

12 December 2023

Chief Executive Officer  
Kiama Municipal Council  
11 Manning Street  
KIAMA NSW 2533

**ATTN: Jessica Rippon, Director Environment, Planning and Communities**

Dear Jessica,

**Re: Letter of offer to enter into a planning agreement in association with the Planning Proposal to amend Kiama LEP at Long Brush Road, Jerrara and Greyleigh Drive and Jamberoo Road, Kiama**

We act on behalf of Traders in Purple (the Developer) in relation to the Planning Proposal to rezone land under the *Kiama Local Environmental Plan 2011* (LEP) to enable residential development at 177 Long Brush Road, Jerrara, and 33 Greyleigh Drive and 103 Jamberoo Road, Kiama (the Land).

The Developer offers to enter into a planning agreement with Kiama Municipal Council under section 7.4 of the *Environmental Planning and Assessment Act 1979* (EP&A Act 1979) to make development contributions to be used for or applied towards a public purpose as detailed in Attachment 1 of this letter.

This letter of offer to enter into a planning agreement has been prepared in consideration of the following:

- *Environmental Planning and Assessment Act 1979*
- *Environmental Planning and Assessment Regulation 2021*
- Environmental Planning and Assessment (Planning Agreements) Direction 2019
- Planning Agreements Practice Note (February 2021), Department of Planning and Environment
- Planning Agreements Policy (24 February 2010), Kiama Municipal Council.

#### **Parties to the planning agreement**

The parties to the planning agreement would be:

- Traders in Purple
- Kiama Municipal Council.

#### **Public purpose offer**

The proposed contributions that fall within the broad definition of a public purpose under section 7.4(2) of the EP&A Act 1979 are outlined below:

- the provision public amenities and services
- the provision of affordable housing
- the provision of transport or other infrastructure relating to land
- the conservation and enhancement of the natural environment.

A schedule has been included in Attachment 1 of this letter that details the public purpose items that are the subject of this letter of offer.

#### **Land to which the offer relates**

The planning agreement relates to the Land at 177 Long Brush Road, Jerrara, and 33 Greyleigh Drive and 103 Jamberoo Road, Kiama as described in Attachment 2 of this letter.



### **Planning proposal to which the offer relates**

The offer to enter into a planning agreement is in connection with the Planning Proposal that seeks to amend Kiama LEP 2011 to rezone part of the Land to enable residential development. The Planning Proposal concept plan is included as Attachment 3 and described in Attachment 4 of this letter.

### **Application of s7.11, s7.12 and Division 7.1, Subdivision 4 of the EP&A Act 1979 to the Development**

It is proposed that the planning agreement will not exclude the application of s7.11, s7.12 or Division 7.1, Subdivision 4 of the EP&A Act 1979 to the Development.

### **Explanatory note under s205 of the EP&A Regulation 2021**

Attachment 4 of this letter includes a draft explanatory note that has been prepared in accordance with s205 of the EP&A Regulation 2021 that:

- summarises the objectives, nature and effect of the planning agreement
- contains an assessment of the merits of the proposed agreement.

### **Conclusion**

We propose the following next steps in relation to this offer:

- Council considers this offer and provides any comments for the Developer's consideration
- the draft planning agreement is prepared by Council and reviewed by each party
- the draft planning agreement is publicly exhibited concurrently with the Planning Proposal
- the planning agreement is executed and registered on title following finalisation of the Planning Proposal and amendment to Kiama LEP 2011.

We look forward to working with you to formalise the planning agreement.

If you have any questions in relation to this matter, please do not hesitate to contact me on 8667 8668.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Chris Shannon'.

Chris Shannon  
**Director**



## ATTACHMENT 1 – PROPOSED PUBLIC PURPOSE OFFER

Outlined below are the proposed public purpose development contributions in accordance with s7.4 of the EP&A Act 1979

