

Proposed Amendment to State Government Agreement with Johnson Property Group

In the mid 1990 the Developer became involved with the land in Pitt Town. This land was outside the specified Urban Growth Centres, and development proposals outside the Growth Centres had to meet all infrastructure costs, thus enabling the proposed development to proceed.

In 2004 the Johnson Property Group, JPG asked the Minister to make a Draft Hawkesbury Local Environment Plan LEP. This was in relation to land in the Pitt Town area. An offer by the developer to a planning authority to dedicate land and make monetary contributions was also included. The developer agreeing to a level of in-kind and cash contributions averaging \$42000 per lot. Also, that the Planning Agreement being registered on the title of the subject land effectively BINDING any subsequent purchaser of the land to ensure the contribution is made if full. Please refer to "Explanatory Note" on JPG submission, VPA Register.

This Planning Agreement for the land at Pitt Town was executed 26 June 2006

In March 2006 a meeting in relation to the "Up grading of Pitt Town Roads Associated with the Pitt Town Development," was held (see annexure 1) involving RTA and Department of Planning. It was noted in a Minister of Planning letter that the required developer contribution is \$31,500 per lot based on 393 lots for RTA works.

On the 5th April 2006 Mr Keith Johnson Managing Director JPG informed the Minister, "We wish to confirm that the scope of works, as outlined in your letter 5th April is Satisfactory."

Further, "We have reviewed the Authority requirement for pre and post completion security and confirm that we are able to accept requirements with respect to its general construction contract GC21."

Mr Sartor and Mr Johnson signed this agreement 26/7/2006 a contract binding JPG to deliver these funds to the State Government. (See annexure 2)

The local residents of Pitt Town were made aware of these conditions and were encouraged to support the development of Pitt Town, as these were the benefits that would be delivered. (see annexure 3)

In April 2012 the then local state member Ray Williams informed the residents, that the funds were being collected at approximately \$40,000 per lot and were being placed into a trust account administered by the Hawkesbury City Council for the use on the Pitt Town State infrastructure only.

In April 2013 Mr Williams informed residents that there was approximately \$8,000,000 in the Pitt Town State infrastructure account and the infrastructure works would be starting in the near future.

In December 2013 Mr Williams was contacted in relation to the amount of funds that had been collected. The information passed on was that the trust account had been closed, the funds returned to the developer and there was nothing further he would do.

On the 30th September 2013, the then Minister for Planning Mr Hazard issued a direction to the HCC to cease levying for these purposes as State infrastructure will NOW be secured through a Voluntary Planning Agreement. (See annexure 4)

On the 14 December 2016 JPG submitted a Draft Deed of Amendment, offering \$10,500 per lot with a yield of 553 lots, plus some other payments.

On inspection of a number of purchasers contracts prior to 30th September 2013, there is a section showing a break down of levies that is included in the final purchase price. State Government Infrastructure levy totalled \$42,000. So, \$42,000 a lot was charged and collected for State Government infrastructure from the purchasers.

PARTIES TO THE PLANNING AMENDMENT AGREEMENT.

If this Agreement is to proceed, it must include every purchaser and or owner of the lots sold, as these people have contributed funds and not just the Minister for Planning and the Johnson Property Group.

SUMMARY OF OBJECTIVES, NATURE AND EFFECT OF THE PLANNING AMENDMENT AGREEMENT.

In this section it is mentioned that it is to be dealt with under Hawkesbury Environmental Planning 2012. Where in fact a large number of these lots were developed and sold PRIOR to 21st September 2012, when the Hawkesbury Environmental Plan 2012 was gazetted. These lots were developed and sold under the Hawkesbury Local Environmental Plan, which was executed on the 26 July 2006. This plan sets out amounts that are to be levied on each lot at \$42,000.

HOW THE PLANNING AMENDMENT AGREEMENT PROMOTES THE PUBLIC INTEREST.

