

## **Explanatory Note**

*Environmental Planning and Assessment Regulation 2000*

(Clause 25E)

### **Deed of Variation to Cliftleigh Urban Precinct Planning Agreement**

Under clause 25C(3) of the *Environmental Planning and Assessment Regulation 2000*

#### **Parties**

**Cessnock City Council** ABN 60 919 148 928 of 62-78 Vincent Street, Cessnock, New South Wales (**Council**)

and

**Winten (No. 23) Pty Limited** ACN 096 449 366 of Level 10, 61 Lavender Street, Milsons Point, New South Wales (**Developer**)

#### **Description of the Land to which the Deed of Variation Applies**

The Deed of Variation applies to the Land, being:

- Lot 61 DP 1076974
- Lot 62 DP 1076974
- Lot 23 DP 607899
- Lot 61 DP 785115
- Lot 62 DP 785115
- Lot 3 DP 1039042
- Lot 1 DP 1072276
- Lot 2 DP 1072111
- Lot 22 DP 607899
- Lot 1 DP 1039042

#### **Description of Proposed Development**

The Deed of Variation relates to the development and subdivision of the Land (excluding Lot 1 DP 1039042) into a residential subdivision of 929 lots and also the development and subdivision of Lot 1 DP 1039042 into 48 lots.

## **Summary of Objectives, Nature and Effect of the Deed of Variation**

### **Objectives of the Deed of Variation**

The objective of the Deed of Variation is to amend the Planning Agreement.

### **Nature of the Deed of Variation**

This Deed is a deed of variation to the Planning Agreement under clause 25C(3) of the *Environmental Planning and Assessment Regulation 2000*.

### **Effect of the Deed of Variation**

The effect of the Deed of Variation is to amend the Planning Agreement to address:

- (a) changes to staging of the Development in accordance with the Development Consent conditions applying to the Development; and
- (b) changed circumstances regarding the proposed level of public facilities resulting from additional urban development within the Cessnock and Maitland Local Government Areas that were not envisaged at the time the Planning Agreement was entered into.

## **Assessment of the Merits of the Draft Deed of Variation**

### ***The Planning Purposes Served by the Draft Deed of Variation***

The Draft Deed of Variation enables the Council, through amendments to the Planning Agreement, to:

- (a) promote and co-ordinate the orderly and economic use and development of the Land to which the agreement applies,
- (b) provide and co-ordinate the provision of public infrastructure and facilities in connection with the Development,
- (c) provide land for public purposes,
- (d) protect the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities, and their habitats, and
- (e) provide increased opportunity for public involvement and participation in environmental planning and assessment of the Development.

### ***How the Draft Deed of Variation Promotes the Public Interest***

The Draft Deed of Variation promotes the public interest by promoting the objects of the Act as set out in s5(a)(i),(ii),(iv),(v), (vi) and 5(c) of the Act.

### ***Development Corporations - How the Draft Deed of Variation Promotes its Statutory Responsibilities***

N/A

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

N/A

***Councils – How the Draft Deed of Variation Promotes the Elements of the Council's Charter***

The Draft Deed of Variation promotes the following elements of the Council's Charter, as contained in repealed s8 of the *Local Government Act 1993*, by requiring the provision of public infrastructure and facilities, the need for which is created by the Development:

- 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, and
- to properly manage, develop, protect, restore, enhance and conserve the environment of the area for which it is responsible, in a manner that is consistent with and promotes the principles of ecologically sustainable development.

***All Planning Authorities – Whether the Draft Deed of Variation Conforms with the Authority's Capital Works Program***

The agreement provides for the payment of contributions and the dedication of land to Council by the developer.

The contributions to be paid by the developer, as set out in Attachment D of the Planning Agreement.

The Council is responsible for the completion of the Capital Works Program provided for in the agreement.

***All Planning Authorities – Whether the Draft Deed of Variation specifies that certain requirements must be complied with before a construction certificate, occupation certificate or subdivision certificate is issued***

The Planning Agreement as amended by the Draft Deed of Variation does specify requirements that must be complied with before a construction certificate, occupation certificate or subdivision certificate is issued for the Development to which the Planning Agreement relates.