

Explanatory Note
Minister for Planning and Public Spaces (ABN 20 770 707 468)
and
Prime Moss Vale Pty Ltd (ABN 43 621 544 554)
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**).

In preparing this explanatory note the Department of Planning, Industry and Environment's Practice Note - February 2021, Planning Agreements (**Practice Note**) has been considered as required by clause 25E(2) of the *Environmental Planning and Assessment Regulation 2000*. This explanatory note has been prepared jointly by the parties in accordance with the Practice Note.

Parties to the Planning Agreement

The parties to the Planning Agreement are the Minister for Planning and Public Spaces (ABN 20 770 707 468) (**Minister**) and Prime Moss Vale Pty Ltd (ABN 43 621 544 554) (the **Developer**).

Description of the Subject Land

The Planning Agreement applies to Lot 3 in Deposited Plan 706194 and Lot 12 in Deposited Plan 866036.

Description of the Development

The Developer proposes to carry out residential development of the Land into approximately 1200 lots pursuant to concept development application number 20/0227 lodged with Wingecarribee Shire Council on 27 August 2019, including Stage 1 comprising a Torrens Title subdivision of 173 residential lots, two lots for open space or drainage and two residue Lots, with associated works including site clearing, tree removal, bulk earthworks and construction of new roads and public infrastructure, open space and restoration of a section of the Whites Creek on the Land (**Development**).

The Developer has made an offer to the Minister to enter into the Planning Agreement in connection with the Development and to provide and secure development contributions in order to facilitate the Development.

Summary of Objectives, Nature and Effect of the Planning Agreement

The Planning Agreement provides that the Developer will make a development contribution by providing a Monetary Contribution of \$3,466.67 per Urban Lot created for the purpose of contributing to the provision of designated State public infrastructure in relation to each lot.

Part of the Monetary Contribution payable may be offset by the completion of Road Work by the Developer (to the value of \$2,406,000). This Road Work will comprise the Intersection Upgrade

Works . However, if the Intersection Upgrade Works cannot reasonably be carried out, a proposed modified roundabout design/alternative treatment or arrangement to the satisfaction of Transport for New South Wales may be undertaken (**Proposed Modified Road Work**).

The Developer is required to provide security in the form of a Bank Guarantee for \$200,000. The Developer is also required to register the Planning Agreement on the title of the Land in accordance with section 7.6 of the Act.

The objective of the Planning Agreement is to secure the Developer's delivery of the Development Contribution.

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 7.4(2) of the Act, the Planning Agreement is for the public purpose of the provision of (or the recoupment of the cost of providing) public amenities or public services and 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 the Development Contribution.

How the Planning Agreement Promotes the Public Interest

The Planning Agreement promotes the public interest by ensuring that the public infrastructure required to be provided to each new lots is funded by development contributions.

How the Planning Agreement Promotes the Objects of the Act

The Planning Agreement promotes the objects of the Act by:

- (i) section 1.3(a) – to "promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources"; and
- (ii) section 1.3(c) – to "promote the orderly and economic use and development of land";

Requirements relating to Construction, Occupation and Subdivision Certificates

The Planning Agreement restricts the issue of Subdivision Certificates (in the case of lots created by Torrens title subdivision) and the issue of Construction Certificates and Subdivision Works Certificates (in the case of lots created by strata subdivision).