This planing agreement is NOT in the public interest as the contributions set out of \$10,500.00 does NOT represent the levies agreed to by the Developer in the 2006 Hawkesbury Environment plan and paid by the purchasers on their land.

HOW THE PLANNING AMENDMENT AGREEMENT PROMOTED THE OBJECTS OF THE ACT.

The Developer has collected the funding in relation to this project from the purchasers since 2008. These funds were required to be lodged in a Hawkesbury Council trust account, and made available at the time, for the designated State Government projects for PittTown. These funds made up part of the overall purchase price of the land and were paid by the purchaser.

In conclusion this application should be REJECTED, as it is not in the public interest as does not make all the funds that have been paid by purchasers for State Government Infrastructure available. I am requesting that the Minister conduct an ENQUIRY into this matter, and prepare for the purchasers and residents of Pitt Town, a full and transparent document addressing ALL State government fees, levies and contributions pertaining to the Pitt Town Development. We have made this request a number of times to our local member Mr Perrottet, with little result.

Yours Faithfully

Peter & Deborah Ryan
2 Amelia Grove Pitt Town
NSW 2756

05-04-2006 15:23 FROM:RNI DIRECTORS OFFICE

+62186404

T-714 P-002/003 F-884

5M1841

Mr Keith Johnson
 Johnson Property Group
 Suite 3205, Level 32, The Chifley Tower
 2 Chifley Square
 SYDNEY NSW 2000

Dear Mr Johnson

RE Upgrading of Pitt Town Road associated with the Pitt Town Development

I refer to the meeting held on Wednesday 28 March 2006 with officers of the Roads and Traffic Authority (RTA) and the Department of Planning (DoP) concerning the scope of works on Pitt Town Road included the draft Planning Agreement (PA). As you are aware, the PA was a requirement of the Minister for Planning, in his letter of 25 October 2005.

It is noted from the Minister for Planning's letter that the required developer contribution is \$34,000 per lot plus other works. RTA advice to the DoP on 27 May 2005 indicated that approximately \$31,100 per lot was to be allocated for arterial road improvements. Based on your landholding having a yield of 393 lots, the applicable contribution for arterial road improvements would be approximately \$12.2 M.

The RTA has been subsequently advised that discussions have occurred between you and the DoP and that these discussions have resulted in the drafting of a planning agreement indicating that your company would carry out intersection improvements and upgrading of Pitt Town Road shoulders estimated by the RTA to cost \$1.7 M and \$11.2 M respectively (being works identified in the RTA's letter to the DoP dated 27 May 2005).

As indicated in the attachment B of the 27 May 2005 letter, the RTA's intention with regard to the upgrading of Pitt Town Road (and the associated cost estimates) provided to DoP has always been to include the provision of clear zones, construction and sealing of the road shoulders and resurfacing of the existing road pavement from Windsor Road to the main access to the development site i.e. the Cattai Road/Mitchell Road intersection.

We note your assertion that the draft PA did not adequately indicate that the upgrading of Pitt Town Road included resurfacing of the existing road pavement. Given your concerns about the description of the scope of works in the draft PA, the RTA is prepared to omit the requirement to resurface the existing pavement on the condition that the shoulder upgrading and improvements to the five intersections (see below) are carried out in accordance with all the RTA's relevant design guidelines and are to include the following scope:

- **Shoulder construction** – Continuous 2m wide sealed shoulders from Windsor Road to the end of Pitt Town Road with pavement consisting of 400mm of road base (DGB20), 10mm prime seal and 14mm rubberised spray seal. Alternatively a 360mm road base (DGB20) and 40mm AC14 wearing course could be provided in place of the spray seal. The join between the shoulder works and existing pavement is to be formed by either excavation with a rotor mill or saw cut. Appropriate drainage (subsoil and surface) is to be provided in accordance with RTA requirements. Services and other road safety hazards, including but not limited to power poles, trees etc within the shoulders and clear zone (determined as per the RTA's

05-04-2006 15:23

FROM-RNI DIRECTORS OFFICE

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design guidelines) are to be relocated. Only if road safety hazards cannot be relocated due to the proximity of property boundaries, can they then be treated by protection (eg by use of guard rail).

