

Explanatory Note
Minister for Planning and Public Spaces (ABN 20 770 707 468)
and
Mudgeeraba Developments Pty Ltd (ACN 609 149 215)
and
Janine Louise Williams

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 issued under clause 25B of the *Environmental Planning and Assessment Regulation* 2000 and its contents has been agreed by the parties.

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 Mudgeeraba Developments Pty Ltd (ACN 609 149 215) and Janine Louise Williams (together, the **Developer**).

Description of the Subject Land

The Planning Agreement applies to Lot 122 in Deposited Plan 523260 known as 76 Fairfax Road, Warners Bay NSW 2282 (**Subject Land**).

Description of the Proposed Development

The Developer is seeking to subdivide the Subject Land into approximately thirty-four (34) lots (including approximately thirty-two (32) residential lots and approximately two (2) lots to be dedicated for environmental/stormwater management purposes) and associated infrastructure, generally in accordance with Development Application DA/1884/2020 which has been lodged with Lake Macquarie 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.

An indicative plan of the Proposed Development is at the end of this explanatory note.

Summary of Objectives, Nature and Effect of the Planning Agreement

The Planning Agreement provides that the Developer will make a monetary contribution of \$87,414 per hectare of net developable area (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 6.1 of *Lake Macquarie Local Environmental Plan 2014 (LEP)*.

An instalment of the Development 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 \$20,000 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 contributions 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 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) 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 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 an occupation certificate.

The Planning Agreement requires an 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(1)(d) of the Act.

Indicative Plan of the Proposed Development

