

# Explanatory Note

(Clause 51)

*Environmental Planning and Assessment Regulation 2000*

(Clause 25E)

## Draft Planning Agreement

Under s7.4 of the *Environmental Planning and Assessment Act 1979*

### Parties

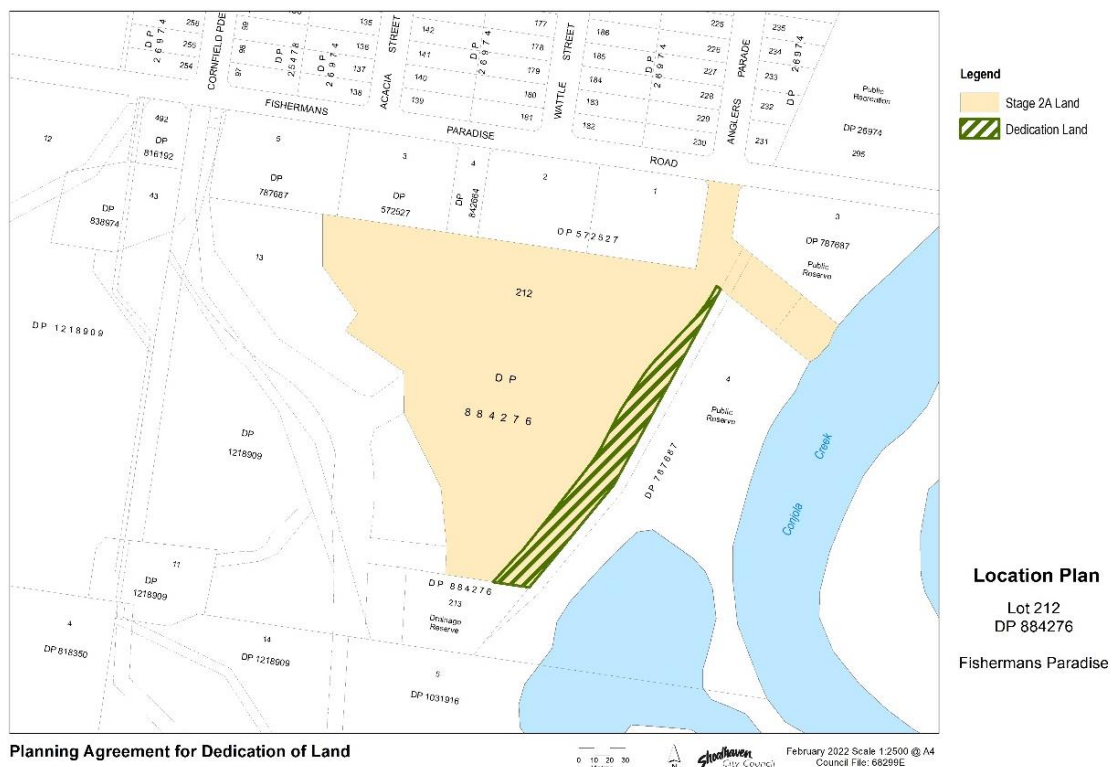
**Shoalhaven City Council** ABN 59 855 182 344 of 36 Bridge Rd, Nowra NSW 2541  
(Council)

**Grange Estates (NSW) Pty Ltd** ACN 079 624 909 of 19 / 19-21 Central Road  
MIRANDA NSW 2228 (Developer)

## Description of the Land to which the Draft Planning Agreement Applies

This Draft Planning Agreement applies to the land comprised in Lot 212 DP884276.

A plan showing the land to which this VPA applies is provided below:



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## **Description of Proposed Development**

This Draft Planning Agreement applies to the part of the development that is on Lot 212 DP884276 that is authorised by a Development Consent to Development Application SF7079 granted by the Council on 13 December 1991, as modified by modification application DS19/1344 determined by the Council on 8 April 2021, and as further modified from time to time. The development is for the staged subdivision of the land.

## **Description of Development Contributions**

This draft Planning Agreement requires the Developer to:

- dedicate 3,675sqm of land as public reserve. The land is identified as 'Public Reserve' on the Land Dedication Plan,
- prepare an environmental management plan which sets out management actions on the public reserve and provide it to the Council for approval,
- carry out the management and monitoring actions set out in the approved environmental management plan for the period prior to the dedication of land and for the 2 years after dedication. This includes the installation of fencing around the public reserve,
- pay to Council monetary contributions to be applied towards the Council's management of the public reserve after it is dedicated to the Council.

