

Explanatory Note

Minister for Planning

and

Scentre Limited (ACN 000 317 279)

and

Orta Pty Limited (ACN 008 617 810)

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 Scentre Limited (ACN 000 317 279), Orta Limited (ACN 008 617 810) (the **Developer**) and the Minister for Planning (the **Minister**).

Description of the Subject Land

The Planning Agreement applies to:

- Part Lot 3 in Deposited Plan 1084221 and Part Lot 2 in DP 1056960 as shown hatched black on the plan forming Annexure B and as described in Schedule 3 of the Planning Agreement (the **Subject Land**).

The Subject Land is located at corner of Wyong Road and Tonkiss Street, Tuggerah.

Orta Pty Limited is the registered proprietor of Lot 3 in DP 1084221.

Scentre Limited (formerly known as Westfield Limited) is the registered proprietor of Lot 2 in DP 1056960.

Description of the Proposed Change to Environmental Planning Instrument

The Developer is seeking an amendment of the Wyong Local Environmental Plan 1991 and the Wyong Local Environmental Plan 2013 (or such other relevant local environmental plan in respect of the Land in force at the time the Land is rezoned) (the **LEPs**) to rezone the Land to Zone B4 Mixed Use as reflected in the Standard Instrument – Principal Local Environmental

Plan and proposes to develop the Land for commercial, retail and other uses consistent with B4 Mixed Use zone, including use as a bulky goods/retail outlet and associated car parking development.

The Subject Land is part of a larger site that is proposed to be rezoned and the Developer has requested that the site (which includes the Land), be rezoned with a combination of the following zones: RU6 Transition, R1 General Residential, B3 Commercial Core, B4 Mixed Use and E2 Environmental Conservation.

In connection with the proposed rezoning of the LEPs the Developer has made an offer to the Minister to enter into the Planning Agreement.

Summary of Objectives, Nature and Effect of the Planning Agreement

The Planning Agreement provides that the Developer will enter into a Works Authorisation Deed with the Roads and Maritime Service in respect of an upgrade of the intersection of Tonkiss Street and Wyong Road to full traffic signal control and left in/left out road works on Wyong Road (the **Road Works**) as shown in the plan attached at Annexure A to the Planning Agreement.

The Planning Agreement provides that the Developer must practically complete the Road Works in accordance with the time frames set out in Schedule 4 to the Planning Agreement.

The Planning Agreement provides that the Developer shall not apply for an occupation certificate for any building work on the Subject Land that has resulted in the total floor area being 14,000 square metres or greater unless the Road Works have been practically completed.

The Developer is required to provide two Bank Guarantees or Insurance Bonds and to register the Planning Agreement on the title to the Subject Land in accordance with section 93H of the Act.

The Planning Agreement promotes the objects of the Act set out above by requiring the Developer to make a contribution towards the provision of regional transport infrastructure and services in the Wyong Area. The Developer will provide certain regional transport infrastructure directly through the provision of the Road Works.

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) transport or other infrastructure relating to 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 transport 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 transport infrastructure 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 transport infrastructure.

The Developer's offer to contribute towards the provision of regional transport infrastructure and services will have a positive public impact as the Developer will provide certain regional transport infrastructure directly through the provision of the Road Works.

Requirements relating to Construction, Occupation and Subdivision Certificates

The Planning Agreement requires the Developer to enter into a Works Authorisation Deed with the Roads and Maritime Services prior to the issue of the relevant construction certificate and therefore contains a restriction on the issue of a construction certificate within the meaning of section 109F(1) of the Act and clause 146 of the Regulation.

The Planning Agreement requires the Developer to practically complete the Road Works prior to the issue of the relevant occupation certificate and therefore contains a restriction on the issue of a construction certificate within the meaning of section 109H(2) of the Act and clause 25E(2)(g) of the Regulation.

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