

Environmental Planning and Assessment Regulation 2000

(Clause 25E)

**Explanatory Note**

**Draft Planning Agreement**

Under section 7.4 of the *Environmental Planning and Assessment Act 1979* (NSW)

**1 Introduction**

The purpose of this explanatory note is to provide a plain English summary to support the notification of the Planning Agreement.

Words appearing with initial capital letters in this Explanatory Note have the meanings given to them in this Explanatory Note or (if not defined in this Explanatory Note) in the Planning Agreement.

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

**2 Parties**

**The Minister for Planning and Public Spaces** ABN 20 770 707 468 of Level 15, 52 Martin Place, Sydney NSW 2000 (**Minister**)

and

**Landcom** ABN 79 268 260 688 of Level 14, 60 Station Street, Parramatta NSW 2150 (**Landcom**)

**Dahua Group Sydney Project 2 Pty Ltd** ACN 606 391 235 of Suite 02, Level 20, 201 Elizabeth Street, Sydney NSW 2000 (**Dahua 2**)

(Landcom and Dahua together, the **Developer**)

**3 Description of subject land**

The Planning Agreement applies to the parcels of land known as 'Property A Land' and the 'Property B Land', which land is identified in Schedule 3 to the Planning Agreement.

**4 Description of proposed development**

The subdivision and other development of the Land for residential, commercial, industrial and related purposes and includes the subdivision of the Land into

Final Lots to enable the erection of a maximum of 3,600 Dwellings (Development).

## 5 Summary of objectives, nature and effect of the draft planning agreement

### 5.1 Objectives of Planning Agreement

The objective of the Planning Agreement is to facilitate the provision of Development Contributions by the Developer towards Designated State Public Infrastructure within the Menangle Park Urban Release Area.

Specifically, the Developer has offered to enter into the Planning Agreement to provide Development Contributions to:

- (a) facilitate the development of the Menangle Park Urban Release Area; and
- (b) enable the Secretary to issue a Satisfactory Arrangements Certificate required under the *Campbelltown Local Environmental Plan 2015* (NSW) for the Development.

Development Contributions to be provided by the Developer under the Planning Agreement comprise:

- (a) payment of the Monetary Contribution (Portion 1) upon execution of the Planning Agreement;
- (b) payment of the Monetary Contribution (Portion 2) in accordance with the Transport Infrastructure Contributions Deed between Roads and Maritime Services, the Developer and Dahua Group Sydney Project 3 Pty Ltd (**TIC Deed**);
- (c) payment of the Monetary Contribution (Portion 3) on the date the last Development Contribution (other than Monetary Contribution (Portion 3)) is provided;
- (d) transfer of the Education Land for the purpose of a School; and
- (e) transfer of the Dedicated Land to facilitate the construction of regional road infrastructure.

The total value of the Development Contributions to be provided by the Developer is \$90 million.

### 5.2 Nature of Planning Agreement

The Planning Agreement constitutes a planning agreement under section 7.4 of the Act. The Planning Agreement will be registered on the title to the Land.

## 6 Assessment of the merits of the draft planning agreement

### 6.1 The planning purposes served by the Planning Agreement

The Planning Agreement:

- (a) promotes the orderly and economic use and development of the Land to which the Planning Agreement applies;
- (b) promotes good design and amenity of the built environment by facilitating the development of the Land in accordance with the Planning Agreement;
- (c) promotes the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State; and
- (d) promotes increased opportunity for the public in environmental planning and assessment.

### 6.2 How the Planning Agreement promotes the public interest

The Planning Agreement will promote the public interest by promoting the objects of the Act as set out in sections 1.3(c), (g), (i) and (j) of the Act.

### 6.3 For Planning Authorities:

***Development Corporations – How the Planning Agreement promotes its statutory responsibilities***

*Not Applicable*

***Other Public Authorities – How the Planning Agreement promotes the objects (if any) of the Act under which it is constituted***

*Not Applicable*

***Councils – How the Planning Agreement promotes the elements of the Council's Charter***

*Not Applicable*

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

*Not applicable*

### 6.4 Certain requirements of the Planning Agreement to be complied with before issue of Planning Approval or issue of a Complying Development Certificate, Construction Certificate or Subdivision Certificate

The Planning Agreement includes restriction on the issue of a Subdivision Certificate if:

- (a) a Development Contribution is not provided by the timeframe required in Schedule 4 of the Planning Agreement; and

- (b) the Carriageway is not completed and opened to the public in accordance with the TIC Deed prior to the issue of a Subdivision Certificate in respect of the subdivision of the Land into Final Lots on which the 1800<sup>th</sup> Dwelling in the Menangle Park Development Area will be developed as part of the Development or the Dahua 3 Development.

The Planning Agreement also includes a restriction on the issue of a Construction Certificate for subdivision work and building work comprising the erection of a Dwelling on a Final Lot if the TIC Deed is terminated before the Developer's obligation to provide the Funding Amount and the Dedicated Land has been fully satisfied under the TIC Deed.

Further, the Developer will be required to transfer the Education Land prior to the issue of a Subdivision Certificate or Strata Certificate for the subdivision of Land into Final Lots on which the 800<sup>th</sup> Dwelling in the Menangle Park Development Area will be developed as part of the Development or the Dahua 3 Development (unless deferred in accordance with Schedule 4 of the Planning Agreement).

The delivery of the Development Contributions is secured through:

- (a) the provision of a Bank Guarantee;
- (b) registration of the Planning Agreement on title to the Land including the ability for the Minister to register a caveat on title to the Land;
- (c) the ability for the Education Land to be compulsorily acquired in accordance with the *Land Acquisition (Just Terms Compensation) Act 1991* (NSW) (**Just Terms Act**) if that land is not transferred in accordance with the Planning Agreement; and
- (d) restrictions on the issue of Subdivision Certificates and Construction Certificates.

There are separate provisions in the TIC Deed which give RMS the ability to compulsorily acquire the Dedicated Land in accordance with the Just Terms Act if that land is not transferred to RMS in accordance with the TIC Deed.