

Explanatory Note

Planning Agreement for 262-268 and 270-274 Caddens Road, Claremont Meadows

1 Introduction

The purpose of this Explanatory Note is to provide a plain English summary to support the notification of a proposed Voluntary Planning Agreement (**Planning Agreement**) under s7.4 of the Environmental Planning and Assessment Act 1979 (NSW) (**Act**).

This Explanatory Note has been prepared jointly between 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.

2 Parties to the Agreement

The parties to this Planning Agreement are:

- a) Penrith City Council (ABN 43 794 422 563) (**Council**)
- b) Mark Ventures Pty Ltd (ABN 649 653 565) (**Landowner**)

3 Description of the Land

The Planning Agreement applies to the land comprising Lot 4 DP 27107 and Lot 51 DP 1166569, known as 262-268 and 270-274 Caddens Road, Claremont Meadows (the **Land**).

4 Description of the Planning Proposal and Development to which the Planning Agreement applies

The Land and Environment Court granted Development Consent to Development Application DA22/0835 on 5 May 2025. The Development Consent is for the demolition of existing structures and the consolidation of two lots to facilitate a 9-lot Torrens Title subdivision including associated site works at 262-268 and 270-274 Caddens Road, Claremont Meadows.

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

5.1 Objective

The objective of the Planning Agreement is to provide a material public benefit by facilitating contributions by the Landowner for public purposes, being the dedication of land for the purpose of a public reserve, maintenance works and contributions for ongoing maintenance.

5.2 Nature of the Planning Agreement

The nature of the Planning Agreement is a contractual relationship between the Council and the Landowner for providing the Public Benefit.

5.3 Effect of the Planning Agreement

The effect of the Planning Agreement is that the Landowner will provide the Public Benefit in the manner provided for by the Planning Agreement.

5.4 Public Benefit

The Landowner is required to provide the following Public Benefit in accordance with the Planning Agreement:

Works

- The Landowner will carry out Works in accordance with the Planning Agreement, including the VMP and any Development Consent or other Approval granted for the Works.
- Upon completion of the Establishment Works, being the maintenance activities identified as "Phase 1: Site Preparation" and "Phase 2: Restoration Works" in the Planning Agreement and as further described in the VMP, the Landowner must provide Council with a written report confirming that the Establishment Works have been completed. If Council is satisfied that the Establishment Works have been completed, it shall issue a Certificate of Practical Completion.
- The Landowner will undertake the Establishment Maintenance Works for the Establishment Maintenance Works Period. The Establishment Maintenance Works Period will commence upon the issue of a Certificate of Practical Completion for the Establishment Works pursuant to clause 6.2(b). If Council is satisfied that the Establishment Maintenance Works have been completed, it shall issue a Certificate of Practical Completion.

Dedication of land

- The dedication land is identified as Proposed Lot 9 of the Development, with an area of 1.346ha and boundary dimensions of 84.315 (North), 250.19 (East), 60.93 (South) and 191.91 (West) (**the Dedication Land**).
- The Landowner must dedicate or cause to be transferred to the Council, at no cost to the Council, the Dedication Land freed and discharged from all estates, interests, trusts, restrictions, dedications, reservations, easements, rights, charges, rates and contracts in, over or in connection with the land, including but not limited to, municipal rates and charges, water rates and land tax.
- The Landowner must take all steps, prepare all documents and meet all costs required to dedicate the Dedication land including, but not limited to:
 - removing any encumbrances on the title to the land;

- creating an interest in land in favour of Council if required;
 - subdividing the Land to create a separate lot for the Dedication Land;
 - preparing and lodging documents for registration;
 - obtaining the consent of any other parties to the registration of the relevant documents; and
 - attending to any requisition relating to any dealing or document lodged for registration.
- The obligation to dedicate the Dedication Land will be taken to have been satisfied when the Public Reserve is dedicated to Council by operation of the registration of a plan of subdivision in accordance with section 49 of the Local Government Act 1993.
 - The Dedication Land must be dedicated or transferred to Council upon the subdivision and creation of title for the Dedication Land by NSW Land and Registry Services.
 - The parties agree and acknowledge that the embellishment and dedication of the Dedication Land serve the public purpose of a Public Reserve.

Contributions

- The Landowner will pay to Council a monetary contribution for the purpose of the Council undertaking maintenance of the dedicated land, being \$63,395.88 or an amount calculated in accordance with the following formula, whichever is the greater:

$$\frac{\$63,395.88 \times \text{The CPI at the time of payment}}{8}$$

The CPI at 20 September 2024
- The monetary contribution must be paid to Council prior to the issue of the first Subdivision Certificate for the Development.
- The parties agree and acknowledge that the monetary contribution will be used by the Council to undertake the maintenance works to the Dedication Land for a period of five years following the completion of the Establishment Maintenance Works, being the maintenance activities identified as "Phase 3: Maintenance" and "Phase 4: Monitoring and Reporting" in the Planning Agreement and as further described in the approved vegetation management plan (VMP).

5.5 Other matters

The Planning Agreement:

- This agreement excludes the application of section 7.11 of the Act to the Development.
- This agreement does not exclude the application of section 7.12 of the Act to the Development.
- This agreement does not exclude the application of section 7.24 of the Act to the Development.
- Includes a security clause which requires a bank guarantee, bond or cash deposit to be paid to Council in an amount equivalent to 125% of the cost of works before a Subdivision Works Certificate can be issued for the Development.

- Is required to be registered on the title of the Land, which means it will be binding on, and enforceable against, the owner of the Land. The Landowner must submit evidence to Council that they have registered the Planning Agreement on title with NSW Land Registry Services.
- Imposes restrictions on the Landowner assigning an interest under the agreement or transferring any part on the Land.
- Provides a dispute resolution method for a dispute under the Agreement, being mediation.

6 Assessment of the Merits of the Planning Agreement and Impact on the Public

The Planning Agreement will provide material public benefit by facilitating contributions for public purposes, being the dedication of land, maintenance works and contributions for ongoing maintenance.

The Planning Agreement provides a reasonable means of achieving the Public Benefit as described in Section 5 above.

7 Identification of how the Planning Agreement promotes the public interest

The Planning Agreement promotes the public the public interest in the following ways:

- By promoting the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources (1.3(a) of the Act).
- By facilitating ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment (1.3(b) of the Act).
- By promoting the orderly and economic use and development of land (1.3(c) of the Act).
- By protecting the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats (1.3(e) of the Act).
- By providing increased opportunity for community participation in environmental planning assessment through public notification of this agreement and opportunity for the public to make submissions in response to it (section 1.3(j) of the Act).

8 How the Planning Agreement promotes the Guiding Principles for Councils

- The Planning Agreement promotes the Council's charter under section 8 of the Local Government Act 1993 by providing adequate, equitable and appropriate infrastructure to the community.

9 Capital Works Program

The works are not part of Council's current Capital Works Program.
