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Deed of Variation of Renwick Planning Agreement

Landcom

Wingecarribee Shire Council

6 May 2010

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Deed of Variation of Renwick Planning Agreement

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SMG
BA *R*



Deed of Variation of Renwick Planning Agreement

Parties

Landcom ABN 79 268 260 688 of Level 2, 330 Church Street, PARRAMATTA NSW
2150 (**Landcom**)

and

Wingecarribee Shire Council ABN 49 546 344 354 of Civic Centre, Elizabeth
Street, MOSS VALE NSW 2577 (**Council**)

Recitals

- A. Landcom and Council are parties to the Agreement.
- B. The purpose of this Deed is to allow Landcom to satisfy its obligation under the Agreement to contribute towards the Mary Street Upgrade, within the meaning of the Agreement, by the making of a monetary contribution or the provision of works in kind towards that facility, in accordance with an agreement with the Council.
- C. The Parties have agreed to modify the Agreement as set out in this Deed of Variation.

Operative provisions

1 Definitions & Interpretation

1.1 In this Deed:

Agreement means the *Renwick Planning Agreement* executed by the Parties and dated 11 September 2008.

Deed means this Deed and includes any schedules, annexures and appendices to this Deed.

Party means a party to this Deed, including their successors and assigns.

Regulation means the *Environmental Planning & Assessment Regulation 2000*.

1.2 All other words have the same meanings ascribed to them in the Agreement.

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Landcom

Wingecarribee Shire Council



2 Variation

- 2.1 The Agreement is varied, with effect on and from the date of this Deed, as follows:
- 2.1.1 Item 3 in Part B of Schedule 4 to the Agreement, entitled *Mary Street Upgrade* is varied as follows:
- (a) by adding the words '*or Monetary Contribution*' after the words '*Works in Kind*' in Column 3;
 - (b) by deleting the words in Column 4 and inserting instead the words '*By agreement between the Parties*'.

3 Confirmation and Acknowledgement

- 3.1 Each Party confirms that, other than as provided for in clause 2 above, the Agreement remains in full force and effect.
- 3.2 If there is a conflict between this Deed and the Agreement, the terms of this Deed prevail.

4 Governing Law and Jurisdiction

- 4.1 This Deed is governed by the law in force in New South Wales, and each Party submits to the non-exclusive jurisdiction of the courts of New South Wales.

5 Explanatory Note

- 5.1 The Appendix contains the Explanatory Note relating to this Deed required by clause 25E of the Regulation.
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Execution

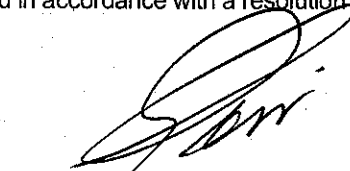
Executed as a Deed

Dated: 6 May 2010

Executed on behalf of the Council

The Seal of the Council was hereunto affixed in accordance with a resolution passed at a duly convened meeting held on:


General Manager


Mayor



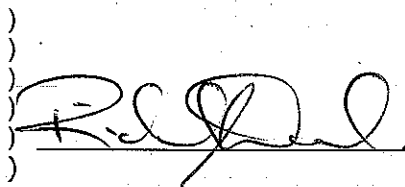
Helene Williamson - PA to General Manager

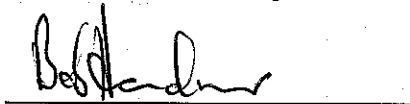
Witness/Name/Position

Executed on behalf of Landcom

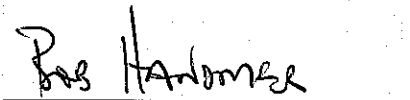
SIGNED by me

RICHARD WOOD
as Delegate of Landcom and I hereby
certify that I have no notice of
revocation of such delegation





Witness



Name of Witness





Appendix

(Clause 5)

Environmental Planning and Assessment Regulation 2000

(Clause 25E)

Explanatory Note

Draft Amendment to Planning Agreement

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

Parties

Landcom ABN 79 268 260 688 of Level 2, 330 Church Street, PARRAMATTA NSW 2150
(**Landcom**)

Wingecarribee Shire Council ABN 49 546 344 354 of Civic Centre, Elizabeth Street,
MOSS VALE NSW 2577 (**Council**)

Planning Agreement to which the draft Amendment Applies

The draft Deed of Variation (**draft Amendment**) applies to the *Renwick Planning Agreement* executed by the Parties and dated 11 September 2008 (**Planning Agreement**).

Development to which the draft Amendment Applies

The draft Amendment applies to the same development as the Planning Agreement.

The Planning Agreement applies to development comprising the subdivision of the land the subject of the Planning Agreement, which is proposed Lots 3, 4 and 5 in Plan of Subdivision of Lot 1 DP 1074502, Lot 100 DP869890 and Lot 20 DP848478 as shown on the plan in Schedule 1 to the Planning Agreement, for residential purposes, the development of up to 600 dwellings on the land, associated infrastructure and associated land uses such as retail, neighbourhood, community, open space and recreation uses.

