

Explanatory Note
Minister administering the *Environmental Planning and Assessment Act 1979* (ABN 20 770 707 468)
and
Mulpha Norwest Pty Limited (ACN 000 004 633)
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 having regard to the Planning Agreements Practice Note and its contents have been agreed by the parties.

Parties to the Planning Agreement

The parties to the Planning Agreement are the Minister administering the *Environmental Planning and Assessment Act 1979* (ABN 20 770 707 468) (the **Minister**) and Mulpha Norwest Pty Limited (ACN 000 004 633) (the **Developer**).

Description of the Subject Land

The Planning Agreement applies to Lot 2107 in Deposited Plan 1216268 known as 40 Solent Circuit, Norwest 2153 (**Subject Land**).

Description of the Proposed Development

The Developer is seeking to construct a mixed use development in stages on the Subject Land with up to 864 dwellings and 6000 square metres of gross floor area for non residential uses, in approximately nine towers, and undertake associated subdivision of the Subject Land (**Proposed Development**).

The Developer has lodged with The Hills Shire Council a Development Application (being Development Application No 1541/2021/JP) for the first stage of the Proposed Development, which is a mixed use development comprising two residential flat buildings containing approximately 196 dwellings, retail, business, indoor recreation and medical uses, and basement carparking.

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 Developer has offered to provide a contribution of \$10,000 per dwelling for the purposes of the provision of regional and State public infrastructure. Of this total \$8.64million contribution for the Proposed Development, \$6.5million is to be provided by the Developer under a planning agreement with The Hills Shire Council which was entered into in February 2020.

Accordingly, the Planning Agreement proposed to be entered into with the Minister provides that the Developer will make a monetary contribution of \$2.14million (subject to indexation in accordance with the Planning Agreement) (**Development Contribution**) for the purposes of the provision of designated State public infrastructure within the meaning of clause 6.2 of *The Hills Local Environmental Plan 2019 (LEP)*.

The Development Contribution will be payable prior to the issue of the occupation certificate for the 197th dwelling on the Subject Land in accordance with Schedule 4 to the Planning Agreement.

The Developer is required to provide a \$535,000 bank guarantee in accordance with Schedule 5 to 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 6.2 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 Purpose of the Planning Agreement

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

- 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 infrastructure, facilities and services.

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.

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

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 a subdivision certificate.

The Planning Agreement requires the Development Contribution to be paid prior to the issue of the relevant occupation certificate and therefore contains a restriction on the issue of an occupation certificate within the meaning of section 48 of the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*.