

Explanatory Note
Minister for Planning and Public Spaces ABN 20 770 707 468
and
Tomhil Developments Pty Ltd ACN 627 386 501 in its capacity as
trustee of Tomhil Developments Unit Trust
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**).

Parties to the Planning Agreement

The parties to the Planning Agreement are the Minister for Planning and Public Spaces ABN 20 770 707 468 (the **Minister**) and Tomhil Developments Pty Ltd ACN 627 386 501 in its capacity as trustee of Tomhil Developments Unit Trust (the **Developer**).

Description of the Subject Land

The Planning Agreement applies to Lot 5 in Deposited Plan 514629, known as 59 Owlpen Lane, Farley NSW 2320 (**Subject Land**).

Description of the Proposed Development

The Developer is seeking to subdivide the Subject Land in four stages into approximately 44 residential lots, two ancillary development lots, a drainage reserve and associated infrastructure generally in accordance with Development Application 2019/707 lodged with Maitland 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 Planning Agreement provides that the Developer will make a monetary contribution of \$84,906 per hectare of net developable area (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 *Maitland Local Environmental Plan 2011* (**LEP**).

Each instalment of 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.

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 the LEP.

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

Assessment of Merits of Planning Agreement

The Public Purposes 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;
- 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 purpose set out above. This is because it will ensure that the Developer makes an appropriate contribution towards the provision of amenities, services and infrastructure relating to the Subject Land.

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 the needs that arise from development of the Subject Land.

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

How the Planning Agreement Promotes the Objects of the Act

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

- the promotion of the orderly and economic use and development of land; and
- the promotion of good design and amenity of the built environment.

The Planning Agreement promotes the objects of the Act set out above by facilitating development of the Subject Land in accordance with the Planning Agreement.

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 monetary 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(1)(d) of the Act.