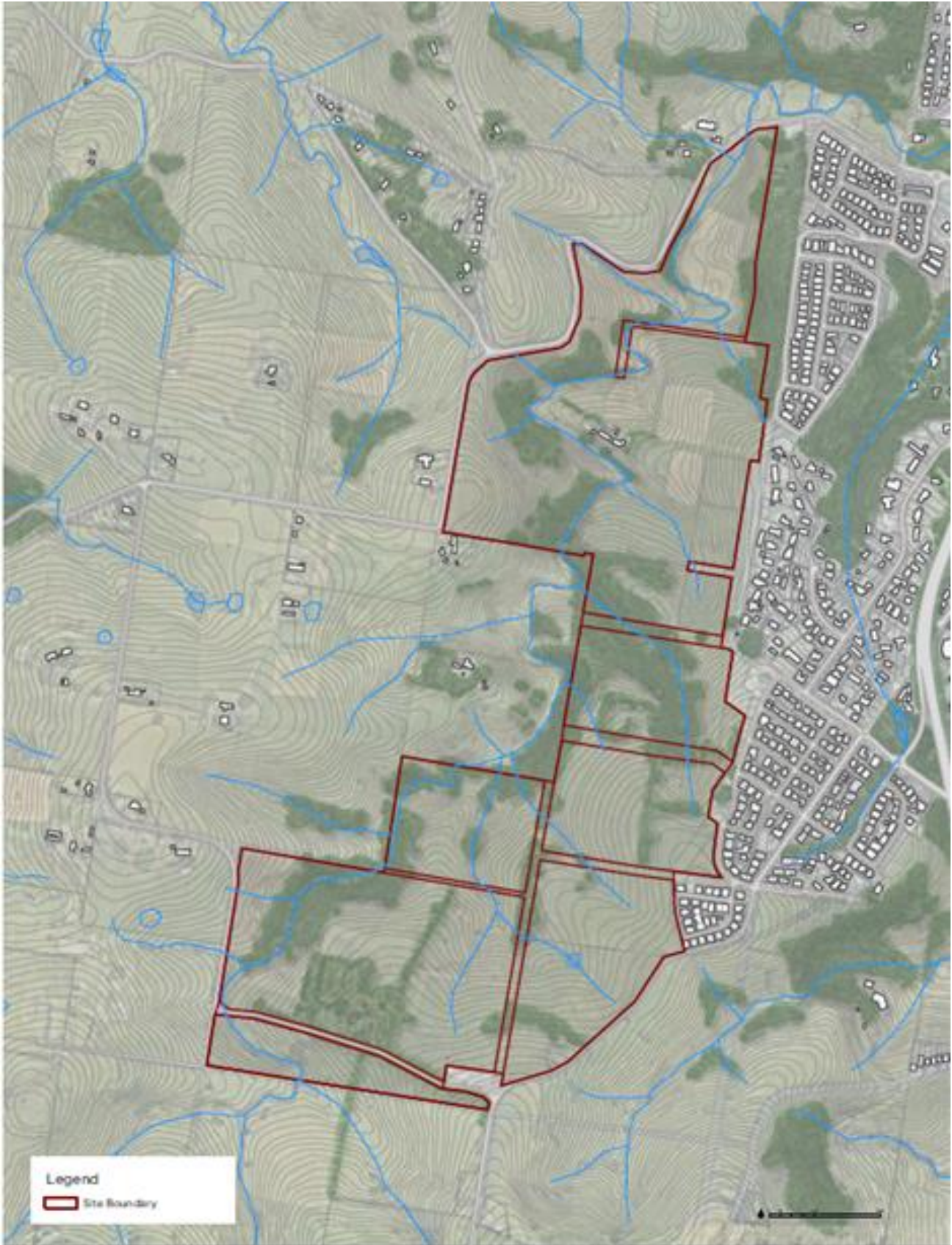
Contribution	Public purpose	Timing
Public amenities and services  s7.4(2)(a) of EP&A Act 1979	<b>Open space land and embellishment</b> Design, construction and dedication to Council open space and recreation areas on the Site including walking trails, cycleways and playground areas.	TBC
	<b>Water and sewer infrastructure</b> <ul style="list-style-type: none"><li>Provision of sewer infrastructure and associated pipes, pumping stations and treatment plants.</li><li>Provision of potable water storage facilities and associated infrastructure.</li></ul>	TBC
Affordable housing  s7.4(2)(b) of EP&A Act 1979	<b>Delivery of social and affordable housing</b> Provision of social and affordable housing on the Site as follows: <ul style="list-style-type: none"><li>20 social housing dwellings (apartments), involving construction and dedication of dwellings to the NSW Land and Housing Corporation</li><li>5% of overall lot yield for affordable land lot development dedicated to a community housing provider for construction of dwellings.</li></ul>	TBC
Transport and other infrastructure relating to land  s7.4(2)(c) of EP&A Act 1979	<b>Traffic and transport infrastructure</b> Design, construction and dedication to Council of the following traffic and transport infrastructure on the Site: <ul style="list-style-type: none"><li>local streets</li><li>intersections</li><li>bicycle and shared use paths</li><li>bus stops and shelters.</li></ul>	TBC
	<b>Stormwater management</b> <ul style="list-style-type: none"><li>Design, construction and dedication to Council of stormwater management infrastructure on the Site.</li></ul>	TBC
Conservation and enhancement of the natural environment  s7.4(2)(f) of EP&A Act 1979	<b>Environmental conservation</b> <ul style="list-style-type: none"><li>Rehabilitation and embellishment of the Spring Creek riparian corridor.</li><li>Rehabilitation and dedication of conservation areas to Council.</li></ul>	TBC



