

Explanatory Note
Minister administering the *Environmental Planning and Assessment Act 1979* (ABN 20 770 707 468)
and
Walker Gillieston Heights Pty Limited (ACN 077 152 848)
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**) between the parties under s 7.4 of the *Environmental Planning and Assessment Act 1979* (NSW) (the **Act**).

This explanatory note has been prepared in accordance with s 205 of the *Environmental Planning & Assessment Regulation 2021* (NSW), having regard to the Planning Agreements Practice Note (February 2021) and its contents have been agreed by the parties.

This explanatory note is not to be used to assist in construing the Planning Agreement.

Words which are capitalised in this explanatory note but are not defined take on the meaning given to those words in the Planning Agreement.

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 Walker Gillieston Heights Pty Limited (ACN 077 152 848) (the **Developer**).

Description of the Subject Land

The land to which the Planning Agreement applies is set out in the table below (the **Subject Land**):

Folio Identifier	Location
Lot 1 in DP 1298659	463 Cessnock Road, Gillieston Heights 2321
Lot 3 in DP 71130	527 Cessnock Road, Gillieston Heights

Description of the Proposed Development

The Developer is seeking to subdivide the Subject Land into approximately 322 residential lots and carry out associated infrastructure, generally in accordance with DA/2023/551 lodged with Maitland City Council on 3 July 2023 (the **Development**).

Summary of Objectives, Nature and Effect of the Planning Agreement

The Planning Agreement provides that the Developer will provide development contributions 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* (the **LEP**).

The objective of the Planning Agreement is therefore 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.

Clause 6.1 of the LEP, despite its repeal, continues to apply to the Development by virtue of clause 4 of the *State Environmental Planning Policy Amendment (Housing and Productivity Contributions) 2023*.

Under the Planning Agreement, if the Developer was to provide the development contribution as a monetary contribution only, the Developer would pay a contribution of \$97,889 per hectare of "Net Developable Area" (as defined in the Planning Agreement) for the Development on the Subject Land (defined as the "**Notional Monetary Contribution**").

However, under the Planning Agreement the Developer agrees to dedicate an area of 17,349 square metres of land (**Cessnock Road Land**) required for widening Cessnock Road (**Cessnock Road Land Contribution**). The Cessnock Road Land Contribution is to be made within 3 years of the date of commencement of the Planning Agreement.

If the value of the Cessnock Road Land Contribution (as determined according to the Planning Agreement) is less than the Notional Monetary Contribution, the Developer agrees to pay to the Minister the difference between the value of the Cessnock Road Land Contribution and the Notional Monetary Contribution as an additional monetary contribution.

As security for the Developer's obligations under the Planning Agreement, the Planning Agreement will be registered on the title of the Land and the Developer will provide the Minister with one or more bank guarantee(s), including a bank guarantee of \$200,000.

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 the land.

The Minister and 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 the Developer makes appropriate contributions towards the provision of infrastructure relating to the Subject Land.

How the Planning Agreement Promotes the Public Interest

The Planning Agreement promotes the public interest by ensuring that the Developer provides an appropriate contribution towards the provision of (or the recoupment of the cost of providing) transport or other infrastructure to satisfy needs that arise from the 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 the infrastructure.

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 an occupation certificate, subdivision certificate or a construction certificate.