

B

Appendix

Environmental Planning and Assessment Regulation 2000 (Clause 25E)

Explanatory Note

Draft Planning Agreement

Under s93F1(a) of the Environmental Planning and Assessment Act 1979

Parties

Cumberland Council of Civic Precinct Centre, 1 Susan Street, Auburn NSW 1835 (**Council**)
AET Ltd ATF Auburn Ownership Trust (**Developer**)

Description of the Land to which the Draft Planning Agreement Applies

The Draft Planning Agreement applies to the following lots:

1A, 1B Queen St Auburn, Lots 1 and 2, DP 1160950 (**Development Site**) and the intersection of Queen Street and Marion Street, Auburn (**Intersection Site**).

Description of Proposed Change to environmental planning instrument

It is proposed to amend *Auburn Local Environmental Plan 2010* to rezone the Development Site to R4 High Density Residential and vary the development controls for maximum permissible building heights and floor space ratios.

Summary of Objectives, Nature and Effect of the Draft Planning Agreement

Objectives of Draft Planning Agreement

The objective of the Draft Planning Agreement is to facilitate the upgrade of the Intersection Site and specifically to provide for:

- the dedication of land to Council to enable the upgrade;
- the Developer to carry out the works to upgrade the Intersection Site.

Nature of Draft Planning Agreement

The Draft Planning Agreement is a planning agreement under s93F1(a) of the Environmental Planning and Assessment Act 1979 (Act). The Draft Planning Agreement is a voluntary agreement under which Development Contributions (as defined in clause 1 of the Draft Planning Agreement) are made by the Developer for various public purposes (as defined in s93F(2) of the Act).

Effect of the Draft Planning Agreement

The Draft Planning Agreement:

- relates to the carrying out by the Developer of Development on the Development Site,
- reduces the application of s94 or s94A of the Act to the Development;
- requires the developer to provide land and construct works;
- is to be registered on the titles to the Development Site,
- requires a bank guarantee to be provided for the works to the Intersection Site to be carried out;
- imposes restrictions on the Parties assigning an interest under the agreement,
- provides two dispute resolution methods for a dispute under the agreement, being expert determination and mediation;

- provides that the agreement is governed by the law of New South Wales.

The Planning Purposes Served by the Draft Planning Agreement

The Draft Planning Agreement:

- promotes and co-ordinates of the orderly and economic use and development of the land to which the agreement applies;
- facilitates the provision of land for public purposes; and
- provides and co-ordinates the provision of public road infrastructure and facilities in connection with the Development.

How the Draft Planning Agreement Promotes the Public Interest

The Draft Planning Agreement promotes the Public Interest by:

- promoting the objects of the Act as set out in s5(a)(ii), (iv), (v) and 5(c); and
- improving the operational performance of the local intersection adjoining the Development Site that is also used as part of the Auburn Town Centre bypass.

For Planning Authorities:

Development Corporations - How the Draft Planning Agreement Promotes its Statutory Responsibilities

N/A

Other Public Authorities – How the Draft Planning Agreement Promotes the Objects (if any) of the Act under which it is Constituted

In accordance with section 7 of the *Local Government Act 1993*, the Draft Planning Agreement

- facilitates engagement with the local community by councils, councillors and other persons and bodies that constitute the system of local government; and
- promotes a system of local government that is accountable to the community and that is sustainable, flexible and effective.

Councils – How the Draft Planning Agreement Promotes the Elements of the Council's Charter

The Draft Planning Agreement promotes the elements of the Council's charter (now s8 of the Local Government Act 1993) by:

- providing value for residents and ratepayers
- applying an integrated planning framework to achieve desired outcomes and continuous improvements
- manages lands and other assets so that current and future local community needs can be met in an affordable way
- is consistent with the principle of ecologically sustainable development

All Planning Authorities – Whether the Draft Planning Agreement conforms with the Authority's Capital Works Program

The works to the Intersection Site are not currently in Council's Capital Works Program and the works cannot progress without the land dedication that forms part of the Draft Planning Agreement.

All Planning Authorities – Whether the Draft Planning Agreement specifies that certain requirements must be complied with before a construction certificate, occupation certificate or subdivision certificate is issued

The Draft Planning Agreement requires:

- a) the registration of the planning approval on the title of the Development Site to be within 6 months of the agreement commencing;
- b) the works to the Intersection Site and the Land Dedication to be completed before any construction certificate/subdivision certificate is issued for the development or within 3 years of the date on which the Development Site is rezoned to R4 High Density.