## ATTACHMENT 2 – THE LAND

The Land to which this planning agreement offer relates is described in the table below and shown with on the map following.

Legal description	Address	Area
Lot 201 DP 1148007	177 Long Brush Road, Jerrara	38.08 ha
Lot 1 DP 995058	33 Greyleigh Drive, Kiama	6.39 ha
Lot 1 DP 1003719	33 Greyleigh Drive, Kiama	5.69 ha
Lot 156 DP 751279	33 Greyleigh Drive, Kiama	5.46 ha
Lot 1320 DP1060995	33 Greyleigh Drive, Kiama	3.93 ha
Lot 183 DP 751279	33 Greyleigh Drive, Kiama	1.23 ha
Lot 185 DP 751279	33 Greyleigh Drive, Kiama	1.47 ha
Lot 186 DP 751279	33 Greyleigh Drive, Kiama	2.80 ha
Lot 187 DP 751279	103 Jamberoo Road, Kiama	1.43 ha
Lot 188 DP 751279	33 Greyleigh Drive, Kiama	4.94 ha
Lot 189 DP 751279	33 Greyleigh Drive, Kiama	3.07 ha
Lot 102 DP 1176643	103 Jamberoo Road, Kiama	39.23 ha
<b>Total</b>		<b>113.72 ha</b>