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

The draft Amendment is a deed between Landcom and the Council to vary the Planning Agreement by allowing Landcom to satisfy its obligation under the Planning Agreement to contribute towards the Mary Street Upgrade, within the meaning of the Planning Agreement, by the making of a monetary contribution or the provision of works in kind towards that facility in accordance with an agreement with the Council. Unless the draft Amendment is entered into, Landcom is only able to satisfy that obligation by providing works in kind, and it must do so by a particular date.

The overall objectives, nature and effect of the Planning Agreement are unchanged by the draft Amendment, and are as follows.

The objectives of the Planning Agreement are to facilitate the provision of:

- community infrastructure and services for both new residents and the existing community;
- upgraded transport infrastructure within and external to the site;
- open space and recreational facilities within and external to the site.

To achieve these objectives, the Planning Agreement makes provision for the following types of public facilities and services to meet the demand expected to be generated by residential development, which will be permissible on the site, if the Council gives consent to the Development Application:

- contribution towards community services;
- contribution towards a proposed leisure centre external to the site;
- the upgrading of an existing rail bridge and road connections between the site and the Old Hume Highway;
- road works within and adjoining the site;
- the provision of upgraded and new shared cycleway and pedestrian paths within and external to the site;
- the provision of a new community centre;
- the provision and embellishment of open space;
- the provision of a village centre for retail and commercial activities;
- heritage restoration within the site;
- drainage works and water quality management;
- the provision of public transport infrastructure; and
- extended landscape maintenance open space within the site.

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The effect of the Planning Agreement is to require Landcom to provide the public services and facilities described in the Agreement in a staged manner, with the works in kind facilities being provided if and when approval is granted for the subdivision of land, and carrying out of works proposed within each Precinct of the Development.

Assessment of the Merits of the Draft Amendment

The Planning Purposes Served by the Draft Amendment

The draft Amendment serves the same planning purpose as the Planning Agreement, which is as follows.

The planning purpose served by the Planning Agreement is to meet the demand for public services and facilities that are expected to be generated by the Development and which will be made permissible on the site if the Development Application is consented to by Council including:

- the provision of public amenities and services;
- the provision of transport infrastructure relating to the land; and
- the conservation and enhancement of the natural environment.

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

The draft Amendment promotes the public interest and the objects of the *Environmental Planning and Assessment Act 1979* in the same way as the Planning Agreement.

The Planning Agreement promotes the public interest by ensuring that the public services and facilities that are expected to be required to service residential development on the site are provided in a timely manner and without financial input by the Council including:

- traffic facilities that manage the predicted increase in traffic volumes between the northern and southern access points;
- community facilities that meet the current shortfall in provision in eastern Mittagong and the Balaclava/Willow Vale residential areas; and
- provision of regional scale open space and recreation facilities for the wider Mittagong community.

The Planning Agreement promotes the objects of the *Environmental Planning & Assessment Act 1979* by encouraging:

- the proper management, development and conservation of natural and artificial resources, including cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment;

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- the promotion and co-ordination of the orderly and economic use and development of land,
- the provision of land for public purposes, and
- the provision and co-ordination of community services and facilities.

It does this by:

- ensuring that the provision of services and facilities across the site is carried out in a co-ordinated and orderly fashion, in conjunction with the Development;
- requiring the dedication of land for public purposes; and
- providing community services and facilities both within and external to the Development.

For Planning Authorities:

Development Corporations - How the Draft Amendment Promotes its Statutory Responsibilities

N/A

Other Public Authorities - How the Draft Amendment Promotes the Objects (if any) of the Act under which it is Constituted

N/A

Councils - How the Draft Amendment Promotes the Elements of the Council's Charter

The Draft Amendment promotes the elements of the Council's charter in the same way as the Planning Agreement.

The Planning Agreement promotes the following elements of the Council's Charter contained in section 8 of the *Local Government Act 1993*:

- Adopt an innovative approach to the provision of basic infrastructural needs (roads, drains, footpaths, parks, waste services etc).

The Planning Agreement by advocating the provision of Material Public Benefit (physical provision of works) rather than cash contributions introduces an innovative approach to infrastructure provision.

- Meet expanding housing and develop needs by facilitating varying styles/costs/density which maximise environmental compatibility and energy efficiency.

The Planning Agreement for the Renwick site is consistent with the corporate objective and the objectives of Council's urban release strategy - Wingecarribee Our Future Strategic Plan adopted by Council in 2002.

- Improve transport services particularly to outlying areas.

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The Planning Agreement includes the provision of new bus stops and pedestrian/cycleway links into Mittagong. The local bus company has advised that they will accommodate the new stops in their future route planning.

- rationalise and upgrade existing community facilities, ensuring the continuing availability of a basic infrastructure to meet community needs.
- promote and encourage cultural activity.

The Planning Agreement includes the provision of a new community centre for the site that will cater for the existing east Mittagong community and new residents within Renwick and surrounds. In recognition of the capacity within the new centre to cater for users from Renwick and surrounding areas, Council has intentionally not included the need for cash contributions towards other community facilities elsewhere in the Shire.

All Planning Authorities – Whether the Draft Amendment Conforms with the Authority's Capital Works Program

The Planning Agreement did not conform to the Council's capital works program at the time it was entered into. The draft Amendment does not change that position.

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