- Intersection Improvement works - The following five intersections with Pitt Town Road - Charles Street, Wolesley Road, Pitt Town Bottoms Road/Saunders Road, Schofield Road, Glebe Road are to be upgraded with localised widening to provide appropriate left turn and right turn bays. The first four intersections are to be upgraded in accordance with the RTA's AUR and AUL intersection treatments with the Pitt Town Road/Wolesley Road being upgraded in accordance with the RTA's CHR intersection treatment.
- The existing lane widths are to be maintained and the existing line marking removed and the intersections resurfaced in asphalt and re-line marked to cater for turning movements. Note that upgrading of the Cattai Road/Mitchell Road and the intersection off Bathurst Street and Eldon Street are to be carried out in accordance with the TMAP/Council's Section 94 Plan for the Development Site and are not included in the five intersections specified in the RTA's correspondence on the developer for regional road improvement.

Without the resurfacing of the remainder of the existing pavement, it is expected that the cost of the works would be substantially less than the value of the works indicated in the current draft PA and the RTA will advise the DoP and the Minister for Planning accordingly.

Design of the improvement works are to be submitted to the RTA for its review and approval as part of the preparation of the Works Authorisation Deed (WAD) - as specified in the draft PA.

As Pitt Town Road is a classified state road, the RTA has the discretion of authorising other parties to undertake works on that road. If the RTA is not satisfied that the above works will be undertaken to the appropriate standard, the RTA will require a cash contribution of \$31,100 per lot for the works to be undertaken by the RTA.

Please indicate your intentions with respect to the scope of works by way of letter addressed to the undersigned.

With regard to the issue of security, the RTA cannot accept your proposal for a zero level of security for the works. However, given that the PA will be registered on the title of the developable land, the RTA can reduce the required level of security in line with its general construction contract (GC21). The RTA would therefore require, in line with the standard requirements of GC21, for each WAD signed, both pre-completion and post-completion unconditional undertakings from a financial institution (approved by the RTA and on terms outlined in the WAD). The amounts for the pre and post-completion security are 5% and 1% respectively, of the estimated cost of the works. The pre-completion security would be released soon after the completion of the works, whilst the post-completion security would be held until the defects rectification period is finished. These amounts are industry standard and are required to ensure adequate performance of the contract.

Should you wish to discuss this issue further, please contact Mark Ozlinga on 9218 6618.

Yours sincerely

BSW

5/4/06

B.J. Watters
A/Director, Road Network Infrastructure

Cc Department of Planning, Mr Andrew Watson



Wednesday, April 5, 2006

The Director General
Roads and Traffic Authority
Level 6, Centennial Plaza
260 Elizabeth Street
Surry Hills NSW 2010

Attention: Mr. Brian Watters

Dear Sir,

RE: Upgrading of Pitt Town Road associated with the Pitt Town Development.

We thank you for your letter 5 April 2006 regarding the above matter.

We wish to confirm that the scope of works, as outlined in your letter of 5 April 2006 is satisfactory.

Further, we have reviewed the Authorities requirement for pre and post-completion security and confirm that we are able to accept requirements with respect to its general construction contract (GC21).

It is our intention to now enter into a Planning Agreement with the Minister for Planning and subsequently a Works Authorisation Deed with the Roads and Traffic Authority, on terms as we had previously agreed to in draft Planning Agreement.

We look forward to your earliest attentions in this regard.