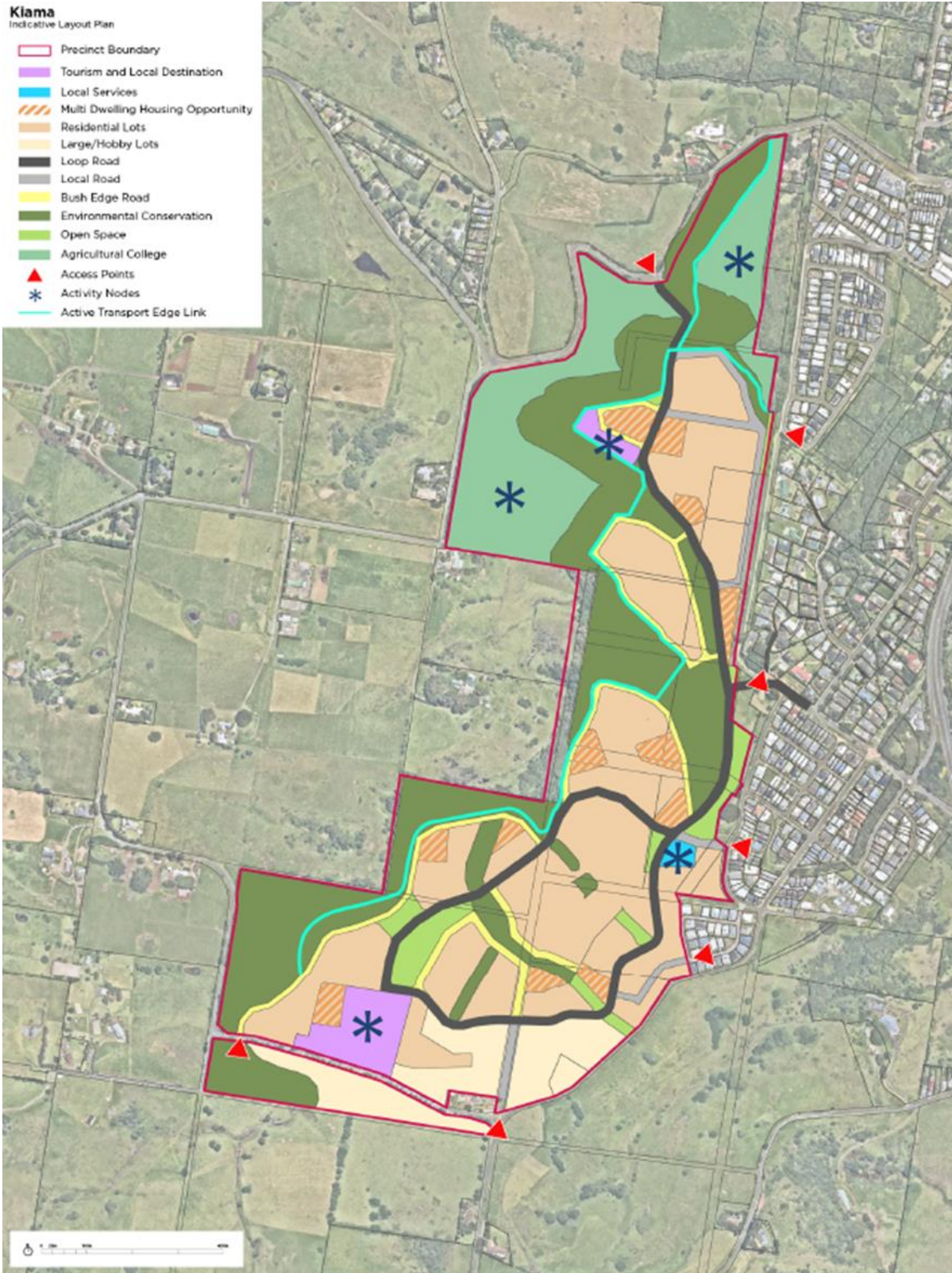


The Land





## ATTACHMENT 3 – PLANNING PROPOSAL CONCEPT PLAN



The Planning Proposal concept plan



## APPENDIX 4 – EXPLANATORY NOTE

Outlined below is a draft explanatory note as required by s205 of the EP&A Regulation 2021.

### DRAFT PLANNING AGREEMENT OFFER

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

### PARTIES

**The Council of the Municipality of Kiama** ABN 22 379 679 108 of 11 Manning Street, KIAMA NSW 2533 (**Council**)

and

**Traders in Purple Pty Ltd** ABN 52 162 126 721 Governor Macquarie Tower Level 27, 1 Farrer Place, SYDNEY NSW 2000 (**Developer**)

### DESCRIPTION OF THE LAND TO WHICH THE DRAFT PLANNING AGREEMENT APPLIES

This planning agreement applies to the Land comprised as follows:

- Lot 201 DP 1148007, 177 Long Brush Road, Jerrara
- Lot 1 DP 995058, 33 Greyleigh Drive, Kiama
- Lot 1 DP 1003719, 33 Greyleigh Drive, Kiama
- Lot 156 DP 751279, 33 Greyleigh Drive, Kiama
- Lot 1320 DP1060995, 33 Greyleigh Drive, Kiama
- Lot 183 DP 751279, 33 Greyleigh Drive, Kiama
- Lot 185 DP 751279, 33 Greyleigh Drive, Kiama
- Lot 186 DP 751279, 33 Greyleigh Drive, Kiama
- Lot 187 DP 751279, 103 Jamberoo Road, Kiama
- Lot 188 DP 751279, 33 Greyleigh Drive, Kiama
- Lot 189 DP 751279, 33 Greyleigh Drive, Kiama
- Lot 102 DP 1176643, 103 Jamberoo Road, Kiama.

### DESCRIPTION OF PLANNING PROPOSAL AND PROPOSED DEVELOPMENT

The draft planning agreement offer applies to the Land and the Planning Proposal which seeks to amend the *Kiama Local Environmental Plan 2011* to implement the Planning Proposal concept plan:

- rezone part of the Land from RU2 Rural Landscape to the following zones:
  - R2 Low Density Residential
  - R3 Medium Density Residential
  - E1 Local Centre
  - RE1 Public Recreation
- introduce a maximum height of buildings control of:
  - 8.5 m on the part of the Land to be rezoned to R2 Low Density Residential
  - 15 m on the part of the Land to be rezoned to R3 Medium Density Residential and E1 Local Centre
- reduce the minimum subdivision lot size on part of the Land to:
  - 450 sqm on the part of the Land to be rezoned to R2 Low Density Residential and R3 Medium Density Residential
  - 1,000 sqm on the southern part of the Land zoned RU2 Rural Landscape
- introduce a clause that enables an exception to the minimum subdivision lot size for certain residential development in the R2 Low Density Residential and R3 Medium Density Residential zone as follows:
  - 350 sqm for lots where it can be demonstrated by a building envelope plan that a dwelling house can be built on the lot



