

Pepper Tree Road Planning Agreement
Port Stephens Council
BD NSW Project BD075 Pty Ltd



Appendix

(Clause 35)

Environmental Planning and Assessment Regulation 2000

(Clause 25E)

Explanatory Note

Draft Planning Agreement

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

Parties

Port Stephens Council ABN 16 744 377 876 of 116 Adelaide Street (Old Pacific Highway), Raymond Terrace NSW 2324 (Council)

BD NSW Project BD075 Pty Ltd ACN 141187948 of PO Box 826 Newcastle NSW 2300 (Developer)

Description of the Land to which the Draft Planning Agreement Applies

Lots 7, 8, 9, 10 and 11 in DP19101 otherwise known as 39, 41, 43, 45 and 47 Ferodale Road, Medowie NSW 2310

Description of Proposed Development

Construction of a Woolworths Supermarket the subject of the Development Consent No.16.2010-291-4 as modified in accordance with the Modification Application.

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 secure the provision of monetary Development Contributions for the purpose of providing a public road between Peppertree Road and Medowie Road.

Nature of Draft Planning Agreement

The Draft Planning Agreement is a planning agreement under s93F of the Environmental Planning and Assessment Act 1979 (Act). 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 various 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 on the Land by the Developer,
- imposes obligations on the Developer to make monetary Development Contributions in the amount of \$400,000 for the purposes of the Council constructing the Link Road,
- 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,
- is not to be registered on the title to the Land,
- imposes restrictions on the Developer transferring the Land or assigning, or novating an interest under the agreement,
- provides two dispute resolution methods for a dispute under the agreement, 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.

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 the Agreement applies,
- encourages the provision and co-ordination of community services and facilities, and
- provides increased opportunity for public involvement and participation in environmental planning and assessment of the Development.

How the Draft Planning Agreement Promotes the Public Interest

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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 5(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 Elements of the Council's Charter

The Draft Planning Agreement promotes the elements of the Council's charter by:

- providing adequate, equitable and appropriate services and facilities for the community and to ensure that those services and facilities are managed efficiently and effectively,
- 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

The contribution towards a road that links Peppertree Road and Medowie Road is generally consistent with the Medowie Planning Strategy adopted by Council on 24 March 2009, but not listed in the current Capital Works Program

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 specifies that monetary Development Contributions must be paid before an occupation certificate is issued.



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