

Explanatory Note

Minister for Planning ABN 38 755 709 681 and Oztrac Holdings Pty Ltd ACN 154 174 651 & 11 others

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 Minister for Planning ABN 38 755 709 681 (the **Minister**) and Oztrac Holdings Pty Ltd ACN 154 174 651, Daniel John Moit, Josephine Ann Moit, Kirsten Moit, Joseph Moit, Amy Moit, Louise Clare Moit, Jonathon Paul Moit, Christopher John Moit, Robert James Moit, MBST Super Pty Ltd ACN 158 954 486, Edgeworth Developments Pty Limited ACN 116 174 639 (the **Developer**).

Description of the Subject Land

The Planning Agreement applies to:

- Lot 1 in DP 1011589 known as 78 and 78A Neilson St, Edgeworth and Lot 2 in DP 1011589 known as 80 Neilson Street, Edgeworth (**Subject Land**).

Description of the Proposed Development

The Developer is seeking to subdivide part of the Subject Land into approximately 115 residential lots in accordance with Development Application DA299/2016 which has been lodged with Lake Macquarie City Council (**Proposed Development**). The Developer 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 make a monetary contribution of \$72,440 per hectare of net developable area (subject to indexation in accordance with the Planning Agreement - \$80,186 per hectare of net developable area as at 10 November 2016) for the purposes of the provision of designated State public infrastructure within the meaning of clause 6.1 of the *Lake Macquarie Local Environmental Plan 2014* (**LEP**).

The amount of the monetary contribution will be paid in instalments calculated on the basis of the net developable area for each subdivision certificate application. The instalments are payable prior to the issue of each relevant subdivision certificate as set out in Schedule 4 of the Planning Agreement.

The Developer is required to provide a bank guarantee 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 infrastructure, facilities and services referred to in clause 6.1 of the LEP.

No relevant capital works program by the Minister is associated with the Planning 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 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.

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 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 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.

Requirements relating to Construction, Occupation and Subdivision Certificates

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

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.