

## Attachment B

Environmental Planning and Assessment Regulation 2000

(Clause 25E)

### Planning Agreement

Under s93F of the Environmental Planning and Assessment Act 1979

#### 1. Parties

Lithgow City Council (Planning Authority)

Treeview Estates Pty Ltd (Developer)

#### 2. Description of Subject Land

Lot 50 DP 1044978

9 Col Drewe Drive,

South Bowenfels

#### 3. Description of Development Application

It is proposed to construct a retirement village consisting of 148 attached and detached villas, each with a private courtyard, garage and off-street visitor parking space. A community centre will be located amongst the villas, which will provide computer facilities, library and two meeting rooms.

Access to the village will be from Col Drewe Drive at the northern end of the site, and service access from Hassan Street to the south. A bus service is currently provided to the site and stops in Col Drew Drive. However, the bus has to do a 180° turnaround and at present, there is no turning facility.

As part of the site investigations into proposed development, Treeview Estates Pty Ltd paid for the mapping of the wetland adjoining the site for Lithgow Council to assist it finalise the South Bowenfels DCP. A portion of the wetland and buffer area encroaches onto the site, and this portion is to be rehabilitated as part of the proposed

development. The wetland is at the headwaters of the .....Creek which flows into the Cox's River and subsequently Warragamba Dam, Sydney's drinking water supply.

#### 4. Summary of Objectives, Nature and Effect of the Draft Planning Agreement

This Draft Planning Agreement aims to set out contributions the developer will make to the local area which will be provided in lieu of the Council having a Developer Contributions Plan under Section 94 of the Act. It also demonstrates how the proposed development provides for the wider community through protecting and restoring a natural asset which in turn will, in a small way, contribute to the improved quality of Sydney's drinking water.

The draft agreement provides that the developer will:

1. Map the wetland area adjoining the site (already completed at a cost of \$2,500) and rehabilitate that portion, including the buffer area that is on the site. The total area to be rehabilitated is 3,560m<sup>2</sup> at a unit rate of \$35/m<sup>2</sup>; total cost estimated \$127,750. Ongoing maintenance of the wetland area that is on the site will be undertaken by Treeview Estates Pty Ltd, unless Council wishes to take over the maintenance costs. (Now Completed)
2. Contribute 50% of the cost (\$75,500) to construct a bus turnaround at the end of Col Drewe Drive partially on the site, at a total cost of \$151,000 including:
  - Turning circle (surfacing, kerbing, signage)
  - Passenger set down area and shelter, and
  - Landscaping(Now Completed)
3. Provide a cash contribution to the Council for the purpose of the development of regional facilities and town improvements at a rate of \$660 per dwelling, payable to Council on issue of an occupation certificate or interim occupation certificate. (Payable in Stages)

The total cost of the contributions proposed in this agreement is \$301,590.

#### 5. Assessment of the Merits of the Draft Planning Agreement

##### The Planning Purposes Served by the Draft Planning Agreement

This planning agreement serves to ensure the developer makes a reasonable and equitable contribution to the local community and local amenity to provide facilities that otherwise may need to be funded by the community.

## How the Draft Planning Agreement Promotes the Objects of the Environmental Planning and Assessment Act 1979

The objects of this Act are:

(a) to encourage:

- a. the proper management, [development](#) and conservation of natural and artificial resources, including agricultural [land](#), natural [areas](#), forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better [environment](#).

Response: The works proposed in this agreement development accords with the planning intention for the area as set out in Council Local Environmental Plan, and Development Control Plan for the area. The manner in which the development is proposed demonstrates best management in terms of water sensitive design, and protection of the wetland as a resource. The bus facility promotes the social welfare of the community.

- b. the promotion and co-ordination of the orderly and economic use and [development](#) of [land](#).

Response: The agreement allows the facilities to be provided to support the development of the land for the purpose proposed, as well as supporting the ongoing development of the surrounding land and amenities.

- c. the protection, provision and co-ordination of communication and utility services,

Response: The cash contribution will contribute to Councils development of regional facilities and town improvements in accordance with its deemed priorities.

- d. the provision of [land](#) for public purposes,

Response: The land set out for wetland buffer and the bus turnaround provide a specific benefit for the public good, although not specifically dedicated as land for public purposes.