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

### **Objectives, Nature and Effect of Draft Planning Agreement**

The Draft Planning Agreement is a planning agreement under s7.4 of the *Environmental Planning and Assessment Act 1979*. The Draft Planning Agreement is a voluntary agreement under which Development Contributions (as defined in clause 1.1 of the Draft Planning Agreement) are made by the Developer for various public purposes (as defined in s7.4(3) of the Act).

The objective of the Draft Planning Agreement is to require the dedication of land to the Council for a public reserve, the preparation of an environmental management plan for the land to be dedicated, the carrying out of management and monitoring actions prior to the dedication of the land and for the 2 years after dedication, and the payment of monetary contributions to the Council to be applied towards the Council's management of the dedicated land.

The Development Contributions are provided in connection with the development of Stage 2A of the land.

The Draft Planning Agreement:

- relates to the carrying out of the part of the Development (as defined in clause 1.1 of the Draft Planning Agreement) that is on the Stage 2A Land by the Developer,
- does not exclude the application of s7.11, s7.12 or s7.24 of the Act to the part of the Development that is on the Stage 2A Land,

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- makes provision for the preparation of an environmental management plan and carrying out of management and monitoring actions in accordance with that plan,
- makes provision for the dedication of land,
- makes provision for the payment of monetary contributions to Council,
- is to be registered on the title to the Stage 2A Land,
- imposes restrictions on the Parties transferring the Stage 2A Land or any part of it or assigning, or novating an interest under the agreement,
- provides two dispute resolution methods for a dispute under the agreement, being expert determination and mediation,
- provides that the agreement is governed by the law of New South Wales, and
- provides that the A New Tax System (Goods and Services Tax) Act 1999 (Cth) applies to the agreement.

## **Assessment of the Merits of the Draft Planning Agreement**

### **How the Draft Planning Agreement Promotes the Public Interest**

The dedication of the public reserve under this Deed will ensure this land will be secured for environmental conservation purposes and help promote the health of the adjacent coastal wetland and waterway.

The carrying out of management actions in accordance with an approved environmental management plan will mitigate the direct and indirect impacts of the subdivision works, improve the ecological condition of the land and ensure future maintenance costs are minimised.

Specific objectives include:

- extend the public foreshore reserve in Fishermans Paradise,
- improve the ecological condition and function of the Dedication Land,
- protect the ecological integrity of the wetland reserve, which is classified as an Endangered Ecological Community,
- help secure the long-term health of the adjacent coastal wetland and waterway.

The Draft Planning Agreement will also require the payment of monetary contributions by the Developer to the Council towards the management of the dedicated land by the Council after it is dedicated to the Council.

The Draft Planning Agreement:

- promotes good design and amenity of the built environment,
- provides increased opportunity for public involvement and participation in environmental planning and assessment of the Development.

The Draft Planning Agreement promotes the public interest by promoting the objects of the Act as set out in s1.3(g) and (j) of the Act.

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The Draft Planning Agreement promotes the guiding principles for local government as set out in s8A of the *Local Government Act 1993* by:

- providing a means for the lands to be managed so that current and future local community needs, in the form of public amenity, can be met, and
- providing a means for Council to work with the Developer to secure the public amenity through establishment and management of landscaping,
- providing a means that allows the wider community to make submissions to the Council in relation to this Agreement.

### ***Whether the Draft Planning Agreement Conforms with the Authority's Capital Works Program***

The Draft Planning Agreement is not inconsistent with the Council's Capital Works Program.

### ***Whether the Draft Planning Agreement specifies that certain requirements must be complied with before a construction certificate, occupation certificate or subdivision certificate is issued***

Yes.

Prior to the issuing of any Subdivision Works Certificate for any part of the Development that is on the Stage 2A Land, the Developer is to:

- prepare and obtain Council's approval to an Environmental Management Plan, and
- provide the Council with Security.

Prior to the issuing of the first Subdivision Certificate that creates any lot within the Stage 2A Land, the Developer is to:

- complete fencing work and work set out in the approved Environmental Management Plan, and
- provide to the Council a Monitoring and Implementation Report.