

Explanatory Note

Draft Planning Agreement for Lot 2 Pine Road, Casula - 2009/1053

Introduction

The purpose of this explanatory note is to provide a summary of the exhibited 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**”)

The explanatory has been prepared jointly by the parties as required by Clause 25E of the *Environmental Planning and Assessment Regulation 2000*.

Parties to the Draft Planning Agreement

The parties to the Planning Agreement are Jim Ho Shon, Elsa Theresa Ho Shon and Tom Ho Shon (“**Developers**”) and Liverpool City Council (“**Council**”).

The Developers have made an offer to enter into the Planning Agreement with the Council in connection with a planning proposal within the suburb of Casula.

Description of Subject Land

The planning proposal and Planning Agreement applies to Lot 2 DP 876487 which is bounded by Pine Road, Ingham Drive and the Hume Highway.

The subject land is zoned part ‘B6 Enterprise Corridor’ and part ‘SP2 Infrastructure (Local Road)’.

Description of the Planning Proposal

The Developers have lodged a Development Application (being DA-1320/2011) which was approved on 4 July 2012. The Developers have made an offer to Council to enter into this Planning Agreement with respect to the Development.

The Planning Agreement seeks to facilitate the following:

Land Swap:

The part of Pine Road identified as the Pine Road Deviation and marked ‘B’ in the Concept Plan within the Planning Agreement has been transferred to Council. The part of Pine Road identified as the Closed Road and marked on the Concept Plan as area ‘A’ is to be closed as a public road and transferred to the Developer.

The amount of the Pine Road Deviation is more than the aggregate of the amount of the Closed Road and Council will pay the difference between those amounts to the Developers.

Land Acquisition:

Council to acquire that part of the Opened Road – Ingham Drive marked ‘D1’, ‘D2’ and ‘D3’ on the Concept Plan within the Planning Agreement in accordance with the *Land Acquisition (Just Terms Compensation) Act 1991*.

Land Dedication:

The Developers are to dedicate the Opened Road Section 1 marked ‘C’ and ‘C1’ on the Concept Plan within the Planning Agreement to Council.

Road Construction:

The Developer agrees to off-set the amount attributed to the construction of the road identified as 'Open Road Works – Section 1' and marked as 'C' and 'C1' on the Concept Plan within the Planning Agreement against the agreed land swap compensation on account of Council agreeing to undertake these road works.

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

The objectives of the Planning Agreement is to ensure the appropriate road improvements are undertaken and agreed land dedicated to and acquired by Council from the Developer as a result of the development of the subject land being Lot 2 DP 876487.

Assessments of the Merits of the Draft Planning Agreement

In accordance with Section 93F(2) of the Act, the Planning Agreement promotes the following public purpose:

- (a) The provision of public amenities or public services; and
- (b) The provision of infrastructure relating to land.

The Planning Agreement provides for a reasonable means of achieving provision of those items, by coordinating the dedication of land, acquisition of land and completion of road improvements.

How the Planning Proposal promotes the public interest

The Planning Agreement promotes the public interest by ensuring appropriate road infrastructure is provided to satisfy the increase in demand that arises from any propose development of the subject land adjoining lands.

Promotion of the Objects of the Act

By providing the appropriate infrastructure upgrades, the Planning Agreement promotes the following objects of the Act:

- The promotion and co-ordination of the orderly and economic use and development of the subject land (Section 5(1)(a)(ii) of the Act).

The dedication and acquisition of land and the infrastructure upgrades made under this Planning Agreement promote this objective by allowing the subject and adjoining lands to be appropriately developed.

Interpretation of the Planning Agreement

This explanatory note is not to be used to assist in construing the Planning Agreement.