

Explanatory Note
Minister for Planning and
Sargents Charity Limited (ACN 149 188 198)
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 Sargents Charity Limited (ACN 149 188 198) (the **Developer**) and the Minister for Planning (the **Minister**).

Description of the Subject Land

The Planning Agreement applies to:

- Lot 102 and 103 DP1189012 (the **Subject Land**).

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

Description of the Proposed Development

The Developer is seeking planning approval for construction, commissioning and operation of a pie factory and subdivision of the Subject Land into approximately 8 industrial lots in accordance with Development Applications DA14-194 and DA15-1330 which has been lodged with Blacktown City Council (**Proposed Development**) and has made an offer to the Minister to enter into the Planning Agreement in connection with the Proposed Development.

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 Authority in respect of road works to the western lanes of Archbold Road (the **Road Works**) as shown in the plans 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 Works Authorisation Deed and the time frames set out in Schedule 4 to the Planning Agreement.

The Planning Agreement provides for the dedication and transfer of a strip of land (the **Road Widening Land**) by the Developer to the Roads Authority in order to widen Archbold Road.

Where the Works Authorisation Deed has not been entered into on execution of the Deed, the Developer is required to provide the Minister with a Bank Guarantee. The Developer must 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. The Developer will provide certain regional transport infrastructure directly through the provision of the Road Works and the Road Widening Land.

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 regional transport and 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 and 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 and services referred to in clause 29 of the *State Environmental Planning Policy (Western Sydney Employment Area) 2009*.

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 and the Road Widening Land.

Requirements relating to Construction, Occupation and Subdivision Certificates

The Planning Agreement requires the Developer to complete the Road Works prior to the issue of either:

- 1) in respect of the Subdivision Development (as defined in the Planning Agreement), a construction certificate and therefore contains a restriction on the issue of a construction certificate within the meaning of clause 146A of the Regulation, or a 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; or

- 2) in respect of the Factory Development (as defined in the Planning Agreement), an occupation certificate and therefore contains a restriction on the issue of an occupation certificate within the meaning of section 109H(2) of the Act.