Yours Sincerely,
Johnson Property Group

Keith Johnson
Managing Director

cc Andrew Watson - Department of Planning

Signing page

DATED:

26/7/06

SIGNED SEALED AND)
 DELIVERED by The MINISTER)
 FOR PLANNING in the presence
 of:

Gail Connolly
 Signature of Witness

GAIL CONNOLLY
 Name of Witness
 [BLOCK LETTERS]

Frank Sartor
 Signature of Minister

FRANK SARTOR
 Name
 [BLOCK LETTERS]

EXECUTED by THE JOHNSON
 PROPERTY GROUP PTY LTD in
 accordance with section 127(1) of the
 Corporations Act 2001 (Cwlth) by
 authority of its directors:


Andrew Mutton
 Signature of director. witness

ANDREW MUTTON
 Name of director (block letters)
 witness


Keith Johnson
 Signature of (director/company
 secretary* FSL
 *delete whichever is not applicable

KEITH JOHNSON
 Name of (director/company secretary*
 (block letters) FSL
 *delete whichever is not applicable

EXECUTED by BONA VISTA
 PROPERTIES PTY LTD in
 accordance with section 127(1) of the
 Corporations Act 2001 (Cwlth) by
 authority of its directors:


 Signature of director witness

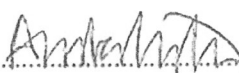
ANDREW MINTON
 Name of director (block letters)
 witness


 Signature of director/company
 secretary*

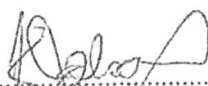
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KEITH JOHNSON
 Name of director/company secretary*
 (block letters) sole
 *delete whichever is not applicable

EXECUTED by FERNADELL
 PROPERTIES PTY LTD in
 accordance with section 127(1) of the
 Corporations Act 2001 (Cwlth) by
 authority of its directors:


 Signature of director witness

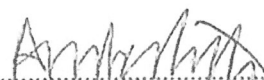
ANDREW MINTON
 Name of director (block letters)
 witness


 Signature of director/company
 secretary*

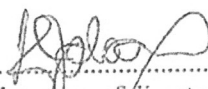
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KEITH JOHNSON
 Name of director/company secretary*
 (block letters) sole
 *delete whichever is not applicable

EXECUTED by VERMONT
 QUAYS PTY LTD in accordance
 with section 127(1) of the
 Corporations Act 2001 (Cwlth) by
 authority of its directors:


 Signature of director witness

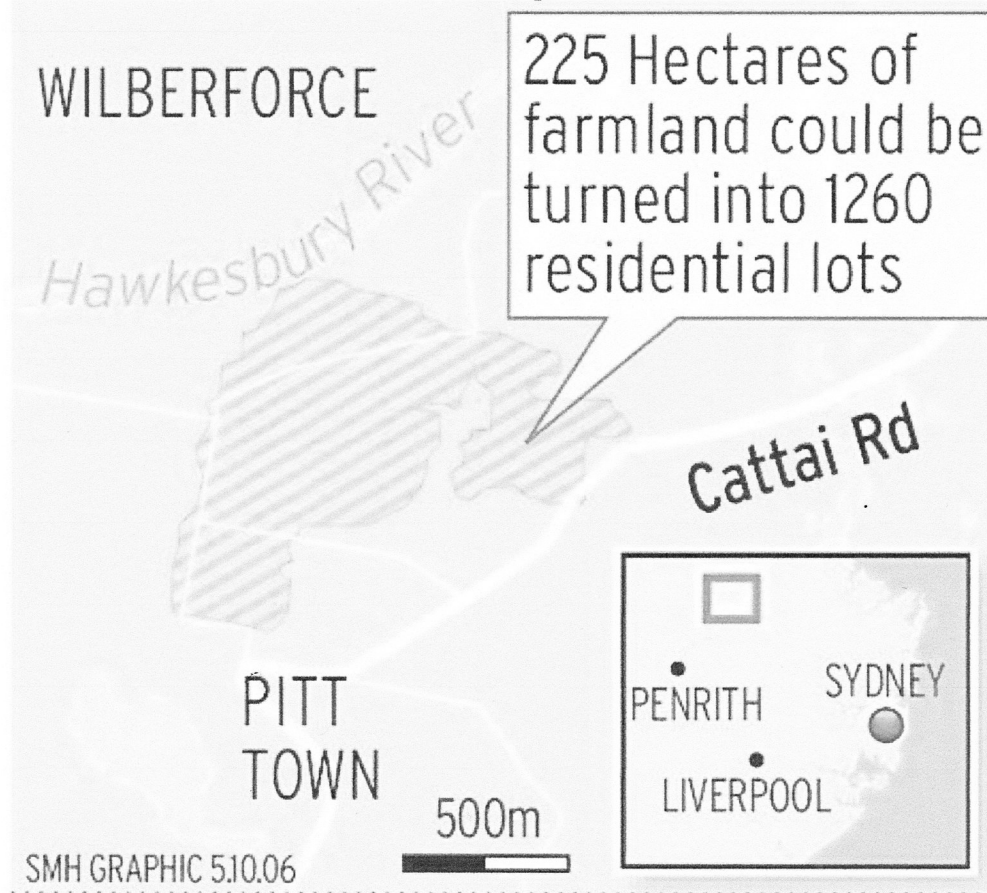
ANDREW MINTON
 Name of director (block letters)
 witness


