

## EXPLANATORY NOTE – DRAFT PLANNING AGREEMENT

Development Application No. DA19/0704 & DA 20/0081

### Background

The purpose of this explanatory note is to provide a summary to support the notification of the draft planning agreement (**Planning Agreement**), prepared under Subdivision 2 of Division 7.1 of Part 7 of the Environmental Planning and Assessment Act 1979 (the **Act**).

This explanatory note has been prepared jointly by the parties as required by Clause 205 of the *Environmental Planning and Assessment Regulation 2021* (**Regulation**).

This explanatory note is not to be used to assist in construing the Planning Agreement.

### 1. Parties to the Planning Agreement

The parties to the Planning Agreement are Lendlease Communities (Werrington) Pty Ltd (the Developer) and the Penrith City Council (Council).

### 2. Description of the Land

The Planning Agreement applies to part of Lot 1 DP 1226122 shown hatched and labelled “Land Subject to the VPA”, and the part of Lot 2 DP 1176624 shown as hatched and shaded labelled “Land Subject to VPA on Lot 2 DP1176624” on the land map at Annexure A to the Planning Agreement (**Land**).

### 3. Description of Proposed Development

The development to which the Planning Agreement applies is the development (including any Approvals (as defined in the Planning Agreement) granted in relation to DA19/0704 and DA20/0081 and any further Approvals, including a Development Consent (as defined in the Planning Agreement) in respect of the Land, which is generally described as subdivision of the Land for the purpose of residential and industrial uses and associated road infrastructure, and the subsequent development of the Land for residential and industrial purposes (and associated uses, including but not limited to open space, roads, drainage, services, display homes and car parks) (**Development**).

### 4. Background to the Planning Agreement

The Developer purchased the Land on 4 June 2019.

On 14 October 2019, the Developer lodged DA19/0704 with Council.

On 17 February 2020, the Developer lodged DA 20/0081 with Council.

On 18 December 2020 DA19/0704 was approved by Council.

The Developer intends to lodge further Development Applications (as defined in the Planning Agreement) with Council in relation to the Development.

DA19/0704 was accompanied by a letter dated 7 February 2020 from the Developer to Council (**Letter of Offer**) offering to enter into this agreement to make contributions for public purposes if Development Consent is granted.

The Developer received a letter from Council dated 1 May 2020 which outlined the extent to which the offer in the Letter of Offer was accepted, and the conditions of the acceptance of that offer (**Letter of Acceptance**).

The Planning Agreement documents the agreement between the parties arising from the matters outlined in the Letter of Offer and Letter of Acceptance.

## **5. Summary of the Objectives, Nature and Effect of the Proposed Agreement**

The Planning Agreement requires the Developer to undertake works and dedicate land as detailed in Schedule 1 of the Planning Agreement, in lieu of monetary contributions under *Werrington Enterprise Living and Learning (WELL) Precinct Development Contributions Plan (2008)*, a contributions plan prepared in accordance with section 7.11 of the Act (**WELL CP**).

Timing for the works and dedication of land is detailed in Schedule 1 of the Planning Agreement.

The Developer is required to pay securities under the Planning Agreement. The timing for provision of security is outlined in clause 11.2 and Schedule 1 of the Planning Agreement.

The Planning Agreement will be registered on the title to the Land, excluding:

- any current and proposed Residential Lots (as defined in the Planning Agreement), including but not limited to the lots shaded and labelled “Stage 1 residential lots to be created under DA19 0704 & DA20 0200” on the plan at Annexure H to the Planning Agreement; and
- part of the Land which, at the date of this agreement, was located in Lot 2 DP1176624 as shown hatched and shaded, and labelled as “Land Subject To VPA on Lot 2 DP1176624” on the Plan showing the Land at Annexure A to the Planning Agreement.

## **6. Assessment of the Merits of the Proposed Agreement**

### **(a) How the Planning Agreement promotes the public interest and one or more of the objects of the Act**

The Planning Agreement promotes the objects of the Act, in particular the objects identified in Section 1.3 (c) and 1.3(g) of the Act which is to promote the orderly and economic use and development of land and to promote good design and amenity of the built environment. The Planning Agreement will provide a contribution towards community infrastructure which will support and service the existing and future population and will contribute to greater amenity and infrastructure of those areas.

### **(b) The impact of the Planning Agreement on the public or any section of the public**

The Planning Agreement will benefit the public and local community as it will improve open space and infrastructure installation and upgrades in the immediate vicinity of the Land.

### **(c) The planning purpose or purposes of the Planning Agreement**

The Planning Agreement will serve the planning purpose by providing open space and infrastructure to reflect the changing nature of the area and the needs of the anticipated incoming population.

It is considered that the Planning Agreement provides for a reasonable means by which to achieve these planning purposes given the extent of the statutory tools that are available to Council by which it can deliver the proposed public benefits.

### **(d) Compliance of certain requirements prior to issue of construction, occupation or subdivision certificates.**

The tables in Schedule 1 detail the works that need to be completed prior to the issue of subdivisions certificates.

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