

Environmental Planning and Assessment Regulation 2000

(Clause 25E)

Explanatory Note

Introduction

Clause 25E of the Environmental Planning and Assessment Regulation 2000 requires a planning authority (The Minister for Planning) proposing to enter into an agreement that amends a planning agreement under Section 93F of the Environmental Planning and Assessment Act 1979 (**Second Deed of Amendment**) to prepare an explanatory note about the Second Deed of Amendment.

This explanatory note relates to the Second Deed of Amendment proposed to be entered into by the Minister and the Land Owners in respect of land at North Cooranbong.

The Second Deed of Amendment amends the planning agreement between the Minister and the Land Owners dated 12 January 2010, as amended by the Deed of Amendment dated 22 December 2011 (**Planning Agreement**).

Parties

The Minister for Planning ABN 38 755 709 681 of c/-NSW Department of Planning and Environment, 320 Pitt Street, Sydney NSW 2000 (**Minister**).

Johnson Property Group Pty Limited ABN 58 102 465 814 of Level 12, 48 Hunter Street Sydney NSW 2000 (Developer), Australasian Conference Association Ltd ACN 000 003 930 of 148 Fox Valley Road Wahroonga NSW 2076, Avondale Greens Pty Ltd ABN 33 099 742 542 and Avondale Greens Developments Pty Ltd ABN 27 106 910 598 both of Level 12, 48 Hunter Street Sydney NSW 2000 (collectively, the **Land Owners**).

Description of the land to which the Second Deed of Amendment applies

The land to which the Planning Agreement as amended by the Second Deed of Amendment applies is located at North Cooranbong and is as described in Schedule 2 to the Planning Agreement as amended by the Second Deed of Amendment and depicted in the plan at Annexure F of the Second Deed of Amendment (the **Land**).

Description of concept plan approval

The approved concept plan provides for residential development on the Land and certain additional land, for up to 2,500 low and medium density lots, as described in the Environmental Assessment Report documentation that was publicly exhibited from 25 June 2008 to 28 July 2008.

Summary of Objectives, Nature and Effect of the Second Deed of Amendment

The Second Deed of Amendment provides for payment of monetary contributions towards the cost of public facilities, the dedication of land for education facilities and, if agreed, the carrying out and handing over of works for the purpose of public facilities.

Specifically, the Second Deed of Amendment provides for the following:

- **Public school land** – transfer, dedication and servicing of approximately 2.982 hectares of land:

- (a) The transfer and dedication of the land for a school to the Minister will occur at the release of the subdivision certificate creating the 900th Allotment (no longer the 300th Allotment).
- (b) The provision of all agreed services to the public school land will occur at the release of the subdivision certificate creating the 900th Allotment (no longer the 700th Allotment).
- **Valuation of public school land at creation of 300th Allotment** – A valuer will determine the value of the public school land as at the time at which the 300th Allotment is created.
- **Base Security Bank Guarantees** – the Land Owners are required to replace the Base Security Bank Guarantee under the existing Planning Agreement with a bank guarantee with the value of \$20,000.
- **Cash Contribution** – updating the rate for Cash Contribution payable under the Planning Agreement to \$82,103 per Net Developable Area as agreed to between the Parties.
- **Environmental Contribution** – the Developer has satisfied its obligations under the Planning Agreement in relation to Environmental Contribution, therefore relevant clauses requiring that contribution have been deleted.
- **Definition of Land** – amending the definition of Land to update title references and include land that has been acquired by the Land Owners.

Assessment of the merits of the Second Deed of Amendment

This explanatory note sets out the following:

- The planning purposes served by the Second Deed of Amendment.
- How the Second Deed of Amendment promotes the public interest and one or more objects of the *Environmental Planning and Assessment Act 1979*.

The planning purposes served by the Second Deed of Amendment

The purpose of the Planning Agreement as amended by the Second Deed of Amendment is to give effect to:

- delay of the transfer, dedication and servicing of the Education Contribution Land until the creation of the 900th Allotment;
- agreement to obtain a valuation of the Education Contribution Land as at the creation of the 300th Allotment (despite the fact that the transfer and dedication will not occur until the issue of the certificate of subdivision for the 900th Allotment); and
- substitution of the existing Base Security Bank Guarantee under the Planning Agreement with one with the value of \$20,000.

How the Second Deed of Amendment promotes the public interest and one or more objects of the Environmental Planning and Assessment Act 1979

The Second Deed of Amendment promotes the following objects of the *Environmental Planning and Assessment Act 1979* as contained in section 5 of the Act:

- the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,
- the promotion and co-ordination of the orderly and economic use and development of land,
- the provision of land for public purposes,
- the provision and co-ordination of community services and facilities, and
- the protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities, and their habitats.

Requirements relating to Construction, Occupation and Subdivision Certificates

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