

# Explanatory Note

Minister for Planning and Public Spaces

and

Minister administering the National Parks and Wildlife Act 1974

and

Coal & Allied Operations Pty Ltd and Catherine Hill Bay Land Pty Ltd (together, the Former Landowner)

and

Lake Maintenance (NSW) Pty Ltd and Wallalong Land Developments Pty Limited as trustee for Catherine Hill Bay Honey Unit Trust (together, the Landowner)

## Deed of Amendment to Planning Agreement

### Introduction

The purpose of this explanatory note is to provide a plain English summary to support the notification of the draft deed of amendment to a planning agreement (the **Amended Planning Agreement**) prepared under the former section 94 (now section 7.4) of the *Environmental Planning and Assessment Act 1979* (the **Act**). The Amended Planning Agreement amends the planning agreement entered into by the parties on 22 March 2012 (the **Original Planning Agreement**).

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 the Minister for Planning and Public Spaces (the **Planning Minister**), the Minister administering the *National Parks and Wildlife Act 1974* (the **Environment Minister**), Coal & Allied Operations Pty Ltd (ABN 16 000 023 656) and Catherine Hill Bay Land Pty Ltd (ABN 79 129 266 459) (together, **the Former Landowner**) and Lake Maintenance (NSW) Pty Ltd (ACN 088 782 718) and Wallalong Land Developments Pty Limited (ACN 158 521 567) as trustee for Catherine Hill Bay Honey Unit Trust (together, **the Landowner**).

The Former Landowner entered into the Original Planning Agreement in connection with the approval granted by the Planning Minister of the Middle Camp Concept Plan MP 10\_0089 (**Concept Plan**).

### Description of the Subject Land

The Original Planning Agreement applied to Lots 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10 in Deposited Plan 1180181 (the **Subject Land**).

There are no remaining obligations in respect of Lot 5 in Deposited Plan 1180181.

Lots 6, 7, 8, 9 and 10 in Deposited Plan 1180181 have been transferred to the Environment Minister in accordance with the Landowner's obligations under the Original Planning Agreement.

## **Description of the Development**

The Former Landowner as proponent of the Concept Plan proposed to develop part of the Subject Land (the **Development**) and to transfer part of the Subject Land to the Environment Minister for conservation.

## **Description of Proposed Change to the Development**

The Landowner is not seeking any change to the Development.

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

The Amended Planning Agreement provides for:

1. Substitution of the requirement that the Landowner undertake treatment of aquatic weed infestation on part of the Subject Land, with a monetary contribution from the Landowner (to be paid by the Former Landowner) in the amount of \$80,000 upon execution of the Deed of Amendment to the Planning Agreement.
2. Upon receipt of the \$80,000 monetary contribution, the Environment Minister is to return to the Former Landowner the original bank guarantee in the amount of \$280,000 provided by the Former Landowner under the Original Planning Agreement.
3. Bank guarantees to be provided by the Landowner to the Planning Minister in the amount of \$21,754.89 and \$739,423.50 to secure the Landowner's obligations to pay the Infrastructure Contribution Amount and the Road Contribution, respectively, reflecting a 50% reduction in the security required.

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

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

In accordance with section 7.4 of the Act (former section 93F (2)), the Amended Planning Agreement has the following public purpose:

- the provision of (or the recoupment of the cost of providing) public services relating to land; and
- the conservation or enhancement of the natural environment.

The Minister and the Landowner have assessed the Amended Planning Agreement and agree that the provisions of the Amended Planning Agreement provide a reasonable means of achieving the public purpose set out above.

### **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 not

changing the requirement that the Landowner continue to provide the contributions required under the Original Planning Agreement which contributes towards the provision of regional transport infrastructure and the provision of part of the Subject Land for public purposes.