

Explanatory Note: Planning Agreement – Stage 1, Wilton South East Precinct

Wollondilly Shire Council

Walker Corporation Pty Limited

Walker Group Holdings Pty Limited

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1. Summary of objectives, nature and effect

Clause 25E(1) of the *Environmental Planning and Assessment Regulation 2000* (**the Regulation**) requires that an explanatory note must be prepared to accompany a planning agreement and must be exhibited with it. The explanatory note must address the requirements of clause 25E(1)(a)-(b) and clause 25E(2)(a)-(g) of the Regulation.

This explanatory note has been prepared to address these requirements.

A draft planning agreement (the **Agreement**) has been prepared. The proposed parties to the Agreement are Wollondilly Shire Council (the **Council**) on one hand, and Walker Corporation Pty Limited and Walker Group Holdings Pty Limited (together, the **Developer**) on the other.

1.1 Objectives

The objective of the draft planning agreement is to provide a mechanism by which:

- (a) works can be carried out;
- (b) land can be dedicated; and
- (c) monetary contributions can be made.

to benefit the community.

1.2 Nature

The Agreement will be a voluntary agreement under section 7.4 of the *Environmental Planning and Assessment Act 1979* (**the Act**).

An agreement of this kind may require a developer to dedicate land free of cost, pay a monetary contribution, or provide any other material public benefit to be used for or applied towards a public purpose.

In this particular case, the Agreement provides for works, land dedication and monetary contributions.

A summary of these contributions is set out below.

Works

The works can be generally described as:

- (a) the construction of a cumulative 1,951 metres of collector roads and one roundabout;
- (b) the construction of four bus shelters on collector roads;
- (c) the construction of two cycleways, one 656 lineal metre cycleway running east west and another 500 lineal metre cycleway running north south;
- (d) the construction of three local parks with areas of 5,808 square metres, 3,905 square metre and 3,237 square metres; and
- (e) the construction of two separate drainage basins and open space areas surrounding the two drainage basins; and

- (f) the maintenance of the two drainage basins for a period of 5 years following completion of those basins.

Land dedication

There will be a dedication of land associated with the three proposed local parks. The total area of land dedicated for parks is 12,950 square metres.

There will also be a dedication of land for the Collector Roads, the drainage basins and the open space land surrounding the drainage basins.

There is provision in certain circumstances for Council to require the provision of alternative dedicated land in lieu of any of the land proposed for dedication set out in Schedule 1 of the agreement.

Monetary contributions

Monetary contributions will be as follows:

- (a) payment of \$9,022.80 per Final Lot to be used by the Council for offsite open space;
- (b) payment of \$4,667.00 per Final Lot to be used by the Council for community facilities;
- (c) payment of \$296.00 per Final Lot for plan administration; and
- (d) payment of \$157,917 for each drainage basin for the maintenance of the drainage basins after the completion of the Developer's 5 year maintenance obligations .

1.3 Effect

The Agreement:

- relates to the carrying out by the Developer of the Development,
- excludes the application of s 7.11 and s 7.12 of the EPA Act to the Development,
- does not exclude the application of s 7.24 of the EPA Act to the Development,
- requires dedication of land and carrying out of works as described above,
- requires the Developer to provide bank guarantees or other form of security (as agreed) by reference to an agreed value of the works to be carried out by the Developer, land to be dedicated and monetary contributions to be paid; and
- allows the Council to compulsory acquire land to be dedicated in certain circumstances; and
- is to be registered on the titles to the Land,
- imposes restrictions on the Developer transferring the Land or part of the Land or assigning an interest under the Agreement,
- provides dispute resolution methods where a dispute arises under the agreement, being negotiation, mediation and expert determination,
- provides that the agreement is governed by the law of New South Wales,

- provides that the A New Tax System (Goods and Services Tax) Act 1999 (Cth) applies to the Agreement.

2. Assessment of the merits of the proposed agreement

2.1 Impact on the public or any relevant section of the public

The Agreement has a positive impact on the public, and in particular, the residents of the surrounding community. This is because the Agreement provides an opportunity to facilitate:

- (a) an addition to important elements of the public domain including roads, roundabouts and drainage;
- (b) active living through a new cycleway;
- (c) an increase in the quality and quantity of local open space enjoyed by the community; and
- (d) better community facilities through funding.