 Signature of director/company
 secretary*

*delete whichever is not applicable

KEITH JOHNSON
 Name of director/company secretary*
 (block letters) sole
 *delete whichever is not applicable

Fertile fields about to sprout 1260 homes



Justin Norrie Urban Affairs Reporter
October 5, 2006

HISTORIC farmland on Sydney's fringe could be bulldozed to make way for a "new Kellyville-style suburb" of 1260 homes, in a plan that has outraged local farmers.

The proposal to build a satellite suburb at Pitt Town, in the Hawkesbury, would further erode agriculture in the Sydney basin and push up the price of fresh produce, they said.

In August the Minister for Planning, Frank Sartor, approved the rezoning of 225 hectares of land in the Hawkesbury, into 631 lots "to help meet Sydney's growing housing needs".

But the developer, Johnson Property Group, has now applied to Hawkesbury City Council to double the number of lots on the same block. The move has brought claims from farmers that their land will be "razed for McMansion sprawl".

The director Keith Johnson would not comment by telephone to the *Herald* yesterday, saying only: "I have a policy in life of never talking to someone unless I meet them face to face."

Pitt Town farmers have previously accused Mr Sartor of reneging on the Government's 25-year blueprint for Sydney, which stresses that rural areas "are not lands 'in waiting' for urban

development".

Pitt Town has been farmed since 1794, and remains a quaint village of 1600 people.

Until the late 1990s as much as 70 per cent of the rezoned land was farmed. Then Mr Johnson began buying, then bulldozing, the biggest farms. Now his company owns or controls more than half of the area and is encouraging remaining landholders to sell.

Johnson Property has donated \$185,000 to the NSW Labor Party in the past five years. It has also paid Hawkesbury City Council \$40,000 to fund an "independent planner" to assess its new application.

Phil Dunesky, chairman of the 200-strong Pitt Town Residents Group, said the rezoning was a disgrace. "Pitt Town has been farmed for 200 years. The land is class 2, which means it's extremely fertile. But they're going to trash it for the sake of a new Kellyville-style suburb."

Mr Dunesky, who grazes cattle and grows roses and pecan nuts with his father, George, said "more precious farmland is going to be razed for McMansion sprawl".

Products leaving farm gates in the Sydney basin are worth more than \$1 billion a year, even though farmers work on less than 1 per cent of the state's agricultural land.

Next door to Mr Dunesky, Ian Littleton runs a poultry farm and grows oranges on a property he leases from a local family.

"I think they're keen to sell to the developer," he said. "I'll probably have to move further out, which means spending more money on travel and distribution."

As part of its earlier agreement for 631 lots, Johnson Property told the Government it would spend \$16.5 million on infrastructure, including arterial road shoulders and expansion of the school. But Mr Johnson has told the local press that he will need the extra lots to ensure that the Pitt Town road upgrade is carried out at no extra cost to the public.

