

# Explanatory Note – Draft Planning Agreement

## Dubbo Zirconia Project – Dubbo City Council and Australian Zirconia Limited

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### Introduction

The purpose of this Explanatory Note is to provide a plain English summary to support the public notification of the draft planning agreement (**Planning Agreement**) prepared under Subdivision 2 of Division 6 of Part 4 of the *Environmental Planning and Assessment Act 1979 (NSW)* (**Act**).

This Explanatory Note has been prepared jointly by Council and the Developer in accordance with clause 25E(3) *Environmental Planning and Assessment Regulation 2000 (NSW)*.

A Planning Agreement is an agreement entered into by a planning authority (such as the Department of Planning and Environment or a Council) and a developer. Under the agreement a developer agrees to provide or fund things like:

- Public amenities and public services;
- Affordable housing;
- Transport or other infrastructure; or
- To undertake such works to offset or mitigate impacts from a development.

Contributions can be made through:

- Dedication of land;
- Monetary contributions;
- Construction of infrastructure; or
- Provision of materials for public benefit and/or use.

### Parties to the Planning Agreement

The parties to the Planning Agreement are Dubbo City Council (**Council**) and Australian Zirconia (**Developer**).

### Description of the Proposed Development

The Developer is seeking approval to carry out the Dubbo Zirconia Project, which is a proposed open cut rare earths mine and associated facilities capable of producing up to one million tonnes of ore and 75,000 tonne of output a year for a period of 20 years. The project will produce a range of rare metal and rare earth products including zirconium, niobium and yttrium. These metals are used for catalysts, ceramics, electronic, refractory glass, special alloys, magnets and other high tech applications.

In September 2013, the Developer lodged a State Significant development application (SSD 5251) for approval under Part 4 of the Act relating to the carrying out of the Dubbo Zirconia Project.

### Description of the Subject Land

The Dubbo Zirconia Project is located in the Dubbo local government area (**LGA**).

The Planning Agreement applies to the land identified below being:

Part Lot 311 DP595631, Lot 271 DP593668, Part Lot 35 DP753220, Part Lot 1 DP133581, Part Lot 18 DP753252, Lots A and B DP439352, Lot 19 DP 753252, Part Lot A DP391069, Lot 55 DP 753252, Lot B DP 391069, Lot X DP 405495, Lot 211 DP595631, Lot 1 DP818802, Lot 50 DP 753252, Lot 7300 DP1149010 (licensed for grazing), Unformed Road (Crown Land) separating Lot 311 DP55631 and Lots A and B DP439352, Unformed Road (Dubbo City Council) separating Lot 1 DP818802 and Lot 7300 DP1149010.



### Objectives, nature and effect of the Planning Agreement

The objective, nature and effect of the Planning Agreement is to provide financial contributions to the Council and to enable the Council to use those financial contributions for public purposes.

Specifically the Planning Agreement provides that the financial contributions must be applied by the Council to road construction, upgrade and maintenance as below:

Impact Type	Item	Overall Impact (10 Year Impact)	Overall Impact (20 Year Impact)	Annual Impact (Years 1 to 10)
Primary	Maintenance of Obley/Toongi Road	\$3,000,000	\$6,000,000	\$300,000
	Urban Roads Contributions (to and from work)	\$420,000	\$840,000	\$42,000

<b>Impact Type</b>	<b>Item</b>	<b>Overall Impact (10 Year Impact)</b>	<b>Overall Impact (20 Year Impact)</b>	<b>Annual Impact (Years 1 to 10)</b>
	Urban Roads Contributions (other direct vehicle trips for employees)	\$420,000	\$840,000	\$42,000
<b>Sub Total</b>		\$3,840,000	\$7,680,000	\$384,000
<b>Secondary</b>	Boundary Road (Keswick Parkway South to Sheraton Road)	\$2,300,000	\$2,300,000	\$230,000
<b>Total</b>		<b>\$6,140,000</b>	<b>\$9,980,000</b>	<b>\$614,000</b>

The table breaks down the contributions into primary and secondary impact types. These impact types have been determined based on the following:

- (a) The actual cost attributed to the maintenance of Obley Road as a direct impact from AZL's operation which AZL has agreed to upgrade to a standard to accommodate AZL's operations.
- (b) Contributions derived from Council's adopted Urban Roads S94 Contributions Plan for 'to and from work' impacts on the Urban Road network.
- (c) Contributions derived from Council's adopted Urban Roads S94 Contributions Plan for other vehicle trips for employees within the Urban Road network.
- (d) Contributions to the upgrading of Boundary Road (Whealers Lane to Keswick Parkway south) and Keswick Parkway south to Sheraton Road to support affordable residential development in this area to accommodate the additional calculated dwellings resulting from the Dubbo Zirconia Project. This was determined based on the Dubbo City Infrastructure Services Model.

#### **Assessment of the merits of the Planning Agreement including the impact on the public**

The merits of the Planning Agreement are therefore to enable Council to finance infrastructure projects in the LGA. Such Council development and initiatives will have significant positive benefits on the Dubbo community.

#### **Promotion of the public interest and one or more of the objects of the Act**

The Planning Agreement requires that Council uses the financial contributions for public purposes and in doing so this Agreement promotes the following objects of the Act:

- (a) the provision and co-ordination of community services and facilities.

#### **Promotion of Council's Charter under section 8 of the LGA**

The Planning Agreement promotes one or more of the elements of the Council's charter under section 8 *Local Government Act 1993 (NSW)* in that it enables the Council:

- (a) 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.

**Identification of the planning purpose served by the Planning Agreement and assessment of whether the Planning Agreement provides a reasonable means of achieving that purpose**

The Planning Agreement will lead to the improvement of infrastructure in the LGA. The proposed amount of financial contributions is assessed to be a reasonable means of achieving this purpose.

**Identification of whether the Planning Agreement conforms with the Council's capital works program**

The contribution conforms with Council's capital works program and will be included in Council's Operational Plan.

**Requirements to be complied with before issue of construction, occupation or subdivision certificates**

The Planning Agreement does not specify that certain requirements of the Planning Agreement must be complied with before a construction certificate, occupation certificate or subdivision certificate is issued.

**Interpretation of Planning Agreement**

This Explanatory Note is not to be used to assist in construing the Planning Agreement.