

# Explanatory Note

Minister for Planning

and

CSR Building Products Limited (ACN 008 631 356)

## Draft Amendment Planning Agreement

### Introduction

The purpose of this explanatory note is to provide a plain English summary to support the notification of the draft planning amendment agreement (the **Amended Planning Agreement**) prepared under Subdivision 2 of Division 6 of Part 4 of the *Environmental Planning and Assessment Act* 1979 (the **Act**). The Amended Planning Agreement amends the planning agreement entered into by the parties on 20<sup>th</sup> November 2015.

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 Amended Planning Agreement

The parties to the Amended Planning Agreement are CSR Building Products Limited (ACN 008 631 356) (the **Developer**) and the Minister for Planning (the **Minister**).

### Description of the Subject Land

The Amended Planning Agreement applies to:

- Part Lot 1 in Deposited Plan 106143 as shown hatched black on the plan forming Annexure A and as described in Schedule 3 of the Amended Planning Agreement (the **Subject Land**).

The Subject Land is located at 327-335 Burley Road, Horsley Park.

### Description of the Proposed Development

The Developer proposes to develop the Subject Land for industrial purposes and is seeking approval for subdivision of the Subject Land into approximately 14 industrial lots and 1 environmental conservation lot with a new road in accordance with Development Application DA893.1/2013 which has been lodged with Fairfield City Council (the **Proposed Development**) and has made an offer to the Minister to enter into the Amended Planning Agreement in connection with the Proposed Development.

### Summary of Objectives, Nature and Effect of the Amended Planning Agreement

The Amended Planning Agreement provides that the Developer will carry out Road Works (as defined in the Amended Planning Agreement) and will make monetary contributions of \$182,898 per hectare of net developable area (subject to indexation in accordance with the

Amended Planning Agreement) in connection with the Proposed Development for the purposes of the provision of regional transport infrastructure and services within the meaning of Clause 29 of the *State Environmental Planning Policy (Western Sydney Employment Area) 2009*. The amount of net developable area for the Proposed Development is shown in the plan forming Annexure B to the Amended Planning Agreement.

The Proposed Development will be carried out in three stages and the monetary contribution for each Stage of Development (as defined in the Amended Planning Agreement) will be payable in accordance with the timeframes set out in Schedule 4 to the Amended Planning Agreement and as detailed below. The Amended Planning Agreement makes provision for a contributions credit to the equivalent value of the Road Works to be applied in respect of either Stages 1 or 2 of the Proposed Development.

The Developer is required to provide Bank Guarantees for each Stage of Development and to register the Amended Planning Agreement on the title to the Subject Land in accordance with section 93H of the Act.

The objective of the Amended Planning Agreement is to facilitate the delivery of the Developer's contributions towards the provision of infrastructure, facilities and services referred to in Clause 29 of the *State Environmental Planning Policy (Western Sydney Employment Area) 2009*.

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

## **Assessment of Merits of Amended Planning Agreement**

### **The Planning Purpose of the Amended Planning Agreement**

In accordance with section 93F(2) of the Act, the Amended 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 Amended Planning Agreement and both hold the view that the provisions of the Amended 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 29 of the *State Environmental Planning Policy (Western Sydney Employment Area) 2009*.

### **How the Amended Planning Agreement Promotes the Public Interest**

The Amended 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 Amended Planning Agreement Promotes the Objects of the Act**

The Amended 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 Amended 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 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 funds from the Developer will be available towards the provision of infrastructure, facilities and services referred to in Clause 29 of the *State Environmental Planning Policy (Western Sydney Employment Area) 2009*.

### **Requirements relating to Construction, Occupation and Subdivision Certificates**

The Amended Planning Agreement requires both the provision of Road Works and the payment of the monetary contribution for each Stage of Development:

- prior to the issue of any Subdivision Certificate (other than a Subdivision Certificate merely relating to Super Lot Subdivision, as defined by the Amended Planning Agreement) or Construction Certificate (other than a Construction Certificate relating merely to Subdivision Works) for any part of the Development in a Stage of Development, or
- if any part of the Development is to be carried out without the need for a Subdivision Certificate or a Subdivision Certificate, then either:
  - before that Development is commenced in that Stage of Development, or
  - before any application for a Complying Development Certificate is made in respect of that Development in that Stage of Development,

whichever is earliest

The Amended Planning Agreement does not require payment of any monetary contribution in connection with development for the purpose of the continuation of the existing Brickworks Operations on the Land.

The Amended Planning Agreement requires payment of the monetary contribution prior to the issue of the relevant subdivision certificate or construction certificate and therefore contains a restriction on the issue of a subdivision certificate or construction certificate within the meaning of section 109J(1)(c1) and 109F(1) of the Act and clause 146A of the Regulation.

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