- 200 sqm for semi-detached dwellings
  - 175 sqm for attached dwellings.
- identify the part of the Land in the following zones to be dedicated to Council
  - RE1 Public Recreation
  - C2 Environmental Conservation
  - C3 Environmental Management
- amend Schedule 1 of the Kiama LEP 2011 to introduce a clause that enables the following additional permitted uses:
  - educational establishments on Lot 103 DP 1176643, 103 Jamberoo Road, Kiama
  - attached dwellings in the R2 Low Density Residential zone.
- amend the Urban Release Areas Map to identify the Land.

## **DESCRIPTION OF DEVELOPMENT CONTRIBUTIONS**

The Developer proposes the following development contributions in association with the Planning Proposal:

- the provision public amenities and services for
  - open space and recreation embellishment and dedication to Council
  - water and sewer infrastructure
- the provision of affordable housing involving:
  - social housing to be constructed and dedicated to NSW Land and Housing Corporation
  - land for affordable rental housing dedicated to a community housing provider
  - key worker housing
- the provision of transport or other infrastructure relating to land for:
  - traffic and transport infrastructure dedicated to Council on the Site
  - stormwater management infrastructure dedicated to Council on the Site
- the conservation and enhancement of the natural environment involving
  - rehabilitation and dedication of riparian and conservation areas to Council.

## **SUMMARY OF OBJECTIVES, NATURE AND EFFECT OF THE AGREEMENT**

### **Objectives of Draft Planning Agreement**

The objectives of the planning agreement offer are to provide public infrastructure, services and amenity for existing and future residents in Kiama Municipal Council.

### **Nature of Draft Planning Agreement**

The planning agreement offer is a planning agreement under s7.4 of the EP&A Act 1979. It is a voluntary agreement, under which the Developer makes Development Contributions for various public purposes.

### **Effect of the Draft Planning Agreement**

The planning agreement offer:

- requires the Developer to provide various works and land for a public purpose
- relates to the amendment to Kiama LEP 2011 and the carrying out by the Developer of the Development
- does not exclude the application of s 7.11, s7.12 and Division 7.1, Subdivision 4 of the EP&A Act 1979 to the Development
- is to be registered on the title to the Land
- imposes restrictions on the Developer transferring the Land or part of the Land or assigning an interest under the Agreement prior to registration of the agreement
- provides a dispute resolution method where a dispute arises under the agreement, being mediation and expert determination
- provides that the agreement is governed by the law of New South Wales.





## **ASSESSMENT OF THE MERITS OF THE DRAFT PLANNING AGREEMENT**

### **The planning purposes served by the Draft Planning Agreement**

The planning agreement offer:

- promotes and co-ordinates the orderly and economic use and development of the land to which the Planning Agreement applies
- enables the delivery of land, public infrastructure and improved environmental conservation outcomes.

The Draft Planning Agreement provides a reasonable means of achieving these planning purposes by requiring the Developer to design, construct and dedicate public infrastructure and land for public purposes.

### **How the Draft Planning Agreement promotes the public interest**

The planning agreement offer promotes the public interest by:

- promoting the objects of the Act set out in sections 1.3(a), (c), (d), (e) and (j)
- enabling the provision of land and infrastructure for the benefit of the public

### **How the Draft Planning Agreement promotes the guiding principles for councils**

The planning agreement offer promotes the guiding principles for local councils under s8A of the *Local Government Act 1993*:

- manage lands and other assets so that current and future local community needs can be met in an affordable way
- work with others to secure appropriate services for local community needs

## **WHETHER THE AGREEMENT CONFORMS WITH THE AUTHORITY'S CAPITAL WORKS PROGRAM**

The proposed works in this planning agreement offer are not identified on capital works programs, but involves the works being undertaken by the Developer and dedicated to Council and the NSW Land and Housing Corporation.

## **WHETHER THE AGREEMENT SPECIFIES THAT CERTAIN REQUIREMENTS MUST BE COMPLIED WITH BEFORE A CONSTRUCTION CERTIFICATE, OCCUPATION CERTIFICATE OR SUBDIVISION CERTIFICATE IS ISSUED**

The timing of delivery of the proposed works are to be determined.