

# Explanatory Note

*Environmental Planning and Assessment Regulation 2000*

(Clause 25E)

## Explanatory Note

### Planning Agreement

The purpose of this Explanatory Note is to provide a summary to support the notification of the proposed planning agreement (**Planning Agreement**) under section 7.4 of the *Environmental Planning and Assessment Act 1979* (NSW) (**EP&A Act**).

This Explanatory Note has been prepared jointly by the parties as required by clause 25E of the *Environmental Planning and Assessment Regulation 2000* (NSW) (**EP&A Regulation**).

### Parties

The parties to the Planning Agreement are:

- 1 Campbelltown City Council (ABN 31 459 914 087) (**Council**); and
- 2 Bensley Development Pty Ltd (ACN 604 415 278) (**Developer**).

### Land

The Planning Agreement applies to Lots 2 and 3 in DP597774, Lots 4 in DP261609 and Lot 47 in DP595243 within Council's local government area (**Land**).

## 1 Introduction and background

The Developer owns all of the Land other than lot 2 in DP597774, which it has contracted to purchase and will own before the Planning Agreement is entered into. The Land is situated within an area bounded by Mercedes Road, Bensley Road and Oxford Road, Ingleburn which is located within the Caledonia Precinct and is subject of a Planning Proposal for rezoning to residential (low density use).

The Developer proposes to submit a development application to Council for the development of the Land. The proposed development is for the subdivision of approximately 90 residential lots on the Land, as well as the construction of associated roads, shared pedestrian and cycleways, utilities, open space, recreation facilities and stormwater drainage facilities (**Development**).

Local infrastructure is required to be provided to meet the demands of the Development and other development in the Caledonia Precinct.

The proposed Planning Agreement will be the mechanism for the Developer to provide contributions associated with the Development.

## 2 Objectives of the Planning Agreement

The objectives of the Planning Agreement are as follows:

- To deliver the local infrastructure required as a result of the urbanisation of the Land.
- To ensure that local infrastructure is delivered in a timely manner, harmonising the delivery of public assets with the delivery of subdivided lots for sale.
- To maximise efficiencies by supporting the delivery of local infrastructure by the Developer at or around the same time as Land is subdivided.
- To offset loss of vegetation on the Land and protect Cumberland Plain Woodland generally in the Local Government Area.

## 3 Nature and effect of the planning agreement

### 3.1 Summary

The Planning Agreement imposes the following obligations on the Developer:

- A. Dedication of approximately 16,547m<sup>2</sup> of land for the purposes of public open space, conservation land, and stormwater infrastructure.
- B. Embellishment of the Dedication Lands for public park purposes.
- C. Provision of a monetary contribution for maintenance by Council of the open space
- D. The undertaking of works on conservation lands to be dedicated in accordance with a Vegetation Management Plan.
- E. Provision of a monetary contribution for community service enhancements.
- F. Provision of a monetary contribution for the ongoing administration costs associated with this VPA.

These development contributions are required to be provided prior to the issue of the subdivision certificate for the 50<sup>th</sup> residential lot in the Development.

## 4 Merits of the Planning Agreement

### 4.1 Promotion of the public interest (and impact on the public)

The public benefits to be secured by the Planning Agreement will flow from the achievement of the Planning Agreement's objectives (refer to part 2 of the Explanatory Note).

Significant efficiencies will be achieved through the Planning Agreement by allowing the Developer:

- greater involvement in the timing and scope of the infrastructure items that affect, and are required by, the Development; and
- the ability to coordinate the concurrent roll-out of residential lots and local infrastructure in the most efficient way.

The expected efficiencies, together with anticipated public benefits of the Planning Agreement, are described below:

- The Planning Agreement relieves Council of the obligation of delivering part of the public open space required for the Caledonia Precinct (which is more ably delivered by the Developer).

There are various provisions in the Planning Agreement relating to the implementation of the Planning Agreement which protect and uphold the public interest. These include the following:

- provisions requiring the Developer to rectify defects in works provided under the Planning Agreement.
- various provisions relating to security including:
  - (i) registration of the Planning Agreement on the title of the Land (or providing bank guarantees/insurance bonds as alternate security); and
  - (ii) compulsory acquisition of land by Council for \$1.00 in the event the land is not dedicated at the time required under the Planning Agreement.

#### 4.2 Promotion of the Council's Charter

A Planning Agreement is to promote elements of the Council's charter, which is established under section 8 of the *Local Government Act 1993 (LG Act)*.

