

Explanatory Note

Draft Planning Agreement for development at Charlestown (DA/2/2006/A)

Introduction

Clause 25E of the Environmental Planning and Assessment Regulation 2000 requires a planning authority (Lake Macquarie City Council) proposing to enter into a voluntary planning agreement under Section 93F of the Environmental Planning and Assessment Act 1979 to prepare an explanatory note about the voluntary planning agreement.

This explanatory note relates to the draft Voluntary Planning Agreement (hereafter referred to as "Planning Agreement") proposed to be entered into by TIA Properties Pty Limited ("TIA Properties") and the Lake Macquarie City Council ('the Council').

A planning agreement results from an offer by a developer to the Lake Macquarie City Council to dedicate land, make monetary contributions, or provide any other material public benefit, to be used for or applied toward a public purpose. In this instance, the planning agreement request has been made to Council by TIA Properties in relation to a development application (DA/2/2006) applying to Lot 1 DP 624885, 250 Pacific Highway, Charlestown.

This explanatory note has been prepared jointly between the parties as required by clause 25E of the Environmental Planning and Assessment Regulation 2000.

Background

The developer submitted a development application for the subject site, which does not provide for the total number of car parking spaces required by the Lake Macquarie Development Control Plan No.1. In lieu of the shortfall in spaces, TIA Properties has offered a cash contribution to provide the shortfall car parking spaces off-site.

On the 25 January 2007, Council granted development consent DA/2/2006/A. Condition 28 of DA/2/2006/A requires TIA Properties, pursuant to Section 93I(3) of the Environmental Planning and Assessment Act 1979, to enter into a planning agreement as volunteered by TIA Properties Pty Ltd on 1 December 2006. The Planning Agreement proposed is the Planning Agreement as offered by TIA Properties on 1 December 2006.

Objectives, Nature and Effect of the Proposed Planning Agreement

The objective of the draft Planning Agreement is to ensure the adequate provision of car parking for the proposed development.

The development application proposes a shortfall of three car parking spaces on-site. The effect of the draft planning agreement is to permit TIA Properties to pay Council a cash contribution of \$97,500.00, in lieu of providing for three car parking spaces on-site. The car parking contribution is to be used by Council to provide for public car parking within the Charlestown Area Plan – North.

The Planning Agreement operates such that the cash contribution shall be made to Council prior to the issue of any construction certificate associated with DA/2/2006/A.

Assessment of the Merits of this Planning Agreement

DCP 1 requires 1 car parking space per 40 metres squared Gross Floor Area for commercial development. The development approval does not provided all required car parking spaces on-site. To fulfil the car parking requirements under DCP 1 the developer has offered Council a cash contribution, which shall be used to provide public car parking spaces within the Charlestown Area Plan – North.

When the cash contribution is applied to public car parking the following benefits can result. Centralised public car parking spaces benefits the commercial centre, as it facilities the provision of additional centralised public car parking spaces as opposed to private car parking spaces. Centralised public car parking spaces has great potential for shared use of such car parking spaces. The requirements of DCP 1 can also be achieved, which will reduce the negative impact on local infrastructure.

This development will facilitate economic outcomes for the commercial district of Charlestown.

How this draft Planning Agreement promotes the Objects of the Environmental Planning and Assessment Act 1979

The draft planning agreement promotes the provision and co-ordination of a community facility, by providing funding for the provision of additional car parking spaces. These car parking spaces can be used by the general community and commercial development within the Charlestown Area Plan – North.

How this Planning Agreement promotes the Elements of the Council's Charter under Section 8 of the Local Government Act 1993

The draft planning agreement promotes Council's Charter under Section 8 of the *Local Government Act 1993* as it provides facilities for community use and informs the local community and State Government about its activities and decisions in relation to the Planning Agreement and development.

Assessment of whether the draft Planning Agreement provides for a reasonable means of achieving the purpose

The provisions within this Planning Agreement do so provide a means of achieving the provision of three additional car parking spaces in the Charlestown Area Plan – North.

Assessment of whether the draft Planning Agreement conforms with Council's Capital Works Program

The Lake Macquarie City Council Section 94 Contributions Plan Commercial Centres No.4, 1998 provides for additional car parking within the Charlestown Centre Business District. It is anticipated the addition three spaces, to be provided from the draft Planning Agreement, could be provided in conjunction with these car parking spaces.

These explanatory notes are not to be used to assist in construing the Planning Agreement, nor as a complete description of the draft planning agreement.