

Planning Agreement

Explanatory Note

Environmental Planning and Assessment Regulation 2021
(Clause 205)

1 Summary

The purpose of this Explanatory Note is to provide a summary to support the notification of the proposed planning agreement between the parties listed in section 2 of this Explanatory Note, in relation to the subject land described in section 3 of this Explanatory Note (**Planning Agreement**), in accordance with section 7.4 of the *Environmental Planning and Assessment Act 1979* (NSW) (**EPA Act**).

This Explanatory Note has been prepared jointly by the parties as required by clause 205 of the *Environmental Planning and Assessment Regulation 2021* (NSW).

In this Explanatory Note, unless context indicates a contrary intention, capitalised terms are to be defined in accordance with the Planning Agreement.

2 Parties

The parties to the Planning Agreement are:

- (1) Muswellbrook Shire Council ABN 86 864 180 944 (**Council**); and
- (2) AQC Dartbrook Management Pty Ltd ABN 62 007 377 577 (**Dartbrook**).

3 Descriptions of Subject Land

The Land to which the Planning Agreement relates is as follows:

The land upon which the Development is situated being the land comprised in Appendix 1 of the Dartbrook Extension Consent

4 Introduction and Background

- (1) On 11 March 2022, Dartbrook was granted Modification 7 of Development Consent DA231-07-2000 for the Dartbrook Coal Mine.
- (2) The Development Consent permits mining operations to be carried out on the Land until 5 December 2027. Under the Development Consent, the Applicant is required to decommission and rehabilitate the site and carry out other requirements in relation to mining operations. Consequently, the Development Consent will continue to apply in all respects other than to permit the carrying out of mining operations until the rehabilitation of the site and other requirements have been carried out to the required standard.
- (3) Condition 11.4(a) of the Dartbrook Extension Consent requires Dartbrook to enter into a Planning Agreement with Council in accordance with the terms of Dartbrook's offer for Contributions as set out in Schedule 2 of this Agreement.
- (4) Dartbrook has offered to enter into a Planning Agreement on the terms of this Agreement to make Contributions for the purposes of satisfying Condition 11.4(a) of the Dartbrook Extension Consent.
- (5) The Parties have formalised the terms of Dartbrook's offer to provide the Contributions by entering into this Agreement in accordance with section 7.4 of the EPA Act.

5 Summary of Objectives, Nature and Effect of the Planning Agreement

- (1) The Planning Agreement relates to the provision of financial Contributions to support the increased demands for facilities arising from the development of the Land.
- (2) The objective of the Planning Agreement is to satisfy Condition 11.4(a) of the Dartbrook Extension Consent requires Dartbrook to enter into a Planning Agreement with Council in accordance with the terms of Dartbrook's offer for Contributions as set out below.
- (3) Dartbrook has offered to provide the following Contributions in accordance with the Planning Agreement:

Description of Contribution Column 1	Purpose of Contribution Column 2	Initial Contribution Column 3	Funding Timeframe Column 4
Dartbrook community contribution	Funding for the provision of public infrastructure and services within the Muswellbrook Shire local government area.	\$450,000 per year plus CPI calculated in accordance with clause 7.4.	Dartbrook must pay an annual financial contribution of \$450,000, plus CPI, paid in Quarterly Instalments commencing 11 March 2022.
Contribution of funding toward an environmental officer	Funding toward an environmental officer, who will be responsible for environmental matters associated with development in the Muswellbrook Shire local government area.	\$20,000 per year plus CPI calculated in accordance with clause 7.4..	Dartbrook must pay an annual financial contribution of \$20,000, plus CPI, paid in Quarterly Instalments commencing 11 March 2022.
Training of apprentices	To assist in building a skilled labour force in the Muswellbrook Shire local government area.	Use best endeavours to engage 2 apprentices, at any one time, sourced from residents within the Muswellbrook Shire local government area.	
Contribution to road maintenance relevant to the Dartbrook Extension Consent's traffic contribution.	Funding towards road maintenance relevant to the Dartbrook Extension Consent's traffic contribution.	\$10,000 per year plus CPI calculated in accordance with clause 7.4.	Dartbrook must pay an annual financial contribution of \$10,000, plus CPI, paid in Quarterly Instalments commencing on the date of this Agreement.

6 Assessment of the Merits of the Planning Agreement

6.1 Promotion of the public interest

The Planning Agreement promotes the public interest by ensuring that an appropriate contribution is made towards the provision of public infrastructure and services within the Muswellbrook Shire local government area, contribution of funding towards an environmental officer who will be responsible for environmental matters related to the Development, and contribution of funding to road maintenance relevant to the Development.

6.2 Promotion of Council's charter

The Planning Agreement promotes the following principles of the Council's charter:

- Councils should manage lands and other assets so that current and future local community needs can be met in an affordable way; and
- Councils should work with others to secure appropriate services for local community needs.

The Planning Agreement promotes these principles by requiring Dartbrook to make monetary contributions towards the provision of public infrastructure and services within the Muswellbrook Shire local government area, contribution of funding towards an environmental officer who will be responsible for environmental matters related to the Development, and contribution of funding to road maintenance relevant to the Development and which in turn facilitates Council to meet current and future local community needs.

6.3 The planning purposes served by the Planning Agreement

The Planning Agreement provides a reasonable means of achieving and securing outcomes envisaged by the LEP and the DCP through the provision of Affordable Housing consistent with cl 6.8 of the LEP and by identifying the works, method of payment and timing to ensure the public benefits secured by the Planning Agreement meet the increased demand for public facilities resulting from the Development.

6.4 Capital works program

The Planning Agreement relates to Council's Capital Works Program through providing funds to be used for the maintenance and improvement for road infrastructure.

6.5 Compliance matters

The Planning Agreement specifies the timing for the provision of Contributions.

There is no requirement that Dartbrook must satisfy prior to issuance of any construction certificate, occupation certificate or subdivision certificate by the relevant authority.