It is considered that the Planning Agreement would further a number of elements of the charter, as shown below:

Element of the Council's charter (section 8 of the LG Act)	How does the Planning Agreement promote the element?
to provide directly or on behalf of other levels of government, after due consultation, adequate, equitable and appropriate services and facilities for the community and to ensure that those services and facilities are managed efficiently and effectively	<p>This element is embedded in the purposes and objectives of the Planning Agreement. That is:</p> <ul style="list-style-type: none"> <li>• the Planning Agreement will be the subject of community input prior to its consideration by the Council;</li> <li>• the services and facilities to be provided reflect the requirements of the Caledonia Precinct; and</li> <li>• the Planning Agreement includes arrangements for the handover of completed facilities, adequate security and a defects liability period.</li> </ul>
to exercise community leadership	<p>The Planning Agreement:</p> <ul style="list-style-type: none"> <li>• secures the means of providing local infrastructure to meet the needs of a major development in one of Campbelltown's key precincts; and</li> <li>• taps into and applies the expertise offered by land developers towards providing substantial public benefits for the future Caledonia Precinct community;.</li> </ul>
to promote and to provide and plan for the needs of children	<p>The Planning Agreement provides for the delivery of various facilities focused on the needs of the community.</p>
to properly manage, develop, protect, restore, enhance and conserve the environment of the	<p>Public open space land is proposed to become public assets under the Planning Agreement.</p>

area for which it is responsible, in a manner that is consistent with and promotes the principles of ecologically sustainable development

Response to ESD principles:

- **The precautionary principle, inter-generational equity and conservation of biological diversity and ecological integrity:** The Planning Agreement supports natural areas being retained, protected and integrated into the development scheme. Vegetation Management works on the conservation land assists with promoting this principle.
- **Improved valuation, pricing and incentive mechanisms:** The Planning Agreement:
  - allows earlier provision of the public open space (by the Developer) than would be the case with 'business as usual'; and
  - allows the most efficient means of delivering that public open space (i.e. by the Developer).

to have regard to the long term and cumulative effects of its decisions

The Planning Agreement sets out a framework for the efficient delivery and sustainable ongoing management of a substantial amount of public infrastructure on the Land.

The Planning Agreement would relieve Council of the project risk associated with the provision of local infrastructure on the Land and allows the Council to concentrate its planning effort on other parts of the Campbelltown local government area that will need a proactive approach to infrastructure provision.

to bear in mind that it is the custodian and trustee of public assets and to effectively plan for, account for and manage the assets for which it is responsible

The Planning Agreement includes provisions placing defects liability obligations on the Developer for a 12 month period after the works are completed.

The proposed Planning Agreement also includes appropriate asset handover

to engage in long-term strategic planning on behalf of the local community

The Planning Agreement assures the long-term provision and management of public assets and infrastructure.

to exercise its functions in a manner that is consistent with and promotes social justice principles of equity, access, participation and rights

The Planning Agreement creates spaces and places for public interaction and provides facilities for the delivery of public services to the local community.

to raise funds for local purposes by the fair imposition of rates, charges and fees, by income earned from investments and, when appropriate, by borrowings and grants

### 4.3 Planning purposes and the objects of the EPA&A Act

The planning purposes served by the Planning Agreement can best be addressed by reference to the objects of the EPA&A Act.

It is considered that the Planning Agreement would further the following objectives of the EP&A Act:

Objective of the EP&A Act (section 1.3)	How does the Planning Agreement promote the objective?
(a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources; and	The Planning Agreement provides a basis for the comprehensive management of the delivery of the local public open space requirements of the Caledonia Precinct. It also provides for vegetation management works on, and the dedication of, conservation lands.
(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment; and	
(e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,	
(c) to promote the orderly and economic use and development of land	Orderly development of land is encouraged by the Planning Agreement through the delivery of local public open space at or around the same time as the surrounding development which requires it.

**Does the Planning Agreement conforms with the planning authority's capital works program (if any).**

**[Council to complete]**

**Does the Planning Agreement specify that certain requirements of the agreement must be complied with before a construction certificate, occupation certificate or subdivision certificate is issued.**

Yes, the Planning Agreement specifies that contributions (being monetary contributions, works, and the dedication of land) must occur prior to the issue of certain subdivision certificates, as specified in schedule 2 of the Planning Agreement.

