

Explanatory Note

(Draft) Kitchener Planning Agreement

Under s93F of the *Environmental Planning Assessment Act 1979*

Parties

Cessnock City Council (Council) ABN 60 919 148 928

Administrative Building 62-78 Vincent Street, Cessnock NSW 2325

JPG 58 Pty Ltd (Developer) ABN 48 124 233 272 of

Level 12, 48 Hunter Street, Sydney NSW 2000

Description of Subject Land

Lot 2 DP 862493, 24 Bellbird Street, Kitchener.

Description of the Development to which the Planning Agreement relates

The staged residential subdivision and housing development of the Land being land with frontage to Bellbird Street, Kitchener.

Future Development Application

A staged development application within the meaning of s.83B of the *Environmental Planning & Assessment Act 1979* has been prepared and lodged with Council. The development application sets out a proposal for the development of the Land. The proposed development will include:

- a residential subdivision.
- infrastructure including roads, stormwater management and essential services.

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

The objective of the Planning Agreement is to require monetary contributions for public amenities and services in conjunction with the carrying out of the Development to meet the facilities needed by the future population generated by the Development. The Planning Agreement also makes provision for:

- the indexation of the contributions in (clause 5(d));
- the exclusion of the application of s94 and s94A to the Development (having regard to the contributions proposed under the agreement (clause 6));
- Council to apply the Developer's contributions under the agreement in a manner that best meets the demand by the Development;
- the agreement be registered on title (clause 7);
- provision for review of the Agreement (clause 8);
- dispute resolution (clause 9 & Annexure B);
- enforcement and security (clause 10);
- assignment of the Agreement by the Developer (clause 13); and
- the Developer to pay the Council's reasonable costs (clause 14).

Assessment of the Merits of the Draft Planning Agreement

The Planning Purposes Served by the Draft Planning Agreement and whether it provides for a reasonable means of achieving that purpose

The proposed agreement provides a mechanism to ensure that the public amenities and services needed by the additional population generated by the Development and other facilities required for all residents are funded. The agreement is a reasonable means for achieving that purpose providing security and certainty.

How the Draft Planning Agreement Promotes the Public Interest & One or More of the Objects of the *Environmental Planning and Assessment Act 1979*

The draft agreement will promote the public interest by ensuring that the public amenities and services needed by the additional population generated by the development are able to be funded.

The draft planning agreement will promote the objects of the *Environment Planning and Assessment Act, 1979* through:

- facilitation of the orderly and efficient use of the land;
- dedication of land for a public purpose; and
- contributions for the provision of community facilities and infrastructure.

How the Draft Planning Agreement Promotes One or More Elements of the Council's Charter

The draft planning agreement promotes the following elements of the Council's Charter under s8(1) of the *Local Government Act 1993*.

The draft planning agreement, being a mechanism to deliver the provision of infrastructure and community facilities, promotes the following points as stated in Council's Charter:

- 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 properly manage, develop, protect, restore, enhance and conserve the environment of the area for which it is responsible;
- to bear in mind that it is the custodian and trustee of public assets and to effectively account for and manage the assets for which it is responsible; 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.

Whether the Draft Planning Agreement 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 **Annexure A** of the Planning Agreement, are based on a work program for each of the respective services and facilities.

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

Whether the Draft Planning Agreement specifies when certain requirements must be satisfied

Annexure A of the Planning Agreement sets out that contributions must be made prior to the issuing of a Subdivision Certificate for each stage of the development.