of the URA is maintained.

It is important that the same equitable terms are established with all landowners in the URA through the application of identical Monetary Contributions prior to the issuing of Clause 6.1 Satisfactory Arrangements Certification in relation to any development within the Kings Hill URA.

What arrangements are to be established to ensure that identical Monetary Contributions for the Road Works are applied across the URA?

Comment - Land Contributions - the value of the Education Land Contribution, Road Works Land Contribution and Drainage Channel Land Contribution is \$54/m². Please confirm the rationale and the methodology for the calculation of the land value rate.

We thank you for the opportunity to provide these comments with respect to the draft VPA.

Please do not hesitate to contact the writer should you require any additional information regarding this submission.

Yours sincerely
King & Campbell Pty Ltd



Anthony Thorne
cc Clients