

Explanatory Note

Minister for Planning (ABN 38 755 709 681)

and

Newpro 14 Pty Ltd (ACN 623 415 707) and **Intain Pty Ltd** (ACN 002 381 035) and
Giuseppe Malanga

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 7.1 of Part 7 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**).

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

Capitalised terms which are not defined in this explanatory note have the meanings given to them in the Planning Agreement, unless the context indicates otherwise.

Parties to the Planning Agreement

The parties to the Planning Agreement are:

Minister for Planning (ABN 38 755 709 681) (the **Minister**); and

Newpro 14 Pty Ltd (ACN 623 415 707) in its capacity as trustee of Newpro 14 Unit Trust of Suite 25, 19 Bolton Street, Newcastle NSW 2300; and

Intain Pty Ltd (ACN 002 381 035) of 276 Keira Street, Wollongong NSW 2500; and

Giuseppe Malanga of 448 Calderwood Road, Calderwood NSW 2527

(together the **Developer**).

Description of the Subject Land

The Planning Agreement applies to Lot 1 in Deposited Plan 795839 and Lot 3 in Deposited Plan 1008723 known as 109 Darkes Road Kembla Grange NSW 2526 (**Subject Land**).

Description of the Proposed Development

The Developer is seeking to subdivide the Subject Land into approximately 205 residential lots, an open space lot, two residual lots for future development and a basin lot, generally in accordance with Development Application DA2018/104, which has been lodged with Wollongong City 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 objective of the Planning Agreement is to facilitate the delivery of the Developer's contribution towards the provision of designated State public infrastructure referred to in clause 6.1 of *Wollongong Local Environment Plan 2009 (LEP)*, and specifically to allow for the provision of monetary contributions to the Minister.

The Planning Agreement provides that the Developer will make a monetary contribution of \$57,068 per hectare of Net Developable Area (subject to indexation in accordance with the Planning Agreement) for the purpose of the provision of designated State public infrastructure within the meaning of clause 6.1 of the LEP.

The monetary contribution will be payable prior to the issue of each relevant Subdivision Certificate in accordance with Schedule 4 to the Planning Agreement.

The Developer is required to provide a bank guarantee.

No relevant capital works program by the Minister is associated with the Planning Agreement.

Assessment of Merits of Planning Agreement

The Public Purpose of the Planning Agreement

In accordance with section 7.4 (2) of the Act, the Planning Agreement has the following public purposes:

- the provision of (or the recoupment of the cost of providing) public amenities or public services; and
- the provision of (or the recoupment of the cost of providing) transport or other infrastructure relating to land.

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 purposes set out above. This is because it will ensure that the Developer makes appropriate contributions towards the provision of infrastructure and services.

How the Planning Agreement Promotes the Public Interest and Objects of the Act

The Planning Agreement promotes the public interest and objects of the Act by encouraging:

- the promotion of the orderly and economic use and development of land by facilitating the development of the Subject Land in accordance with the Planning Agreement;
- the promotion of good design and amenity of the build environment;
- the promotion of the sharing of responsibility for environmental planning and assessment between the different levels of government in the State; and
- the provision of increased opportunity for community participation in environmental planning and assessment.

The Planning Agreement promotes the objects of the Act set out above by requiring the Developer to contribute towards the provision of designated State infrastructure referred to in clause 6.1 of the LEP.

The Developer's offer to contribute towards the provision of infrastructure will have a positive impact on the public who will ultimately use the infrastructure and services.

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 each instalment of the Development Contribution to be paid 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 6.15 of the Act.