

Explanatory Note

Minister for Planning

and

The Trust Company (Australia) Limited (ACN 000 000 993)

and

Altis Bulky Retail Pty Limited (ACN 164 432 124)

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 The Trust Company (Australia) Limited (ACN 000 000 993) (the **Developer**) in its capacity as custodian and agent of Altis Bulky Retail Pty Limited and Altis Bulky Retail Pty Limited (ACN 164 432 124) (**Altis**) in its capacity as trustee for Altis Bulky Sub Trust 3 and the Minister for Planning (the **Minister**).

Description of the Subject Land

The Planning Agreement applies to:

- Lot 2171 in Deposited Plan 1153854 as described in Schedule 3 of the Planning Agreement (the **Subject Land**).

The Subject Land is located at Mamre Road, Erskine Park NSW.

Description of the Proposed Change to Environmental Planning Instrument

Altis is seeking an amendment of the State Environmental Planning Policy (Western Sydney Employment Area) 2009 to rezone the Subject Land to zone IN1 General Industrial and proposes to lodge a concept plan in 2016 to subdivide and develop the Subject Land in stages into approximately 9 lots, construction of internal estate road, earthworks, stormwater, infrastructure, services and construction of warehouses, ancillary office for a warehouse and a logistic hub precinct (the **Proposed Development**).

In connection with the proposed rezoning of the State Environmental Planning Policy (Western Sydney Employment Area) 2009 and the Proposed Development, Altis and the Developer have 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 make a monetary contribution of \$182,898 per hectare of net developable area of the Subject Land (subject to indexation in accordance with the Planning Agreement) in connection with the Proposed Development for the purposes of the provision of regional transport infrastructure and services within the meaning of Clause 29 of the *State Environmental Planning Policy (Western Sydney Employment Area) 2009*.

The Proposed Development is proposed to be carried out in stages and the monetary contribution for each stage of development (as defined in the Planning Agreement) will be payable in accordance with the timeframes set out in Schedule 4 to the Planning Agreement. The Planning Agreement provides that Altis will procure the making of contributions by the Developer to the Minister.

The Developer is required to provide an initial Bank Guarantee on execution of the Planning Agreement and also Bank Guarantees for each Stage of Development and to register the Planning Agreement on the title to the Subject 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 regional transport infrastructure and services referred to in Clause 29 of the *State Environmental Planning Policy (Western Sydney Employment Area) 2009*.

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, Altis and the Developer have assessed the Planning Agreement and 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 regional 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 regional 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 regional transport infrastructure.

The Developer's offer to contribute towards the provision of regional transport infrastructure and services will have a positive public impact as funds from the Developer will be available towards the provision of regional transport infrastructure and services referred to in Clause 29 of the *State Environmental Planning Policy (Western Sydney Employment Area) 2009*.

Requirements relating to Construction, Occupation and Subdivision Certificates

The Planning Agreement requires payment of the monetary contribution prior to the issue of the relevant subdivision certificate or construction certificate and therefore contains a restriction on the issue of a subdivision certificate or construction certificate within the meaning of section 109J(1)(c1) and 109F(1) of the Act and clause 146A of the Regulation.

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