

Explanatory Note

Exhibition of draft Voluntary Planning Agreement

41 and 47 Throsby Street, Wickham

Environmental Planning & Assessment Regulation 2000 (clause 25E)

Draft Planning Agreement

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

The Planning Agreement will require the carrying out of works and dedication of land for the purposes of a public laneway, in connection with a Planning Proposal and proposed development of land known as 41 and 47 Throsby Street, Wickham NSW.

This Explanatory Note has been prepared jointly between the parties as required by clause 25E of the *Environmental Planning and Assessment Regulation 2000* (**the Regulations**).

This Explanatory Note is not to be used to assist in construing the Planning Agreement.

Parties

FPG Wickham Pty Ltd (**the Developer**) made an offer to Newcastle City Council (**the Council**) to enter into a voluntary Planning Agreement, in connection with a Planning Proposal relating to the subject land.

Description of subject land

The land to which the Planning Agreement applies is described Lot 63 in Deposited Plan 579890, Lots 1 and 2 in Deposited Plan 112816, Lot 200 in Deposited Plan 534787 and Lot 62 in Deposited Plan 579890 known as 41 and 47 Throsby Street, Wickham (**the Land**).

Description of the Change to the Environmental Planning Instrument to which the Planning Agreement applies

The Planning Agreement is offered in connection with Planning Proposal PP_2020_NEWCA_001_00 lodged with the Council on or about 26 May 2020, seeking to amend *Newcastle Local Environmental Plan 2012* (**LEP**) to:

- (a) increase the building height control applying to part of 41 Throsby Street from 10m to 22m;
- (b) increase the building height control applying to part of 41 Throsby Street and all of 47 Throsby Street from 10m to 28m; and
- (c) establish an overall maximum floor space ratio control applying to the Land of 3:1.

The Planning Agreement will also apply to the future proposed development of the land, being a proposed multi-storey mixed use development that includes commercial or retail uses and residential apartments and that is permitted by the amendment to the LEP (**Development**).

Summary of Objectives, Nature and Effect of the Planning Agreement

Contributions

The Planning Agreement requires:

- (a) dedication to Council of part of Lot 62 DP 579890 (shown in the Planning Agreement at Annexure A) for the purpose of constructing a new public laneway, including footpath; and

- (b) construction of a new public laneway, including footpath on that land to be dedicated.

The Planning Agreement contains a Design Intent Statement, Technical Specifications and a Concept Design for the works to construct the public laneway at Annexure B.

The Planning Agreement requires the works and dedication of the public laneway to be completed before an Occupation Certificate is issued for the Development.

The Developer will be required to maintain the public laneway, including repairing any defects, for a period of 12 months after dedication.

Other Requirements

Schedule 1 of the Planning Agreement sets out how the Planning Agreement meets the requirements of section 7.4 of the Act. In particular, the Planning Agreement includes:

- (a) provisions confirming that sections 7.11, 7.12 and 7.24 of the Act are not excluded from applying to the Development (clause 7), so the Developer will be required to pay additional monetary contributions in connection with the Development in accordance with those sections;
- (b) a mechanism for dispute resolution (clause 10);
- (c) provisions about enforcement of the Planning Agreement including a requirement for the Developer to provide a financial security, a clause authorising Council to compulsorily acquire the land if it is not dedicated as required and restrictions on the issue of Construction Certificate and Occupation Certificate for the Development if the obligations under the Planning Agreement are not met (clause 11);
- (d) a requirement for the Planning Agreement to be registered against the title to the Land (clause 8); and
- (e) provisions confirming that the Council is not obliged to grant consent or exercise any of its functions in relation to a change to an environmental planning instrument (clause 14).

Assessment of the Merits of the Planning Agreement

The Public Purposes served by the Planning Agreement

The proposed contributions under the Planning Agreement will serve the public purposes of providing and improving pedestrian and traffic access in the vicinity of the Development.

The Planning Purposes served by the Planning Agreement

The delivery of the contributions will facilitate the redevelopment of the Land envisaged by relevant planning strategies, including the Wickham Master Plan. The contributions to be delivered under the Planning Agreement will contribute to providing appropriate facilities and infrastructure for the Development and the surrounding area, producing a good planning outcome for the Development of the Land. The new one-way public laneway and footpath is identified in the Wickham Master Plan as a component of the strategy to improve accessibility and connectivity within Wickham, including improving pedestrian, cycling and traffic networks.

The contributions proposed under the Planning Agreement are consistent with the strategic planning for the Land and its surrounds. As those contributions will achieve identified objectives under the Wickham Master Plan in terms of accessibility and connectivity and improvement of networks, the contribution will assist in implementing the Council's strategy and vision for the Wickham area. As it would be difficult to obtain these benefits through other statutory means, the Planning Agreement is the most suitable instrument by which the contributions can be delivered.

Impacts of the Planning Agreement on the Public

The Planning Agreement will contribute to the provision of public road, pedestrian and cycleway networks in the vicinity of the Development and increase the connectivity and amenity in that location.

The contributions under the Planning Agreement towards improving accessibility and connectivity within Wickham will be in the public interest because they will result in the provision of public infrastructure and will improve amenity for those who will live and work in the locality. The provision of the new public laneway will therefore promote the social and economic welfare of the community.

In addition, the dedication of land owned by the Developer to Council and construction of the new public laneway (at no cost to Council) means that Council will not be required to acquire land and construct the laneway itself, advancing the delivery of infrastructure identified under the Wickham Master Plan and enabling Council to expend funds on other infrastructure and capital works.

In general, the Planning Agreement will facilitate the Planning Proposal and redevelopment of the Land, achieving the strategic objectives set out in the Wickham Master Plan. The redevelopment of the Land and associated public infrastructure under the Planning Agreement will contribute to the vision of Wickham as a diverse and dynamic mixed-use neighbourhood.

The proposed contributions under the Planning Agreement will therefore have a positive impact on the public.