

Appendix: Explanatory Note

(Clause 47)

Environmental Planning and Assessment Regulation 2021

(Section 205)

Planning Agreement

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

Parties

Council **Maitland City Council** ABN 11 596 310 805 of PO Box
220 Maitland NSW

Developer **Avid Residential Estates Pty Ltd** ABN 96 054 228
929 of Level 5, 7 Macquarie Place, Sydney NSW 2000

Description of the Land to which the Planning Agreement Applies

The land to which the Planning Agreement applies is described as:

The part of Lot 4 in DP 1222785 and remaining area of Lot 2 DP 1295677, known as Billabong Parade and 7 Caldera Street, Chisholm NSW 2322, which is not proposed to be a drainage reserve. Generally comprising of wetlands, exotic & pasture improved grasslands.

Description of Proposed Development/Instrument Change

The development application to which the Planning Agreement relates is DA/2023/497 for the subdivision of multiple existing lots into 181 residential allotments and associated infrastructure. The proposal includes the following more specifically; removal of vegetation, associated earthworks, two drainage reserves and associated drainage works, three residual lots, roads, landscaping and servicing.

Description of Development Contributions

There are no Development Contributions the subject of this Agreement. This Agreement does not exclude the Development Contributions applicable to the Development under DA/2023/497.

Summary of Objectives, Nature and Effect of the Planning Agreement

Objectives of Planning Agreement

The Planning Agreement will require the dedication of the Land as a public reserve and ensure the undertaking of Biodiversity Management Plan and Vegetation Management Plan, approved under the relevant Development Consent, to facilitate the preservation and regeneration of part of a regional biodiversity corridor identified in the Environmental Sustainability Strategy 2030 (ESS). The Planning Agreement makes provision for security to ensure the undertaking of approved Biodiversity Management Plan and Vegetation Management Plan works relating to the Land at no net cost to Council.

Nature of Planning Agreement

This Planning Agreement is an agreement between the two parties which creates reciprocal obligations on each party with the intent of achieving the objectives of the agreement in providing community benefit.

Effect of the Planning Agreement

To legally bind both parties to the performance of their respective obligations conferred under this Agreement.

Assessment of the Merits of the Planning Agreement

The Planning Purposes Served by the Planning Agreement

In line with Council's adopted ESS, this Agreement serves to protect the important ecological values of a regional biodiversity corridor identified within the ESS that adjoins the Thornton North Urban Release Area. The preservation and regeneration of the Dedication Land aligns with Council's adopted Green and Blue Map and aligns with Council's ESS Targets to deliver functional biodiversity corridors and improve waterway health.

How the Planning Agreement Promotes the Public Interest

The Planning Agreement makes provision for the dedication of environmentally significant land which forms part of a regional biodiversity corridor identified within the ESS. The Agreement provides a mechanism to ensure the completion of approved Biodiversity Management Plan and Vegetation Management Plan Works, at no cost to Council, to restore the Land to a functional biodiversity corridor. In taking ownership of the Land as a public reserve Council will manage the land to provide ongoing positive environmental, educational,

and recreational outcomes for the residents of the Thornton North Urban Release Area and wider community.

Assessment of the positive or negative impact of the Planning Agreement on the public or relevant section of the public

The positive outcomes for the public include the dedication of part of a biodiversity corridor identified within the ESS to be managed by Council as a public reserve. In the absence of this Agreement the Land would remain under private ownership and the site would likely be subject to further environmental degradation. Council's management of the Land will ensure ongoing positive environmental, educational, and recreational outcomes for the residents of the Thornton North Urban Release Area and wider community. There are no negative impacts anticipated as a result of the implementation of the Planning Agreement.

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

The provision of the Land proposed by the Planning Agreement is outside the scope of Council's current Capital Works Program. However, the land forms part of a biodiversity corridor identified within the ESS and aligns with Council's adopted Green and Blue Map. The cost of the Biodiversity Management Plan and Vegetation Management Plan Works will be borne by the Developer at nil net cost to Council. The provision of the works aligns with Council's adopted ESS.

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

The Developer must dedicate the Land specified in Schedule 1 Item 1 of the Agreement to Council at or before registration of any subdivision for the final stage (shown as Stage 83 on the staging plan) of the Development Drawing Reference Number. 190433(JENSEN)-DA-120) forming part of the documents comprising the Development Application.

The Developer must provide Council with security in the form of bond or bank guarantee (or other form acceptable to Council) to be 120% of the value of the outstanding Biodiversity Works Management Plan and/or Vegetation Management Plan (as determined in accordance with Item 15 of Schedule 1 and Part 4 of this Agreement prior to the issue of the subdivision certificate for the final stage (shown as Stage 83 on the staging plan) of the Development Drawing Reference Number. 190433(JENSEN)-DA-120) forming part of the documents comprising the Development Application.