

Explanatory Note

Minister for Planning

And

Wongawilli Coal Pty Ltd (ACN 111 928 762)

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 Wongawilli Coal Pty Ltd (ACN 111 928 762) (the **Developer**) and the Minister for Planning (the **Minister**).

Description of the Subject Land

The Planning Agreement applies to:

- Part Lot 2 DP 658275

as described in Schedule 3 of the Planning Agreement (the **Subject Land**).

The Subject Land is located at Jersey Farm Road, Huntley NSW.

Description of the Proposed Development

The Developer is seeking to undertake residential subdivision of the Subject Land into approximately 33 residential lots and 1 Residue Lot in accordance with Development Application DA 2017/178 (the **Proposed Development**) which has been lodged with Wollongong City Council (the **Council**). 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 \$55,735 per hectare of net developable area (subject to indexation in accordance with the Planning Agreement) for the purposes of the provision of designated State public infrastructure within the meaning of clause 6.1 of the *Wollongong Local Environment Plan 2009 (LEP)*.

The amount of the monetary contribution will be paid in instalments calculated on the basis of an estimate 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 Bank Guarantees for \$20,000 on execution of the agreement and to 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 public infrastructure within the meaning of 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) 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 designated State public 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 designated State public 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 designated State public infrastructure.

The Developer's offer to contribute towards the provision of designated State public infrastructure will have a positive public impact as funds from the Developer will be available towards the provision of designated State public infrastructure referred to in Clause 6.1 of the LEP.

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.