

Explanatory Note

Minister for Planning ABN 38 755 709 681

and

**Myrtle Creek Investments Pty Ltd (ACN 611 304 020) as trustee for the
Myrtle Creek Unit Trust (ABN 9178 1386 687)**

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 (**Planning Agreement**) prepared under Subdivision 2 of Division 6 of Part 4 of the *Environmental Planning and Assessment Act 1979 (Act)*.

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

Words appearing with initial capital letters in this note have the meanings given to them in this note or (if not defined in this note) in the Planning Agreement.

Parties to the Planning Agreement

The parties to the Planning Agreement are the Minister for Planning ABN 38 755 709 681 (**Minister**) and Myrtle Creek Investments Pty Ltd (ACN 611 304 020) as trustee for the Myrtle Creek Unit Trust (ABN 9178 1386 687) (**Developer**).

Description of the Subject Land

The Planning Agreement applies to Lot 60 in Deposited Plan 555941 (**Land**), known as 105 Myrtle Creek Avenue, Tahmoor.

Description of the Proposed Development

The Developer is seeking to develop the Land for subdivision into a total of 35 Urban Lots, the construction of a road and drainage works, and the demolition of existing structures, generally in accordance with Development Application No. DA 010.2017.0000026.001, which has been lodged by the Developer with the Council (**Proposed Development**). The Developer 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 \$314,976, being \$9,264 per additional Urban Lot to be created by the Proposed Development, (subject to indexation in accordance with the Planning Agreement) for the purposes of the provision of designated State public infrastructure in accordance with clause 6.1 of the *Wollondilly Local Environmental Plan 2011 (LEP)*.

The monetary contribution for the Proposed Development will be payable:

- (i) before a Subdivision Certificate is issued for any part of the Proposed Development; or
- (ii) if any part of the Proposed Development is to be carried out without the need for a Subdivision Certificate, then before any part of the Proposed Development is commenced.

The objective of the Planning Agreement is to facilitate the delivery of the Developer's contributions towards the provision of designated State public infrastructure in accordance with clause 6.1 of the LEP. No relevant capital works program by the Minister is associated with the Planning 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 designated State public infrastructure 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 designated State public infrastructure to satisfy needs that arise from the Proposed Development of the 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 designated State public infrastructure referred to in clause 6.1 of the LEP.

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

Requirements relating to Construction, Occupation and Subdivision Certificates

The Planning Agreement requires the Development Contribution to be paid prior to the issue of a Subdivision Certificate and therefore contains a restriction on the issue of a Subdivision Certificate for the purposes of section 109J of the Act.

The Planning Agreement does not specify requirements that must be complied with prior to the issue of a Construction Certificate or Occupation Certificate.

Interpretation of Planning Agreement

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