

Draft Planning Agreement

Shellharbour City Council and Lend Lease Communities (Australia) Limited

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 "**Regulation**").

Parties to the Planning Agreement

The parties to the Planning Agreement are Lend Lease Communities (Australia) Limited (ABN 88 000 966 085) (the "**Developer**") and Shellharbour City Council (the "**Council**").

The Developer has made an offer to enter into the Planning Agreement in connection with an application for consent under Part 4 of the Act for the development of the Land in accordance with a Concept Plan for the Development that was approved under the then Part 3A of the Act by the Minister for Planning on 8 December 2010 (the "**Concept Plan**").

Description of the Subject Land

The Planning Agreement applies to those parts of the land comprising the Calderwood site, the details for which are set out in Part 1 of Schedule 3 of the Planning Agreement (the "**Land**").

The Calderwood site is located approximately 20km south-west of Wollongong and 10km west of Shellharbour City Centre. The Land is approximately 700 hectares in area and is bounded by Illawarra Highway to the south and Marshall Mount Road to the north.

Description of the Proposed Development

The Development, as described in the Concept Plan, involves:

- the subdivision of the Land to accommodate approximately 4,800 dwellings, 3 School Sites and 50 hectares of land for a mix of uses including employment, retail and commercial uses;
- the provision of open space, internal roads, associated infrastructure and community facilities; and
- the provision of land for riparian corridors and conservation.

A copy of the Concept Plan Approval can be found at <http://majorprojects.planning.nsw.gov.au/>.

Summary of Objectives, Nature and Effect of the Planning Agreement

The Planning Agreement provides that the Developer will make various contributions towards local infrastructure, comprising the following:

- an average monetary contribution to the Council of \$4,060 per Dwelling (to be paid prior to the issue of a Subdivision Certificate relating to the Allotment upon which it is proposed to construct that Dwelling) for the:
 - Albion Park Library Upgrade;
 - Albion Park Bypass;
 - Shellharbour City Performance Theatre;
 - Council Administration Offices;
 - City Library;
 - Civic Auditorium;
 - Beach Foreshore;
 - Shellharbour City Stadium; and
 - administration of the Planning Agreement;
- the design, construction and dedication to the Council of a Multi Purpose Community Resource Centre;
- the design, construction and dedication to the Council of ten Local Parks, each 0.2 hectares in area;
- the design, construction and dedication to the Council of a number of District Parks with a total area of 6.8 hectares;
- the design, construction and dedication to the Council of a number of Citywide Parks with a total area of 5.43 hectares; and
- the design, construction and dedication to the Council of sports fields with a total area of 15.84 hectares;

The Planning Agreement contains a schedule (being Schedule 4) setting out the timing and procedures for the delivery of the Developer's Development Contributions.

The objective of the Planning Agreement is to facilitate the delivery of the Developer's Development Contributions and to make provision for infrastructure to meet certain demands created by the Development and to ensure that existing communities do not bear those costs.

The nature of the Planning Agreement is a contractual relationship between the Council and the Developer for the provision of Development Contributions to support the Development.

The effect of the Planning Agreement is that the Developer will contribute the Development Contributions in the manner provided for by the Planning Agreement.

Assessment of Merits and Impact of Planning Agreement

The Planning Agreement satisfies the objective of making provision for infrastructure to meet certain demands created by the Development and to ensure that existing communities do not bear those costs.

Arising from the Planning Agreement, the public will gain the benefit of the Development Contributions and the dedication of the local, district and city parks as well as the sporting fields and the Community Resource Centre.

The Planning Purpose of the Planning Agreement

In accordance with section 93F(2) of the Act, the Planning Agreement has the following public purposes:

- the provision of (or the recoupment of the cost of providing) public amenities or public services; and
- the provision of (or the recoupment of the cost of providing) transport or other infrastructure relating to land.

The Council and the Developer have assessed the Planning Agreement and hold the view that the provisions of the Planning Agreement provide a reasonable means of achieving the public purposes set out above. This is because the Development Contributions (both monetary and works in kind) will contribute to the provision of infrastructure needed to accommodate future housing and growth in the region as anticipated in the Shellharbour City Council s94 Contributions Plan 2013.

How the Planning Agreement Promotes the Public Interest

The Planning Agreement promotes the public interest by committing the Developer to make contributions towards local infrastructure.

How the Planning Agreement Promotes the Objects of the Act

The Planning Agreement promotes the following objects of the Act:

- the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment;
- the promotion and co-ordination of the orderly and economic use and development of land; and
- the provision of land for public purposes.

The Planning Agreement promotes the objects of the Act set out above by requiring the Developer to provide the items set out in this Explanatory Note under the heading "*Summary of Objectives, Nature and Effect of the Planning Agreement*" for the purposes of providing local infrastructure.

This purpose represents an important public benefit, and the Developer's offer to contribute towards this purpose will provide an important positive impact on the public who use the infrastructure and services to which these purposes relate.

How the Planning Agreement Promotes one or more Elements of the Council's Charter

The Planning Agreement promotes the following objects of the Council's Charter under section 8 of the *Local Government Act 1993*:

- 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;
- to promote and to provide and plan for the needs of children;
- to have regard to the long term and cumulative effects of its decisions;

- 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;
- to engage in long-term strategic planning on behalf of the local community;
- to exercise its functions in a manner that is consistent with and promotes social justice principles of equity, access, participation and rights; and
- 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.

How the Planning Agreement Conforms with Council's Capital Works Program

The Planning Agreement requires the Developer to contribute towards the provision of a number of items of planned infrastructure identified in the Council's Delivery Program 2013-2017 in addition to other public infrastructure required to support the Development.

Interpretation of Planning Agreement

This Explanatory Note is only a summary of the Planning Agreement and is not to be used to assist in construing the Planning Agreement.

Capitalised terms used in this Explanatory Note have the meaning given to them in the Planning Agreement.