

Schedule 2: Explanatory Note

Planning Agreement for provision of Works on the Land and Payment of a Monetary Contribution

Introduction

The purpose of this Explanatory Note is to provide a plain English summary to support the notification of the proposed Planning Agreement (the "**Planning Agreement**") prepared under Section 7.4 of the *Environmental Planning & Assessment Act 1979* (the "**the Act**").

This Explanatory Note has been prepared jointly by the Parties as required by clause 205 of the *Environmental Planning & Assessment Regulation 2021* ("**the Regulation**").

This explanatory note is not to be used to assist in construing the deed.

Parties to the Planning Agreement

The Parties to the Planning Agreement are Wollondilly Shire Council ("**Council**") and Country Garden Wilton East Pty Ltd ("**The Developer**").

Development consent has been granted to DA/2018/339/1 comprising 696 Lot Subdivision, 7 open space lots, balance lot and a residual lot, demolition of buildings, bulk earthworks, tree removal

The Developer has made the offer to pay a monetary contribution to the Council in connection with the construction and dedication of land including of stormwater basins, passive open space and a local park.

Summary of the objectives, nature and effect of the Planning Agreement

The objective of the Planning Agreement is to record the terms of the offer made by The Developer and its obligations to provide certain material public benefits to the Council.

The effect of the agreement is that The Developer will be required to provide the following public benefits:

Construction of:

- (a) Cumulative 1,951m of collector roads and one roundabout
- (b) Four bus shelters on collector roads
- (c) Two cycleways, one 656 lineal metre cycleway running east-west and another 500 lineal metres running north-south
- (d) Three local parks (areas: 6026m², 4260m², 3237m²)
- (e) Two separate drainage basins (Basin A – 16,250m²; Basin B – 18,668m²) and open space areas surrounding two drainage basins

Dedication of:

- (f) Land associated with local parks (areas: 5808m² + 3905m² + 3237m² = 12,950m²)

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- (g) Land for the Collector Roads, the drainage basins and the open space land surrounding the drainage basins.

Monetary contribution of:

- (h) payment of \$9,022.80 per Final Lot to be used by the Council for offsite open space;
- (i) payment of \$4,667.00 per Final Lot to be used by the Council for community facilities
- (j) payment of \$296 per Final Lot for plan administration; and
- (k) payment of \$157,917 for each drainage basin for the maintenance of the drainage basins after the completion of the Developer's 5-year maintenance obligations.
- (l) payment of \$4,916,000 towards the Wilton Recreation Reserve and Commemorative Walk.

The Developer is also required to provide security for each contribution and register the planning agreement on the title of the land in accordance with section 7.6 of the Act and the Council's *Planning Agreements Policy* and *Dedication of Land Policy*.

Assessment of the Merits of the Planning Agreement

This is because the Agreement provides an opportunity to facilitate:

- (a) an addition to important elements of the public domain including roads, roundabouts and drainage;
- (b) active living through a new cycleway, sportsground and walks;
- (c) an increase in the quality and quantity of local open space enjoyed by the community; and
- (d) better community facilities through funding.

There may be some relatively minor impacts on the public in connection with the works required to bring about the improvements to the local open space, improvements to the public domain and the provision of community facilities. However, these impacts will be offset by the longer-term benefits that those works are intended to bring about.

Identification of how the Planning Agreement promotes the public interest and the objects of the Act

The Planning Agreement promotes the public interest and the objects of the Act by providing land for public purposes (in the form of the dedication of land to the Council) in the vicinity of the development.

Identification of how the Planning Agreement promotes elements of the Council's Charter under the *Local Government Act 1993*

The Planning Agreement is consistent with the following guiding principles for Councils in section 8A of the *Local Government Act 1993* (which have replaced the Council Charter):

- In exercising functions generally:

- Councils should carry out functions in a way that provides the best possible value for residents and ratepayers.
- Councils should plan strategically, using the integrated planning and reporting framework, for the provision of effective and efficient services and regulation to meet the diverse needs of the local community.
- Councils should work co-operatively with other councils and the State government to achieve desired outcomes for the local community.
- Councils should manage lands and other assets so that current and future local community needs can be met in an affordable way.
- Councils should work with others to secure appropriate services for local community needs.
- In decision making:
 - Councils should recognise diverse local community needs and interests.
 - Councils should consider the long term and cumulative effects of actions on future generations.

The Planning Agreement is consistent with and promotes these principles in that it establishes a long-term mechanism for mitigating the costs of the impacts of the Development on residents and ratepayers by requiring the Developer to:

- provide monetary contributions for maintenance of the in addition to the Developer's 5-year maintenance obligations of stormwater basins.

Identification of the planning purpose served by the Planning Agreement and whether the Planning Agreement provides for a reasonable means of achieving that purpose

The planning purpose served by the Planning Agreement is the provision of land for public purposes (in the form of the dedication of land to the Council) and the provision of a monetary contribution towards the cost of maintenance of that drainage reserve and stormwater management infrastructure.

The Planning Agreement provides a reasonable means of achieving these public purposes.

Identify whether the agreement, amendment or revocation conforms with the planning authority's capital works program (if any),

The planning agreement identifies works that are aligned with the Planning Agreement provides monetary contributions to Council for works that will have to be incorporated into Council's capital works program.

Identification of the certain requirements of the agreement must be complied with before a construction certificate, occupation certificate or subdivision certificate is issued

The Planning Agreement requires the dedication of land as a drainage reserve and payment of a monetary contribution for the future costs of the maintenance of that reserve prior to the release of a subdivision certificate.

How the Planning Agreement promotes the public interest

The Planning Agreement promotes the public interest by providing land for use a drainage reserve and a contribution towards the cost of maintaining stormwater and drainage infrastructure.

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