

Explanatory Note

Exhibition of Deed of Variation to Voluntary Planning Agreement

The purpose of this Explanatory Note is to provide a summary explaining the amendments proposed by a Deed of Variation to a voluntary planning agreement between Assunta Vianello and Penrith City Council dated 5 November 2007, in connection with the development of land at Mulgoa NSW (**Planning Agreement**). The amendments to the Planning Agreement are proposed to be publicly notified.

The amendments to the Planning Agreement relate to the timing for planting works required for the creation of a biodiversity corridor (**Biodiversity Corridor Planting Works**) on part of the land the subject of the Planning Agreement at Glenmore Park (**the Site**).

This Explanatory Note has been prepared jointly by the parties as required by clause 205 of the *Environmental Planning and Assessment Regulation 2021* (**EP&A Reg 2021**). Relevant Practice Notes issued by the Planning Secretary have been considered in the preparation of this Explanatory Note in accordance with the EP&A Reg 2021.

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

1. Parties

The parties to the Deed of Variation to the Planning Agreement are:

- (a) Penrith City Council (**Council**), ABN 43 794 422 563 of 601 High Street, PENRITH NSW 2750
- (b) Assunta Vianello (**Vianello**) of "Hills of Home", 2183 The Northern Road, MULGOA NSW 2745

2. Description of the Subject Land

The land to which the Deed of Variation to the Planning Agreement relates is land owned by Vianello and described in Schedule 2 of the Planning Agreement as:

- (a) Part of Lot 1 in Deposited Plan 224861, being part of the land comprise in Folio Identifier 1/224861; and
- (b) Part of Lot 4 in Deposited Plan 226490, being part of the land comprised in Folio Identifier 4/226490.

The land is to be developed in accordance with development consent granted to DA20/0782 (**Development Consent**).

3. Description of Proposed Changes to Planning Agreement

Vianello has prepared a Deed of Variation to the Planning Agreement. A copy of the Deed of Variation is **attached** to this Explanatory Note in accordance with section 7.5 of the *Environmental Planning and Assessment Act 1979*. The Deed of Variation seeks to amend the Planning Agreement as follows:

- (a) Deletion of Schedule 3, Item 5(c) of the Planning Agreement which deals with the timing of planting works to be carried out by Vianello.

- (b) The timing of the planting works is to be amended to coincide with the Development Consent stages and to allow additional time for the gazettal of the Planning Proposal.
- (c) The inclusion of a clause allowing for the parties to agree in writing to an amendment to the timing of the Biodiversity Corridor Planting Works.
- (d) Amendments to the Biodiversity Corridor Planting Works Plan to refer to the amended planting works.

The proposed amendments will ensure that the construction of the relevant stages will occur in an orderly and efficient manner.

4. Summary of Objectives, Nature and Effect of the Changes to the Planning Agreement

[Section 205(1)(a) of the EP&A Reg 2021]

Objectives

The objectives of the amendments to the Planning Agreement are to:

- (a) ensure the Biodiversity Corridor Planting Works can occur in an orderly and efficient manner in line with the relevant stages of the Development Consent; and
- (b) streamline the Biodiversity Corridor Planting Works to ensure there is compatibility with the Glenmore Park Stage 3 Planning Proposal.

Nature

The nature of the amendment is a Deed of Variation to the Planning Agreement.

Effect

The effect of the amendment to the Planning Agreement is to change the timetable of the Biodiversity Corridor Planting Works to coincide with the stages provided for in the Development Consent. The amendments will ensure that the Biodiversity Corridor Planting Works are not carried out prematurely or otherwise out of step with the stages of the Development Consent or the Planning Proposal, so as to avoid the planting works from being damaged.

5. Assessment of the Merits of the Amendment to the Planning Agreement

[Section 205(1)(b) of the EP&A Reg 2021]

Promotion of the Public Interest

The amendments to the Planning Agreement will have positive impact on the public or a relevant section of the public by providing certainty as to the timing for the carrying out of the Biodiversity Corridor Planting Works on the Subject Land, consistent with the stages in the Development Consent.

The amendments to the Planning Agreement promote the objectives of the *Environmental Planning and Assessment Act 1979* by ensuring orderly and economic development of land.

There are no proposed amendments to the Planning Agreement that will impose a negative impact on the public or relevant section of the public.