

Explanatory Note
Minister for Planning
and
KVF Pty Limited ACN 054 880 661
as trustee for the KB Issa Family Trust and
Stockland Development Pty Limited ACN 000 064 835

Draft Planning Agreement (Stages 14-16 Brooks Reach, Huntley)

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 KVF Pty Limited ACN 054 880 661 as trustee for the KB Issa Family Trust and Stockland Development Pty Limited ACN 000 064 835 (collectively, "the **Developer**") and the Minister for Planning ("the **Minister**").

Description of the Subject Land

The Planning Agreement applies to those parts of the land comprised in Lot 1 DP 549692 (which is owned by Stockland Development Pty Limited and is located at 434 Bong Bong Road, Huntley) and that part of Lot 1 DP 199396 as shown on the plan attached to the Planning Agreement (which is owned by KVF Pty Limited and is located at 44 Hayes Lane, Huntley ("**Subject Land**").

Description of the Proposed Development and the West Dapto Urban Release Area

The Developer has lodged a development application (being DA2014/1379) for a 158 lot subdivision of the Subject Land ("**Proposed Development**"). The development application is currently being considered by Wollongong City Council. The Developer has made an offer to the Minister to enter into the Planning Agreement in connection with the Proposed Development.

The Proposed Development is located within the West Dapto Urban Release Area. West Dapto is the priority new release area to cater for future housing demand in the Illawarra region. Stages 1 and 2 of West Dapto were rezoned for development in May 2010. There are five stages in total, the remaining three stages will be rezoned over the medium to long term.

The West Dapto Urban Release Area includes 1,450 ha of developable land located in the south-west of the Wollongong LGA generally between the Illawarra Escarpment and Lake Illawarra. West Dapto has the capacity for approximately 17,000 dwellings and 8,400 jobs over the next 30 to 40 years.

The new development is proposed to include a new town centre, a mix of detached and medium density housing and 175 ha of employment lands all of which will be supported by the Major Regional Centre of Dapto. Relative to the size of the entire new release area, the Proposed Development is a modest release located opposite the proposed new town centre to the south-west of Horsley.

In addition to West Dapto, there are a number of other zoned or potential land releases in the vicinity. Planning for all this growth has required State and local governments to consider the future infrastructure and servicing that will be required to support the full development of all areas well into the future. The contribution required under this Planning Agreement represents a share of the overall infrastructure costs that is appropriate to the size of 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 \$48,813 per hectare of net developable area (subject to CPI) which will go to the NSW Government towards the provision of State public infrastructure and facilities to support the development.

In particular it is intended the monetary contribution will be used to meet the State's obligations to upgrade the State and regional road network and provide school services to the new release area.

The amount of the monetary contribution will be paid in instalments calculated on the basis of an estimate of the net developable area for each development application. The instalments are payable 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 Subject Land in accordance with section 93H of the Act.

No relevant capital works program by the Minister is associated with the Planning 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; and
- the provision of (or the recoupment of the cost of providing) transport or other infrastructure relating to the land.

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 required State public infrastructure.

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 State public infrastructure to satisfy needs that arise from development of the West Dapto new release area generally and specifically from the Proposed Development.

How the Planning Agreement Promotes the Objects of the Act

The Planning Agreement promotes the objects of the Act by encouraging:

- the provision and co-ordination of community services and facilities; and
- 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 monetary contribution towards the provision of required State infrastructure.

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 the State public infrastructure as it is required.

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 monetary 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.