

Explanatory Note

Minister for Planning and Public Spaces (ABN 20 770 707 468)

and

Huntlee Pty Limited (ACN 143 744 745) (in its capacity as bare trustee of the Relevant Partnership)

Draft Third Deed of Variation to Planning Agreement

Introduction

The purpose of this explanatory note is to provide a plain English summary to support the notification of the Third Deed of Variation to Planning Agreement (the **Variation Deed**) prepared under Subdivision 2 of Division 7.1 of Part 7 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**).

This explanatory note is not to be used to assist in construing the Variation Deed.

Capitalised terms that are not defined in this explanatory note have the meanings given to them in the Planning Agreement as varied by the Variation Deed, unless the context indicates otherwise.

Parties to the Variation Deed

The parties to the Variation Deed are:

Minister for Planning and Public Spaces (ABN 20 770 707 468) (the **Minister**); and

Huntlee Pty Limited (ACN 143 744 745) (in its capacity as bare trustee of the Relevant Partnership)
(the **Developer**).

Description of the Subject Land

The Variation Deed applies to the following parcels of land:

Lot	Deposited Plan
9	729973
10	729973
39	755211
33	755211

Lot	Deposited Plan
10	1105639
231	879198
2	729973
3	729973
240	1105591
1418	1220518
609	1236344
298	1240825
144	1231921
2 (part)	1211767

(Subject Land).

Description of the Project Approval and MOD 9 and MOD 10

On 24 April 2013, the Planning Assessment Commission, as delegate of the Minister, approved the Stage 1 Project Approval Application (**Project Approval**). The Project Approval permitted, subject to conditions, the subdivision of the Subject Land for 1,473 residential allotments, 14 super lots and 1 allotment for a primary school and associated infrastructure including landscaping, bulk earthworks, public open space, recreation areas, roads, drainage and utility services.

On 4 September 2013, the Developer entered into the Planning Agreement with the Minister, for the provision of contributions towards designated State infrastructure, as provided by condition E6 of the Project Approval.

Under the Planning Agreement, the Developer is to make Development Contributions, which include:

- payment of Regional Road Contributions based on NDA, where NDA includes any land that the Development Consent authorises or requires to be used as a road or reserved or dedicated as a public road, subject to certain exceptions; and
- the transfer of the Education Contribution Land prior to the issue of a Subdivision Certificate for the part of the Land on which the 800th Dwelling is to sit.

On 22 May 2019, approval was granted to MOD 10, which, among other modifications:

- extended the timeframe for delivery of the intersection upgrade at Wine Country Drive and Hunter Expressway Link Road to a 2 lane circulating roundabout; and
- permitted the construction of an interim left in left out intersection on the Hunter Expressway Link Road, between the Hunter Expressway and Wine Country Drive, subject to conditions.

On 13 December 2019, approval was granted to MOD 9, which, among other modifications:

- changed to the location and configuration of the Education Contribution Land; and
- included additional land to the land the subject of the Project Approval.

The Minister and Developer have agreed to amend the Planning Agreement to:

- update the definition of NDA; and
- reflect MOD 10 and MOD 9.

Summary of Objectives, Nature and Effect of the Variation Deed

The objective of the Planning Agreement as varied by the Variation Deed is to facilitate the delivery of the Developer's various contributions towards the provision of designated State infrastructure.

The Planning Agreement as varied by the Variation Deed provides that the Developer will make the following Development Contributions:

- a Regional Road Contribution, at a rate of \$105,340 per Net Developable Hectare (subject to indexation in accordance with the Planning Agreement) for the purpose of regional transport infrastructure and services;
- Road Improvement Works to be undertaken in accordance with a Road Works Agreement; and
- Education Contribution Land for the intended use as a primary school.

The objective of the Variation Deed is to amend the Planning Agreement to reflect MOD 9 and MOD 10 and the agreement between the parties relating to the definition of NDA. The Variation Deed has the effect of updating the meaning of NDA, changing the location and configuration of the Education Contribution Land, and extending the timeframe for delivery of parts of the Road Improvement Works.

Assessment of Merits of Planning Agreement as varied by the Variation Deed

The Public Purpose of the Planning Agreement as varied by the Variation Deed

In accordance with section 7.4 (2) of the Act, the Planning Agreement as varied by the Variation Deed has the following public purposes:

- the provision of (or the recoupment of the cost of providing) public amenities or public services; and
- 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 as varied by the Variation Deed provide a reasonable means of achieving the public purposes set out above. This is because the Development Contributions will assist the Government in providing infrastructure needed to

accommodate future housing and growth in the region as anticipated by the Lower Hunter Regional Strategy.

How the Planning Agreement as varied by the Variation Deed Promotes the Public Interest and Objects of the Act

The Planning Agreement as varied by the Variation Deed promotes the public interest and the following objects of the Act:

- the proper management and development of towns and villages for the purpose of promoting the social and economic welfare of the community;
- the promotion of the orderly and economic use and development of land; and
- the promotion of good design and amenity of the built environment.

The Planning Agreement, as varied by the Variation Deed, promotes the objects of the Act set out above by requiring the Developer to make a contribution towards the provision of infrastructure and education facilities in an appropriate location. The Developer's offer to contribute towards the provision of infrastructure and education facilities in an appropriate location will have a positive impact on the public who will ultimately use the primary school.

Requirements relating to Construction, Occupation and Subdivision Certificates

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

The Planning Agreement as varied by the Variation Deed requires Development Contributions to be delivered 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 6.15 of the Act.