

ITEM NO. 2

**FILE NO: 20/316454
EDRMS NO: PSC2006-0191V2**

DRAFT VOLUNTARY PLANNING AGREEMENT - KINGS HILL DEVELOPMENT

REPORT OF: JANELLE GARDNER - ACTING STRATEGY & ENVIRONMENT
SECTION MANAGER
GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Agree in principle to the preparation of a draft Voluntary Planning Agreement for the purposes of securing biodiversity offsets related to Development Application 16-2018-722-1 for land at Kings Hill, generally in accordance with the proposed terms set out in this report.

**ORDINARY COUNCIL MEETING - 8 DECEMBER 2020
MOTION**

274	<p>Councillor Chris Doohan Councillor John Nell</p> <p>It was resolved that Council agree in principle to the preparation of a draft Voluntary Planning Agreement for the purposes of securing biodiversity offsets related to Development Application 16-2018-722-1 for land at Kings Hill, generally in accordance with the proposed terms set out in this report.</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Mayor Ryan Palmer, Crs Jaimie Abbott, Giacomo Arnott, Chris Doohan, Glen Dunkley, John Nell and Steve Tucker.

Those against the Motion: Nil.

The motion was carried.

BACKGROUND

The purpose of this report is to seek in principle agreement to prepare a draft Voluntary Planning Agreement (VPA) between Council and Kings Hill Development No 1 Pty Ltd and Kings Hill Development No 2 Pty Ltd (the Developer), generally in accordance with the proposed terms set out in this report.

The draft VPA will relate to a concept development application submitted by the Developer for future residential subdivision within the Kings Hill Urban Release Area (URA) (Development Application 16-2018-772-1). The concept development is for 1,900 residential lots and the application seeks consent to carry out stage 1 subdivision works for initial site preparation and vegetation clearing. The application is currently under assessment and will be determined by the Hunter and Central Coast Regional Planning Panel.

The draft VPA is proposed by the Developer to secure the biodiversity offsets that are necessary to offset the likely impacts of the proposed development. The proposed terms of the draft VPA include:

- Approx. 231 hectares of conservation land at Kings Hill (**ATTACHMENT 1**) will be rehabilitated and enhanced by the Developer, prior to being transferred to Council ownership.
- The Developer will undertake works over 5 years to enhance the conservation land in accordance with a Biodiversity Management Plan, including fencing and weeding. These works have been costed at \$3,500,000 and will be entirely funded by the Developer.
- The Developer will provide a bank guarantee of \$600,000 as rolling security that these works will be completed.
- If Council is satisfied with the enhancement works completed by the Developer, the Developer will dedicate the conservation land at no cost to Council.
- On dedication of the land to Council, the Developer will make a monetary contribution to Council of \$3,000,000 to fund the ongoing management of the conservation land for 40 years, including weed and pest management, bushfire management, fencing and trail maintenance.
- After 40 years, the indicative ongoing costs to Council have been calculated at approx. \$80,000 per annum.
- The draft VPA will not impact the obligations of the Developer to pay local infrastructure contributions under the Port Stephens Local Infrastructure Contributions Plan 2020.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2021
Thriving and Safe Place to Live	Provide land use plans, tools and advice that sustainably support the community.

FINANCIAL/RESOURCE IMPLICATIONS

Upon dedication, the draft VPA will include an obligation for the Developer to make a monetary contribution of \$3,000,000 to fund the ongoing management of the conservation land for 40 years. After this time, the management of the land will be funded by Council.

MINUTES ORDINARY COUNCIL - 8 DECEMBER 2020

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	No		
Reserve Funds	No		
Developer Contributions (\$7.11)	No		
External Grants	No		
Other	Yes	\$3,000,000 (plus accrued interest)	Monetary contribution proposed on dedication under the terms of a draft VPA.

LEGAL, POLICY AND RISK IMPLICATIONS

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that the biodiversity offsets proposed in the draft VPA are not adequate to offset the likely impacts of the proposed development.	Low	The biodiversity offsets proposed have been independently assessed as adequate as part of the assessment of Development Application 16-2018-772-1. Adopt the recommendations.	Yes
There is a risk that the monetary contributions will be insufficient to fund the maintenance of the conservation land.	Low	The cost estimates have been verified using Council data from the management of other biodiversity sites. Adopt the recommendations.	Yes
There is a risk that Council will not be able to fund the ongoing management of the land after 40 years.	Low	Council regularly prepares funding strategies to manage similar public assets dedicated to Council to support growth, such as the roads and drains in the Strategic Asset Management Plan. Adopt the recommendations.	Yes

Environmental Planning and Assessment Act 1979 (EP&A Act)

The draft VPA will be prepared in accordance with section 7.4 of the EP&A Act. The draft VPA will be reported to Council for endorsement prior to public exhibition in accordance with section 7.5.

Environmental Planning and Assessment Regulations 2000 (EP&A Regulation)

Should Council endorse public exhibition of a draft VPA, public notice will be undertaken in accordance with clause 25D of the EP&A Regulation and an explanatory note will be prepared to be exhibited with the draft VPA in accordance with clause 25E of the EP&A Regulations.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The draft VPA will secure conservation land to offset the likely impacts of proposed development under Development Application 16-2018-772-1. The draft VPA will provide for the rehabilitation, maintenance and management of the conservation land and will result in overall neutral or beneficial environmental impacts, given the development of the urban release area at Kings Hill.

The draft VPA will secure funding for Council to maintain the conservation land for 40 years and after that time there will be an economic cost to Council for the ongoing management of the conservation land. The draft VPA will support the future development of the urban release area at Kings Hill, which will provide housing (approx. 3500 new homes), jobs, and direct economic benefits to the local economy (estimated at \$140 million into the local economy annually) and will therefore have overall positive social and economic impacts in Port Stephens.

