

Explanatory Note

Minister for Planning

and

Jacfin Pty Limited (ACN 000 967 902)

Draft Planning Agreement: Eastern Creek (West)

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 Jacfin Pty Limited (ACN 000 967 902) (the **Developer**) and the Minister for Planning (the **Minister**).

Description of the Subject Land

The Planning Agreement applies to that part of Lot 20 in Deposited Plan 1206129 as described in Schedule 3 of the Planning Agreement (the **Subject Land**).

The Subject Land is located at Old Wallgrove Road, Eastern Creek, NSW.

Description of the Proposed Development

The Developer proposes future development of the Subject Land for purposes consistent with the State Environmental Planning Policy (Western Sydney Employment Area) 2009 (the **SEPP**) (the **Proposed Development**).

In connection with the Proposed Development, 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 make a monetary contribution of \$185,284 per hectare of net developable area of the Subject Land (subject to indexation in accordance with the Planning Agreement) for the purposes of the provision of regional transport infrastructure and services within the meaning of Clause 29 of the SEPP.

The monetary contribution will be payable in stages based on the net developable area of a parcel of land intended for development (as defined in the Planning Agreement) submitted in accordance with the timeframes set out in Schedule 4 to the Planning Agreement. The Planning Agreement provides that the Developer will not lodge a plan of subdivision or undertake development prior to submitting each parcel for the Minister's approval.

The Developer is required to provide an initial Bank Guarantee on execution of the Planning Agreement and also Bank Guarantees for each parcel and to register the Planning Agreement on the title to the Subject Land in accordance with section 93H of the Act.

The Planning Agreement confirms that parcels comprising land within the Initial Development (as defined in the Planning Agreement) and respective bank guarantees have been submitted and deemed approved by the Minister.

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 within the meaning of Clause 29 of the SEPP.

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 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 and services.

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 and services 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 and services.

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 to facilitate the provision of regional transport infrastructure and services within the meaning of Clause 29 of the SEPP.

Requirements relating to Construction, Occupation and Subdivision Certificates

The Planning Agreement requires payment of the monetary contribution for a parcel on the earliest of the following events in respect of a parcel of land:

- before any occupation certificate is issued in respect of any building (or part thereof) located on any part of the parcel; or
- before commencing any occupation or use of any building (or part thereof) located on any parcel whichever is earlier; or
- before the opening of a public road under the Roads Act on any part of the parcel; or
- within 18 months from the date which a construction certificate or complying development certificate in respect of land within a parcel is issued by a consent authority or private certifier.

The Planning Agreement therefore contains a restriction on the issue of an occupation certificate within the meaning of section 109H(2) of the Act.