- e. the provision and co-ordination of community services and facilities, and

Response: The bus turnaround area, and the shelter provided a direct facility for the public benefit in a coordinated manner. It will solve an existing problem for the turning of the bus which will only be exacerbated by future developments such as the Scotts College school proposed on Col Drewe Drive

- f. the protection of the [environment](#), including the protection and conservation of native animals and plants, including [threatened species](#), [populations](#) and ecological communities, and their [habitats](#), and

Response: The protection and rehabilitation of both the area of wetland and buffer on the site directly protects the environment and contributes to the general health of the drinking water catchments. The rehabilitation from grazing land creates the opportunities for threatened species and ecological communities to establish.

g. [ecologically sustainable development](#), and

Response: The rehabilitation of the wetland and buffer area is the final step in the ecologically sustainable development of the site as it will be returned to its native state through only rehabilitating using native species of the local area.

h. the provision and maintenance of [affordable housing](#), and

Response: This object is not relevant to the agreement, although the development does provide affordable housing for the aging population, albeit not as prescribed by the regulations.

(b) to promote the sharing of the responsibility for [environmental](#) planning between the different levels of government in the State, and

Response: The agreement allows for the developer to undertake works that would otherwise be provided by either local or state government. It also allows the Council to undertake works in surrounding area's it may not have previously afforded.

(c) to provide increased opportunity for public involvement and participation in [environmental](#) planning and assessment.

Response: This agreement will be exhibited with the Development Application, allowing public scrutiny and comment.

## How the Draft Planning Agreement Promotes the Public Interest

### For Planning Authorities:

(a) Development Corporations - How the Draft Planning Agreement Promotes its Statutory Responsibilities

No development corporations are involved in this agreement.

(b) Other Public Authorities - How the Draft Planning Agreement Promotes the Objects (if any) of the Act under Which it is Constituted

The relevant principle objectives of the Sydney Catchment Authority are set out in the SYDNEY WATER CATCHMENT MANAGEMENT ACT 1998 "to ensure that the catchment areas

and the catchment infrastructure works are managed and protected so as to promote water quality, the protection of public health and public safety, and the protection of the environment". In implementing its principal objectives, the Authority has the following special objective "to prevent the degradation of the environment". This agreement will contribute to the achievement of the aims of the Sydney Catchment Authority in that it allows the rehabilitation of a portion of wetland, and a buffer area. This will improve the quality of water entering and leaving the wetland, which will ultimately enter the drinking water supply for Sydney.

The Department of Natural Resources has had significant input into the definition of the wetland area and its buffer, thus achieving its responsibilities for "protected waters" under the Rivers and Foreshores Improvement Act 1948 (although no objectives exist for this Act).

(c) Councils – How the Draft planning Agreement Promotes the Elements of the Council's Charter

This agreement allows the provisions of the LEP and DCP covering the site to be achieved. In addition, it ensures that council's vision of "environmental protection" is achieved. Council's charter is set out in the provisions of Section 8 of the Local Government Act 1993, the relevant sections being:

1. 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
2. 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

The provision of the facilities for bus users and the protection and rehabilitation of the wetland clearly enables Council to achieve these two parts of its charter.

(d) All Planning Authorities – Whether the Draft Planning Agreement Conforms with the Authority's Capital Works Program

Neither of the works proposed is currently on Council's Capital Works Program. However, if Council had a comprehensive S94 plan for the South Bowenfels area based on its DCP, then it is likely both would have been required, and would be in the Program.

The Impact of the Draft Planning Agreement on the Public or Any Section of the Public

The local general public will directly benefit from having a new bus shelter provided and convenience of bus turning circle in terms of safety, aesthetics and convenience. The owners of the businesses directly adjacent to the area where the shelter will be provided will also benefit through their clients having access to the shelter, and a formal bus stop. The broader community of Sydney will benefit in a small way by having this section of the watercourse (hence drinking water quality) improved.

Other Matters

**Signed and Dated by All Parties**

Executed in accordance with s127 of the Corporations Act by **TREEVIEW ESTATES PTY LIMITED** in its capacity as trustee of the **TREEVIEW ESTATES TRUST:**

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Director Signature

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Director/Secretary Signature

On behalf of Lithgow City Council

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Signature

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Witness Signature

## Attachment C

### Template condition of development consent

(Where planning agreement accompanied a development application)

##. Pursuant to section 80A(1) of the *Environmental Planning and Assessment Act 1979*, the planning agreement that relates to the development application the subject of this consent must be entered into before [*Insert Requirement*].

(Where planning agreement accompanied an application to change an environmental planning instrument)

##. Pursuant to section 80A(1) of the *Environmental Planning and Assessment Act 1979*, the planning agreement that accompanied the application made by [*Insert Name of Developer*] to [*Insert Name of Planning Authority*] dated [*Insert Date*] relating to [*Specify Name of Environmental Planning Instrument*] for the purpose of the making of the development application the subject of this consent.