CONSULTATION

Consultation with key stakeholders has been undertaken by the Strategy and Environment section.

Internal

Consultation has been undertaken with the Development Assessment and Compliance, Financial Services sections, and the Natural Resources unit of Council. There are no objections to the recommendations of this report.

External

A draft VPA and explanatory note will be reported to Council prior to any public exhibition in accordance with the EP&A Act and EP&A Regulations.

OPTIONS

- 1) Accept the recommendation.
- 2) Amend the recommendation.
- 3) Reject the recommendation.

ATTACHMENTS

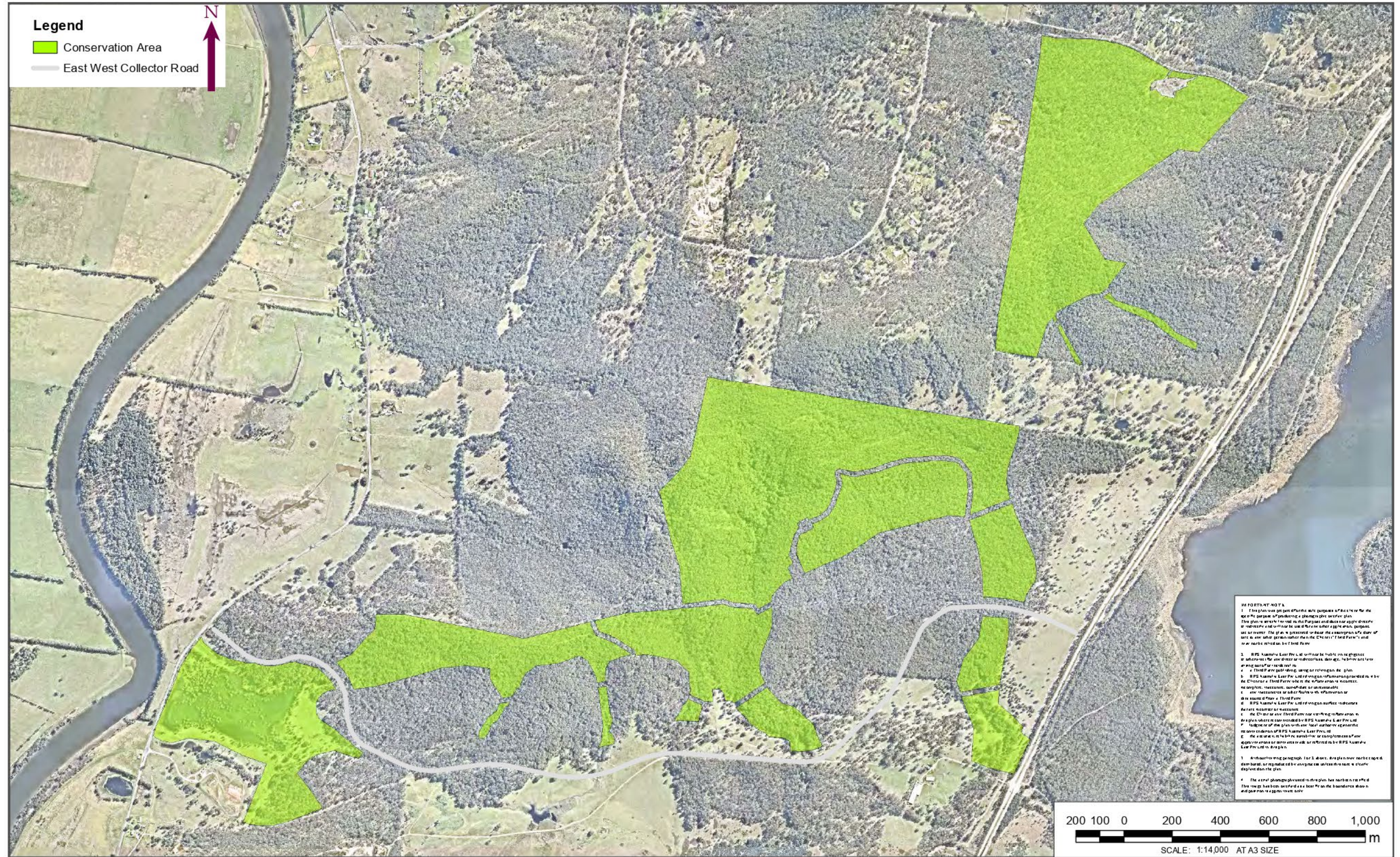
- 1) Map of conservation land.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil..



TITLE : FIGURE 1: THE CONSERVATION AREA | LOCATION : KINGS HILL | DATUM : GDA 1994 | DATE : 19/12/2019 | VERSION (PLAN BY): AA3 (mark.aitkens)

PROJECTION: GDA 1994 MGA Zone 56 | PURPOSE: ECOLOGY | PATH: J:\JOB\1301130430 Raymond Terrace\10 - Drafting\egis Map Documents\EcolReport\7_BM P20191106_Revised\130430 Figure 1 Conservation Area A3 20191106.mxd

CLIENT: PM NO 1 PTY LIMITED | JOB REF: PR130430 | RPS AUSTRALIA EAST PTY LTD (ABN 44 140 292 762) | Unit 2A, 45 Fitzroy Street, Carrington, NSW, Australia, 2294 PO Box 120, Carrington, NSW, 2294 | T: 02 4940 4200 F: 02 4940 4299 www.rpsgroup.com.au | MAKING COMPLEX EASY | RPS