There may be some relatively minor impacts on the public in connection with the works required to bring about the improvements to the local open space, improvements to the public domain and the provision of community facilities. However, these impacts will be offset by the longer-term benefits that those works are intended to bring about.

2.2 Promotion of the public interest and the objects of the Act

The Agreement promotes the following objects of the Act:

- (a) Section 1.3(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
- (b) Section 1.3(c):
to promote the orderly and economic use and development of land
- (c) Section 1.3(g):
to promote good design and amenity of the built environment
- (d) Section 1.3(h):
to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants

The Agreement promotes the above objects of the Act, and the public interest, by providing for:

- additions to important elements of the public domain;
- active living through a new cycleway;
- an increase in the quality and quantity of local open space enjoyed by the community; and

- better community facilities.

2.3 The purposes of the *Local Government Act 1993*

The Council is the planning authority that would be a party to the Agreement. The Council is a public authority constituted under the *Local Government Act 1993*.

The Agreement promotes the following purposes of this Act:

(a) Section 7(d):

to facilitate engagement with the local community by councils, councillors and other persons and bodies that constitute the system of local government...

The Agreement promotes the above purpose of the Act by ensuring that the public are consulted in relation to the contributions and benefits to be provided under this Agreement.

2.4 The council's Guiding Principles

Section 8 of the *Local Government Act 1993* refers to the guiding principles for Councils as set out in section 8A, 8B and 8C of that Act (previously known as the Councils Charter).

The Agreement promotes the following principles:

(a) Section 8A (1):

- Councils should provide strong and effective representation, leadership, planning and decision-making
- Councils should carry out functions in a way that provides the best possible value for residents and ratepayers.
- Councils should manage lands and other assets so that current and future local community needs can be met in an affordable way
- Councils should work with others to secure appropriate services for local community needs.
- Councils should act fairly, ethically and without bias in the interests of the local community.

(b) Section 8A (2):

- Councils should recognise diverse local community needs and interests.
- Councils should consider the long term and cumulative effects of actions on future generations
- Councils should consider the principles of ecologically sustainable development

(c) Section 8A (3):

Councils should actively engage with their local communities, through the use of integrated planning and reporting framework and other measures

The Agreement promotes the above elements of the council's principles in the same way that is set out in section 2.2 above.

2.5 The planning purposes served by the Agreement

The Agreement:

- promotes the social welfare of the community,
- promotes and co-ordinates the orderly and economic use and development of the Land to which the Agreement applies,
- allows for the delivery and co-ordination of open space, road and drainage management facilities for area,
- provides land for public purposes in connection with the Development, specifically drainage management, roads and local parks,
- provides and co-ordinates community services and facilities in connection with the Development.

The Agreement provides a reasonable means of achieving these planning purposes by requiring the Developer to make monetary contributions, carry out and complete works and dedicate land to Council for those purposes, to facilitate the development of the Land.

The Agreement provides an opportunity to facilitate improvements and additions to the public domain, promote active living, improve community facilities and make provision for the enhancement of the environment.

2.6 Whether the Agreement conforms with the Council's capital works program

The works proposed under the Agreement have not been identified under the Council's current capital works program. However, should the development of the land occur, the works identified under the Agreement will be required to support the development and to help provide an appropriate level of infrastructure to the in-coming community. This Agreement provides a mechanism by which these works can be secured.

2.7 Construction certificate, occupation certificate or subdivision certificate

The Agreement does not specify any requirements that must be complied with before an occupation certificate is issued.

The Agreement does specify that certain requirements must be complied with before certain subdivision certificates are issued. These requirements are set out in Schedule 1 of the Agreement. The requirements are generally the carrying out of works, the dedication of land and the payment of monetary contributions.

The Agreement specifies that security for works are required when a Construction Certificate is issued for a work.

3. Preparation of this explanatory note

This explanatory note has been prepared jointly by the parties proposing to enter into the Agreement.