

# Explanatory Note

## Draft Planning Agreement for development at Belmont (DA/618/2009)

### 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 Trilogy ELD Pty Ltd ("the Developer") and Lake Macquarie City Council ("the Council").

A planning agreement results from an offer by a developer to the 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 the Council by the Developer in relation to a development application (DA/618/2009) applying to Lot 1 DP 405436 and Lot A DP 369184, known as 24C and 24D Macquarie Street Belmont.

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

### Background

On 1 May 2009 a development application was lodged with the Council seeking development consent to carry out the development of the land ("the Development Application").

The Development Application seeks approval for, amongst other things, construction of commercial premises, approximately 252m<sup>2</sup> in floor area over a single storey, and demolition of an empty electrical sub station building and public toilet block ("the Development").

The Development does not provide for the total number of car parking spaces required by the Lake Macquarie Development Control Plan No.1. An offer has been made by the Developer to enter into a Planning Agreement with the Council to make a cash contribution to provide for public car parking and transportation facilities within the commercial centre of Belmont.

The Planning Agreement proposed is the Planning Agreement as offered by the Developer on 30 June 2009.

### 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 and transportation facilities for the proposed development.

The development application proposes insufficient car parking spaces on-site. The effect of the draft planning agreement is to permit the Developer to pay the Council a cash contribution of \$60,000. This amount would include \$59,113.30 in lieu of providing for four car parking spaces on-site. The payment is to be used by the Council to provide for public car parking and transportation requirements within the

commercial centre of Belmont. There will also be a contribution of \$886.70 for administration costs.

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/618/2009.

### **Assessment of the Merits of this Planning Agreement**

DCP 1 requires one (1) car parking space per 40 metres squared Gross Floor Area for commercial development. The development approval does not provide all required car parking spaces on-site. The developer has offered Council a cash contribution, which shall be used to provide public car parking spaces and transportation facilities within the commercial centre of Belmont.

Centralised public car parking spaces and transportation facilities benefit the commercial centre as they can be used by the general public rather than being limited to private usage by patrons of the proposed development. Another benefit of the agreement would be the satisfaction of Council's car parking and transportation facilities for this development, enabling it to proceed and in so doing (potentially) generating viable employment and economic activity in the Belmont area.

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

The draft planning agreement promotes the provision and coordination of a community facility, by providing funding for the provision of additional car parking spaces and transportation facilities. Any car parking spaces and transportation facilities constructed can be used by the general community and commercial development within the commercial centre of Belmont.

### **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 additional car parking spaces and transportation facilities in the commercial centre of Belmont.

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

It is anticipated additional car parking spaces or transportation facilities gained from the draft Planning Agreement could be provided in conjunction with other capital works planned for the area including centralised car parking spaces in Ernest St Belmont.

This explanatory note is not to be used to assist in construing the Planning Agreement, nor as a complete description of the draft planning agreement.