

Proposed Planning Agreement – Kitchener
Minister for Planning and JPG 58 Pty Limited as Trustee for the JPG 58 Unit Trust
Explanatory Note

Introduction

The purpose of this Explanatory Note is to provide a plain English summary to support the notification of the proposed 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 Developer owns certain land at Kitchener Urban Release Area within the Cessnock City Local Government Area. The Developer intends to develop that land for residential purposes. The development will be carried out in a number of stages.

The Johnson Property Group Pty Ltd (has made a development application to Cessnock City Council under Part 4 of the Act. The development application seeks to subdivide the land into residential allotments.

The Developer has made an offer to enter into the Planning Agreement in connection with that development application. The Planning Agreement will apply to the land the subject of the development application (the “Land”).

Parties to the Planning Agreement

The parties to the Planning Agreement are JPG 58 Pty Limited as Trustee for the JPG 58 Unit Trust (the **Developer**) and the Minister for Planning (the **Minister**).

Description of the Subject Land

The Planning Agreement applies to the Land, which is defined in Schedule 3 of the Planning Agreement as:

- Lot 2 DP 862493

Description of the Proposed Development

The Developer is seeking to develop about 59 residential lots (the **Proposed Development**) and has made an offer to the Minister to enter into the Planning Agreement in connection with the Proposed Development. The Proposed Development will be carried out in stages over a number of years.

Summary of Objectives, Nature and Effect of the Planning Agreement

The objective of the Planning Agreement is to facilitate the delivery of the Developer’s contributions towards the provisions of infrastructure, facilities and services referred to in clause 6.1 of the Cessnock LEP (the **LEP**).

The Planning Agreement provides that the Developer will make a monetary contribution at a rate of \$72,440 per hectare of net developable area in accordance with the *Draft Environmental Planning and*

Assessment (Special Infrastructure Contribution – Lower Hunter) Determination 2011 for the purposes of the provision of designated State public infrastructure within the meaning of clause 6.1 of the LEP.

The monetary contribution will be required to be paid prior to the issue of the subdivision certificate as set out in Schedule 4 to the Planning Agreement. The contribution rate will be indexed in accordance with the Sydney Consumer Price Index (in July each year based on movement up to the March quarter).

The requirement to pay the monetary contribution will be secured by way of a Bank Guarantee for \$20,000 to be provided on execution of the Planning Agreement.

The Planning Agreement also contains a provision that in the event that the Minister does impose a Special Infrastructure Contribution (**SIC**) and the monetary contribution has not been paid, the Developer can pay the SIC contribution amount in lieu of the amount specified in the Planning Agreement. The Planning Agreement is required to be registered on the title to the Land in accordance with section 93H of the Act.

No relevant capital works program by the Minister is associated with this Planning Agreement.

Assessment of the Merits of the 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) public amenities or public services.

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 provisions of infrastructure, facilities and services referred to in clause 6.1 of the LEP.

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 infrastructure, facilities and services to satisfy needs that arise from development of the 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 infrastructure, facilities and services referred to in clause 6.1 of the LEP.

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

Requirements relating to Construction, Occupation and Subdivision Certificates

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

The Planning Agreement requires each instalment of the monetary contribution to be paid 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 Act.

Interpretation of Planning Agreement

This Explanatory Note is not to be used to assist in construing the Planning Agreement.