

Appendix

(Clause 11.14)

Environmental Planning and Assessment Regulation 2000

(Clause 25E)

Explanatory Note

Draft Planning Agreement

Under s93F of the *Environmental Planning and Assessment Act 1979*

Parties

WOLLONDILLY SHIRE COUNCIL ABN 93 723 245 808 of 62-64 Menangle Street, Picton NSW 2571
(Council)

R & F ZIEMS PTY LIMITED ACN 001 747 806 of 330 Princes Highway, Corrimal NSW

GLYNIS JEAN THOMPSON c/- Brock Partners, Suite 605, 22 Market Street, Sydney NSW 2000

NEIL LEONARD ARBER c/- Brock Partners, Suite 605, 22 Market Street, Sydney NSW 2000

BERTOLI BUILDING PTY LIMITED ABN 68 056 658 836 of Suite 605, 22 Market Street, Sydney NSW 2000

ZAXMOAT PTY LIMITED ACN 079 492 247 c/- Brock Partners, Suite 605, 22 Market Street, Sydney NSW 2000

(together the Developer)

Description of the Land to which the Draft Planning Agreement Applies

The part of Lot 1 in DP 1086066 located to the west of Abbotsford Road.

Description of Proposed Development and Instrument Change

Any development within the meaning of Act that is made permissible by the taking effect of the Instrument Change and which is envisaged to include subdivision of the Land generally in accordance with the Staging Plan.

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

Objectives of Draft Planning Agreement

The objective of the Draft Planning Agreement is to require stabilisation works to be undertaken in respect of a heritage item and road works and dedication of land to realign Abbotsford Road. Part of the value of these works and land to be dedicated (Road Work Credit) will offset the Section 94 contributions that would otherwise be payable when the site is developed but only up to the extent of the Road Work Credit.

Nature of Draft Planning Agreement

The Draft Planning Agreement is a planning agreement under s93F of the *Environmental Planning and Assessment Act 1979* (Act). It is an agreement between the Council and the Developer. The Draft Planning Agreement is a voluntary agreement under which Development Contributions (as defined in clause 1.1 of the Draft Planning Agreement) are made by the Developer for public purposes (as defined in s93F(3) of the Act).

Effect of the Draft Planning Agreement

The Draft Planning Agreement:

- relates to the carrying out of the Development (as defined in clause 1.1 of the Draft Planning Agreement) on the Land by the Developer,
- does not exclude the application of s94 and s94A of the Act to the Development,
- does not exclude the application of s94EF of the Act to the Development,
- allows some of the benefits under this Deed to be taken into consideration in determining a development contribution under s94 of the Act,
- is to be registered on the title to the Land,
- requires provision of various securities at various times to secure the Developer's obligations under the agreement,
- imposes restrictions on the parties transferring the Land or part of the Land or assigning, or novating an interest under the agreement,
- provides two dispute resolution methods for a dispute, being expert determination and mediation,
- 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, and
- provides that:
 - after the realigned Abbotsford Road is opened as a public road the old part of Abbotsford Road will become redundant,
 - after the Developer lodges a Development Application for the Superlot Development and this Deed is registered on the title to the Land the Council intends to apply to close the part of Abbotsford Road that will become redundant,
 - part of the Development will be located on the redundant part of Abbotsford Road and the Developer is not to carry out any Development on that land unless and until that land has been closed as a public road and transferred to the Developer,
 - the Council will use reasonable endeavours to transfer the redundant part of Abbotsford Road to the Developer after that part is closed as a public road.

Assessment of the Merits of the Draft Planning Agreement

The Planning Purposes Served by the Draft Planning Agreement

The Draft Planning Agreement:

- promotes and co-ordinates the orderly and economic use and development of the land to which it applies,
- provides increased opportunity for public involvement and participation in environmental planning and assessment of the Development,
- ensures the provision and co-ordination of community services and facilities, in particular the realignment of a road required to mitigate the risk to public safety.

How the Draft Planning Agreement Promotes the Public Interest

The draft Planning Agreement promotes the public interest by promoting the objects of the Act as set out in s5(a)(ii)(v) and (c) of the Act.

For Planning Authorities:

Development Corporations - How the Draft Planning Agreement Promotes its Statutory Responsibilities

N/A

Other Public Authorities – How the Draft Planning Agreement Promotes the Objects (if any) of the Act under which it is Constituted

N/A

Councils – How the Draft Planning Agreement Promotes the Principles for Local Government Contained in Chapter 3 of the Local Government Act 1993

The Draft Planning Agreement promotes the principles for local government by:

- keeping the local and wider community informed about its activities,
- enabling the Council to secure appropriate services and facilities for local community needs. In this case the Draft Planning Agreement provides for the relocation of a road required to mitigate the risk to public safety and the stabilisation of a building of heritage significance at no cost to Council.

All Planning Authorities – Whether the Draft Planning Agreement Conforms with the Authority’s Capital Works Program

The works proposed under the Draft Planning Agreement have not been identified under the Council’s current capital works program. However, should the planning proposal proceed, and development of the land occur, the works identified under the Draft Planning Agreement will help improve the safety and amenity of a road and will secure the stabilisation of a building of heritage significance.

All Planning Authorities – Whether the Draft Planning Agreement specifies that certain requirements must be complied with before a


construction certificate, occupation certificate or subdivision certificate is issued

Yes. The Draft Planning Agreement requires monetary contributions for a Final Lot to be paid before the issuing of the subdivision certificate for the Final Lot and part of the works be carried out before the issuing of a subdivision certificate for a Final Lot on the Stage 2-4 Land (subject to any extension).

Calynis Thompson.

Nick Palmer.



 Denis Zaxmont P/c
Secretary

TAA