

Explanatory Note
Minister for Planning and
PM Pty Land Limited (ACN 602 713 771)
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 PM Pty Land Limited (ACN 602 713 771) (referred to as the **Developer**) and the Minister for Planning (the **Minister**).

Description of the Subject Land

The Planning Agreement applies to:

- Lot 39 DP1158318
- Lot 40 DP1158318
- Lot 6 DP1112929 (the **Subject Land**).

The Subject Land is located at Diploma Drive, Sovereign Hills, Thrumster NSW 2444.

Description of the Proposed Development

The Developer is seeking to undertake residential subdivision of the Subject Land with the initial development (as defined in the Planning Agreement) comprising approximately 45 residential lots generally in accordance with development application DA815/2015 which has been lodged with Port Macquarie-Hastings Council, and the remainder development (as defined in the Planning Agreement) in accordance with future development applications (the **Proposed Development**). The Developer has made an offer to the Minister to enter into the Planning Agreement in connection with the Subject Land and the Proposed Development in its entirety.

Part of the Subject Land is subject to an existing 2011 planning agreement which operates to give a development contributions credit in respect of 17 of the 45 residential lots proposed in the Development Application DA815/2015. There are 5 residential lots proposed in development application DA815/2015 which are subject to a 2014 planning agreement and which are not the subject of this Agreement.

Summary of Objectives, Nature and Effect of the Planning Agreement

The Planning Agreement provides that the Developer will make a monetary contribution of \$1387 per residential lot (subject to indexation in accordance with the Planning Agreement) for the purposes of the provision of designated State infrastructure referred to in clause 6.1 of the Port Macquarie-Hastings Local Environmental Plan 2011 (the LEP).

The monetary contribution will be paid in instalments calculated on the basis of each residential lot created on the Subject Land to which each subdivision certificate relates. As set out in Schedule 4 to the Planning Agreement, the instalments are payable as follows:

- 1) on execution of the Agreement (initial development); and
- 2) prior to the issue of a subdivision certificate (remainder development).

The Developer is required to provide Bank Guarantees or Insurance Bonds to secure the contribution required for the Proposed Development and 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 designated State infrastructure 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.

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 the parties have assessed the Developer will make an appropriate level of contribution towards the provision of designated State infrastructure making a positive impact in achieving the above public purpose.

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 designated State infrastructure to satisfy needs that arise from the Proposed 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 designated State infrastructure referred to in clause 6.1 of the LEP.

The Developer's offer to contribute towards the provision of designated State infrastructure will have a positive public impact as funds from the Developer will be available towards the provision of that infrastructure and services.

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 and therefore contains a restriction on the issue of a subdivision certificate within the meaning of section 109J(1)(c1) of the Regulation.

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