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ORDINARY MEETING

Meeting Date: 26 November 2013

AT - 1 Ministerial Direction dated 24 September 2013**The Hon Brad Hazzard MP**

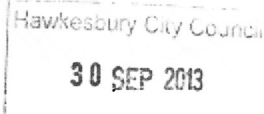
Minister for Planning and Infrastructure

Minister Assisting the Premier on Infrastructure NSW

Mr Peter Jackson
General Manager
Hawkesbury City Council
PO Box 146
DX 8601 WINDSOR NSW

12/13039

Attn: Matthew Owen



Dear Mr Jackson

Hawkesbury City Council Section 94 Plan – Ministerial Direction

I refer to the draft Ministerial Direction regarding section 94 contributions for Pitt Town, which was previously provided to Hawkesbury City Council for comment and has been the subject of ongoing discussions.

I wish to advise that a Direction has now been issued under section 94(E)(1)(a) of the *Environmental Planning and Assessment Act 1979*. The Direction requires Council to cease levying for the Pitt Town bypass, interim bus service and Mulgrave railway station parking under the Pitt Town chapter of its Contributions Plan as these are items of State infrastructure and are not the responsibility of Council to deliver.

The Direction is attached and is effective from the date on which it is received by Council. It is recommended that the Council amend its Contributions Plan to ensure it is consistent with the Direction.

Contributions toward the provision of State infrastructure will be secured through Voluntary Planning Agreements with developers within the Pitt Town development area. Negotiation of these Agreements will be undertaken by the Department of Planning and Infrastructure and will be triggered by Clause 6.8 of Council's LEP that requires the developer to make satisfactory arrangements for the provision of State infrastructure.

I understand that Council has raised some issues with the proposed approach and I refer you to the enclosed attachment for detailed responses.

I note that Johnson Property Group (JPG) has previously provided two bank guarantees to Council to secure Section 94 contributions of \$514,980 toward items of State infrastructure. As contributions for these items are no longer to be levied via Council's Section 94 plan, it is appropriate that the bank guarantees be returned to the developer.

The Department is currently renegotiating the terms of the JPG Planning Agreement to ensure it is consistent with contributions funding policies of the NSW Government.

Level 31 Governor Macquarie Tower, 1 Farrer Place, Sydney NSW 2000
Phone: (61 2) 9228 5258 Fax: (61 2) 9228 5721 Email: office@hazzard.minister.nsw.gov.au

**SCANNED**

ORDINARY MEETING

Meeting Date: 26 November 2013

When a draft agreement has been reached, I will ensure that you will receive written notification of the exhibition period.

Should you have any further enquiries about this matter, I have arranged for Michael Conninos, Director Infrastructure Planning and Coordination of the Department of Planning and Infrastructure to assist you. Mr Conninos can be contacted on telephone number (02) 9228 6492.

Yours sincerely



HON BRAD HAZZARD MP
Minister for Planning and Infrastructure

24 SEP 2013

ORDINARY MEETING

Meeting Date: 26 November 2013

Environmental Planning and Assessment (Local Infrastructure Contributions - Hawkesbury City Council) Direction 2013

I, the Minister for Planning and Infrastructure, in pursuance of section 94E (1) (a) of the *Environmental Planning and Assessment Act 1979*, direct Hawkesbury City Council that it may not impose a condition under section 94 of that Act, in respect of development within Catchment 5 (Pitt Town Residential Precinct), that requires contributions towards the cost of the State and Regional transport infrastructure identified in section 7A.12, and the table on page 34, of the Council's *Section 94 Contributions Plan 2008* (being Pitt Town Bypass, Mulgrave Railway Station parking and the 2 year interim bus service).

Note:

Section 94EC (1A) of the *Environmental Planning and Assessment Act 1979* provides as follows:

The imposition of a condition by an accredited certifier as authorised by a contributions plan is subject to compliance with any directions given under section 94E (1) (a), (b) or (d) with which a council would be required to comply if issuing the complying development certificate concerned.



Minister for Planning and Infrastructure

Dated: 24 SEP 2013

oooO END OF REPORT Oooo