

Explanatory Note
Minister administering the *Environmental Planning and Assessment Act 1979* (ABN 20 770 707 468)
and
Terry Shane Lumsden
and
Dianne Margaret Lumsden
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 Terry Shane Lumsden and Dianne Margaret Lumsden (together, the **Developer**).

Description of the Subject Land

The Planning Agreement applies to that part of Lot 44 in Deposited Plan 1117263 which is shown hatched on the plan at the end of this explanatory note and known as 349 McFarlanes Road, Berry Park NSW 2321(**Subject Land**).

Description of the Proposed Development

The Developer is seeking to demolish the existing dwelling and ancillary structures on the Subject Land then subdivide the Subject Land into approximately 27 Torrens title lots (in stages), and carry out civil works, generally in accordance with Development Application DA/2022/237 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.

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 \$97,889 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 *Maitland Local*

Environmental Plan 2011 (LEP). This clause, despite its repeal, continues to apply to the Development Application DA/2022/237 by virtue of clause 4 of *State Environmental Planning Policy Amendment (Housing and Productivity Contributions) 2023*.

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.

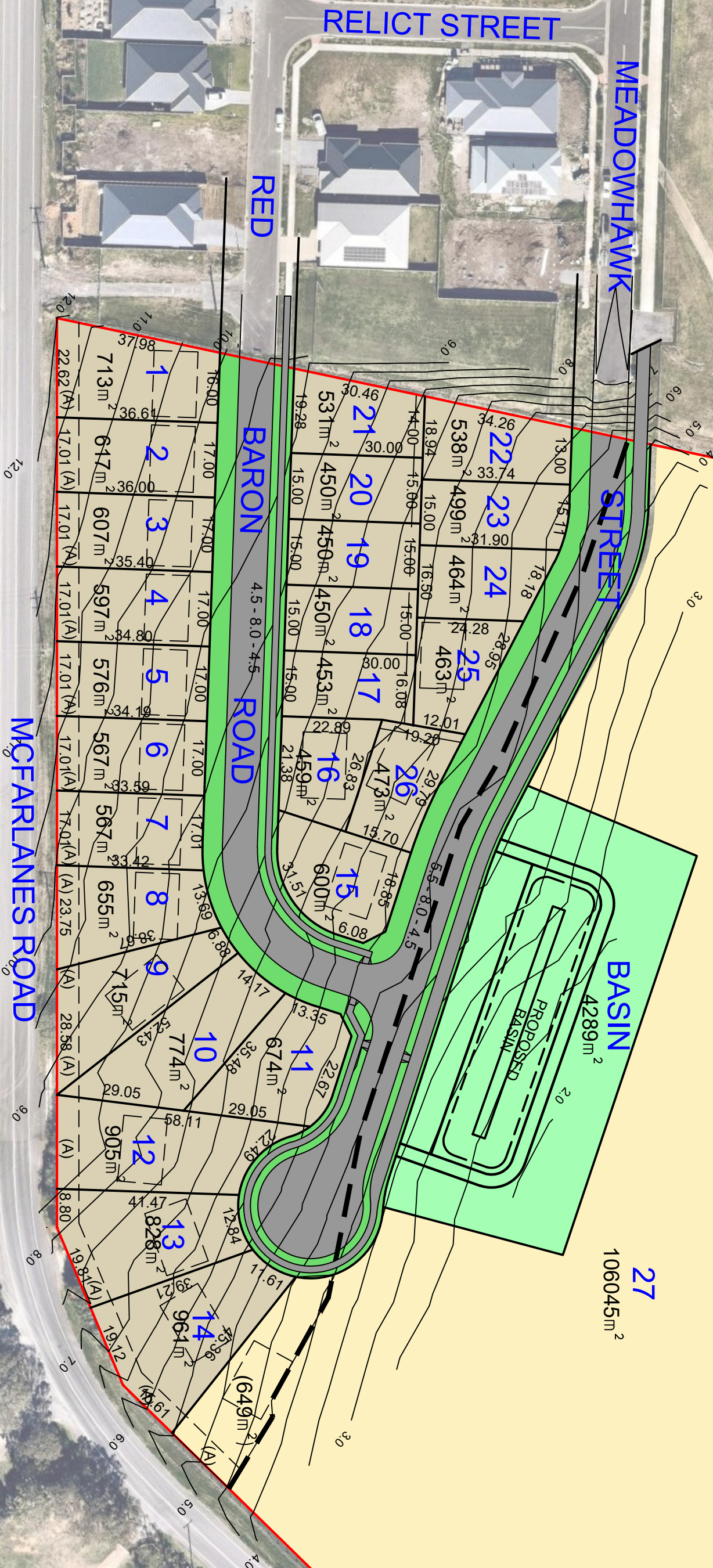
Indicative Plan of the Proposed Development

See below.



EXISTING
BASIN

--- ZONING LINE
(A) RESTRICTION AS TO USER 5 WIDE (ACCESS)
AND LANDSCAPING



TITLE: PROPOSED SUBDIVISION
LOT 44 DP1117263
MCFARLANES ROAD CHISHOLM
SUBDIVISION PLAN



Date: 21.12.20		Scale: 1:800 A3		Designed: KU		Project No: HD311	
Cad Ref: HD311 r15						Drawing No	
13	AMEND LAYOUT	KU	18.07.23	12	COUNCIL COMMENTS	KU	14.07.23
15	AMEND LAYOUT	KU	18.10.23	15	AMEND LAYOUT	KU	18.10.23
No	Amendment	Drawn	Date	HD01	Revision	15	

Plan of Subject Land

See below.

ANNEXURE 'A'

PLAN OF PART OF LOT 44 D.P.1117263 SUBJECT TO PLANNING AGREEMENT (SVPA2022-116)

LGA: MAITLAND
LOCALITY: BERRY PARK
PARISH: ALNWICK
COUNTY: NORTHUMBERLAND

Arc Table				
Number	Chord Bearing	Chord Distance	Arc Length	Radius
2	11°42'50"	21.575	21.75	49.5
4	19°36'15"	14.17	14.185	86.5
6	7°36'35"	7.62	7.64	30
7	34°27'20"	18.52	19.665	16.5

Short Line Table		
Number	Bearing	Distance
1	359°07'30"	14.245
3	24°18'05"	56.805
5	14°54'20"	71.855
8	6°11'15"	5
9	25°47'45"	26.8
10	355°58'20"	4.4
11	29°10'20"	19.225
12	131°20'50"	34.375
13	154°15'40"	38.91
14	176°15'55"	207.87
15	279°00'25"	141.52

1
D.P.1295677

McFARLANES ROAD

PT.44
D.P.1117263

PT.44
D.P.1117263
2.338 Ha

NIGEL DELFS
REGISTERED SURVEYOR
DATE: 14TH MARCH 2024

3255 3256 3266
D.P.1246545

SCALE: 1:2500
SURVEYORS REF: 23643