

# Explanatory Note

**Minister for Planning**

**and**

**K Morris Management Pty Ltd (ACN 128 801 196)** in its capacity as trustee of  
Kevin S Morris Superannuation Fund

**and**

**Kevin Morris**

## Draft Planning Agreement

### Introduction

The purpose of this explanatory note is to provide a plain English summary to support the notification of the draft planning agreement (the **Planning Agreement**) prepared under Subdivision 2 of Division 6 of Part 4 of the *Environmental Planning and Assessment Act 1979* (the **Act**).

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

### Parties to the Planning Agreement

The parties to the Planning Agreement are K Morris Management Pty Ltd (ACN 120 801 196) (in its capacity as trustee of the Kevin S Morris Superannuation Fund) and Kevin Morris (the **Developer**) and the Minister for Planning (the **Minister**).

### Description of the Subject Land

The Planning Agreement applies to:

- Lot 54 in Deposited Plan 21549;
- Lot 55 in Deposited Plan 21549;
- Lot 56 in Deposited Plan 21549;
- Lot 58 in Deposited Plan 21549;
- Lot 2 in Deposited Plan 1188841; and
- Lot 3 in Deposited Plan 1188841

(the **Subject Land**).

The Subject Land is located at 5, 10, 15, 20, 25 & 35 Marion Street, Thirlmere.

## **Description of the Proposed Development**

The Developer is seeking approval for subdivision of the Subject Land into approximately 144 residential allotments over three stages, generally in accordance with Development Application 2014/156 which has been lodged with Wollondilly Shire Council (the **Proposed Development**) and has made an offer to the Minister to enter into the Planning Agreement in connection with the Proposed Development.

## **Summary of Objectives, Nature and Effect of the Planning Agreement**

The Planning Agreement provides that the Developer will make a monetary contribution of \$9,264.00 per residential allotment (subject to indexation in accordance with the Planning Agreement) for the purposes of the provision of designated State public infrastructure within the meaning of clause 6.1 of the *Wollondilly Local Environment Plan 2011* (the **LEP**).

It is noted that there is currently an existing residential dwelling located on the Subject Land. In recognition of this dwelling, the Planning Agreement provides that the Developer will not be required to pay for 1 of the proposed residential allotments.

The monetary contribution for each residential allotment will be payable prior to the issue of the subdivision certificate creating the relevant allotment. The requirement for the timing of the payment is set out in Schedule 4 to the Planning Agreement.

The Developer is required to provide a Bank Guarantee and register the Planning Agreement on the title to the Subject Land in accordance with section 93H of the Act.

The objective of the Planning Agreement is to facilitate the delivery of the Developer's contributions towards the provision of infrastructure, facilities and services referred to in clause 6.1 of the LEP.

No relevant capital works program by the Minister is associated with this agreement.

## **Assessment of Merits of Planning Agreement**

### **The Planning Purpose of the Planning Agreement**

In accordance with section 93F(2) of the Act, the Planning Agreement has the following public purpose:

- the provision of (or the recoupment of the cost of providing) public amenities or public services.

The Minister and the Developer have assessed the Planning Agreement and both hold the view that the provisions of the Planning Agreement provide a reasonable means of achieving the public purpose set out above. This is because it will ensure that the Developer makes appropriate contributions towards the provision of infrastructure, facilities and services referred to in clause 6.1 of the LEP.

### **How the Planning Agreement Promotes the Public Interest**

The Planning Agreement promotes the public interest by ensuring that an appropriate contribution is made towards the provision of infrastructure, facilities and services to satisfy needs that arise from development of the Subject Land.

## **How the Planning Agreement Promotes the Objects of the Act**

The Planning Agreement promotes the objects of the Act by encouraging:

- the promotion and co-ordination of the orderly and economic use and development of land.

The Planning Agreement promotes the objects of the Act set out above by requiring the Developer to make a contribution towards the provision of infrastructure, facilities and services referred to in clause 6.1 of the LEP.

The Developer's offer to contribute towards the provision of State infrastructure will have a positive public impact as funds from the Developer will be available towards the provision of infrastructure, facilities and services referred to in clause 6.1 of the LEP.

## **Requirements relating to Construction, Occupation and Subdivision Certificates**

The Planning Agreement does not specify requirements that must be complied with prior to the issue of a construction certificate or an occupation certificate.

The Planning Agreement requires payment of the monetary contribution prior to the issue of the relevant subdivision certificate and therefore contains a restriction on the issue of a subdivision certificate within the meaning of section 109J(1)(c1) of the Act.

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