

Schedule 2– Explanatory Note

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Introduction

This Explanatory Note has been prepared in accordance with clause 25E of the Regulation.

The purpose of this Explanatory Note is to provide a plain English summary to support the notification of a draft variation to an existing planning agreement between the parties under section 7.4 of the Act.

Parties

Liverpool City Council ABN 31 459 914 087 of Ground Floor, 33 Moore Street, Liverpool NSW 2170
(Council)

Tanlane Pty Limited ACN 057 579 718 of 11 Narabang Way, Belrose, NSW 2085 (Developer).

Description of the Subject Land

The land to which the planning agreement relates and applies is the Land.

Description of Proposed Development

The subdivision of the Land to create up to two hundred and twenty five (225) residential lots, 11,500m² of B6 gross floor area (as defined in Liverpool Local Environmental Plan 2008), and a single RE2 lot as well as the erection of a dwelling on each of the residential lots created.

Objectives of amendments to the VPA

The objective of the varied VPA is to:

- (a) reflect numerical amendments to the Act and Regulation;
- (b) clarify the circumstances in which the Developer may request the deferral of any Works under the VPA;
- (c) ensure the Original Development Contributions are consistent with planning agreements in the surrounding Moorebank area;
- (d) require the Developer to procure the acquisition of, or to acquire the Road Bridge Stratum and dedicate it to Council, or if this does not occur, to regulate the manner in which Council may acquire that interest and the security that must be provided to Council if Council is required to acquire that interest (including payment of the Road Bridge Stratum Payment);
- (e) amend the nature of development contributions to be made under the VPA to ensure they accurately reflect current market value and the staging of the Development.

The varied VPA will protect the public interest as it promotes greater certainty with the delivery of contributions and in a manner which complements the delivery of the Development.

Nature of amendments to the VPA

The varied VPA has been prepared in accordance with s7.4 of the Act. The varied VPA will continue to be a voluntary agreement, under which the Developer makes Development Contributions (as defined in clause 1.1 of the VPA) for various public purposes (as defined in s7.4(2) of the Act).

Effect of amendments to the VPA

The VPA (as amended) will continue to:

- relate to the carrying out by the Developer of the Development;
- exclude the application of sections 7.11 and 7.12 of the Act to the Development;
- not exclude the application of Liverpool Contributions Plan 2018 – Established Areas for District Facilities and Works;
- require dedication of land and carrying out of Works;
- impose restrictions on the Developer transferring the Land or part of the Land or assigning an interest under the agreement;
- provides a dispute resolution method for a dispute under the agreement, being mediation and expert determination or further dispute resolution measures if mediation and expert determination is unsuccessful;
- provides that the agreement is governed by the law of New South Wales; and
- provides that the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) applies to the agreement.

Assessment of the Merits of the amendments to the VPA

The planning purposes served by the VPA (Clause 25(2)(e) of the Regulation)

In accordance with section 7.4(2) of the Act, the VPA (as amended) will continue to:

- promote and co-ordinate the orderly and economic use and development of the Land to which the VPA applies;
- require embellishment works to land for public purposes in connection with the Development;
- provide land for public purposes in connection with the Development; and
- provide and co-ordinate community services and facilities in connection with the Development.

How the Draft Planning Agreement Promotes the Public Interest (Clause 25(2)(a) of the Regulation)

The varied VPA promotes the public interest by promoting the objects of the Act as set out in section 1.3(a), (c), (g) and (h) of the Act. The varied VPA will ensure the delivery of the Development Contributions by the Developer.

For Planning Authorities:

Development Corporations - How the Draft Planning Agreement Promotes its Statutory Responsibilities (Clause 25(2)(b) of the Regulation)

N/A

Other Public Authorities - How the Draft Planning Agreement Promotes the Objects (if any) of the Act under which it is Constituted (Clause 25(2)(c) of the Regulation)

N/A

Councils - How the Draft Planning Agreement Promotes the Elements of the Council's Charter (Clause 25(2)(d) of the Regulation)

The VPA (as amended) will continue to promote the elements of the Council's charter by:

- providing services and facilities for the community,
- ensuring that the public facilities provided by the Developer under the agreement are transferred to and managed by the Council or are otherwise subject to the Council's control,
- providing a means that allows the wider community to make submissions to the Council in relation to the agreement.

All Planning Authorities - Whether the Draft Planning Agreement Conforms with the Authority's Capital Works Program (Clause 25(2)(f) of the Regulation)

The VPA (as amended) continues to conform with Council's Capital Works Program through the provision of essential infrastructure such as the roads, traffic facilities and drainage as listed in Schedule 3 of the VPA.

Whether the VPA (as amended) specifies that certain requirements must be complied with before issuing of a construction certificate, occupation certificate or subdivision certificate (Clause 25(2)(g) of the Regulation)

- The VPA (as amended) will continue to contain requirements that must be complied with, namely the carrying out of Work and dedication of land, before Subdivision Certificates and Construction Certificates may be issued.