

Explanatory Note

Minister for Planning, Winton Partners Bellbird Pty Limited (ACN 156 002 185)

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 Winton Partners Bellbird Pty Limited (ACN 156 002 185) (the **Developer**) and the Minister for Planning (the **Minister**).

Description of the Subject Land

The Planning Agreement applies to part Lot 1 in Deposited Plan 1164334 known as 40 Francis Street, Cessnock (Bellbird Heights) (the **Land**).

The Land is owned by the Developer.

Description of the Proposed Development

The Developer has made and is proposing to make development applications for the subdivision of the Land into approximately 350 residential lots (**Proposed Development**). In connection with the Proposed Development, the Developer has made an offer to the Minister to enter into the Planning Agreement.

A development application has been lodged with Cessnock City Council (the **Council**) for Stage 1 of the Proposed Development, which comprises the subdivision of the Land into 175 residential lots, residue allotments and associated drainage reserves, earthworks and infrastructure. Stage 1 is to be constructed in 4 phases, the timing of which will be subject to market demand.

Summary of Objectives, Nature and Effect of the Planning Agreement

The Planning Agreement provides that the Developer will make a monetary contribution of \$1,500.00 per residential lot for the purposes of the provision of designated State public infrastructure within the meaning of clause 6.1 of the *Cessnock Local Environment Plan 2011* (**LEP**).

The amount of the monetary contribution will be paid in instalments calculated on the basis of the number of residential lots for each phase of the Proposed Development. The instalments are payable prior to the issue of each relevant subdivision certificate as set out in Schedule 4 to the Planning Agreement.

In addition to the payment of the above contributions, the following forms part of the development contribution under the Planning Agreement:

- (a) the payment of a monetary contribution to the Council towards upgrades and improvements to existing facilities, car parking, flood lighting and shelter seating at Carmichael Park: \$475.41 per residential lot; and
- (b) the setting aside of proposed Lot 2 in DP 1214999 for environmental conservation purposes (the **Environmental Land**), including the registration of a positive covenant on the title of the Environmental Land requiring the implementation of and compliance with a vegetation management plan approved by the Council (valued at \$3,051.74 per residential lot).

The above obligations have been secured by the local planning agreements between the Developer and the Council that will be registered on the title of the Land pursuant to the provisions of those agreements.

The Developer is required to provide security in the form of a \$20,000.00 bank guarantee or insurance bond upon execution of the Planning Agreement. In addition, the Developer will provide an additional \$20,000 bank guarantee prior to the issue of the construction certificate for each phase of the Proposed Development which will be returned upon the satisfaction of the obligations for each particular phase of the Proposed Development. In addition, the Planning Agreement will be registered 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; and
- the conservation or enhancement of the natural environment.

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 and sets aside land for the conservation of the natural environment.

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 Land and contributes towards the conservation of the natural environment.

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;
- protecting of the environment; and
- 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. In addition, the setting aside of the Environmental Land and positive covenant will conserve and enhance the natural environment.

Requirements relating to Construction, Occupation and Subdivision Certificates

The Planning Agreement requires each security amount (other than the initial security) to be provided 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 clause 146A of the Regulation.

In addition, 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.

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