

Explanatory Note
Minister administering the *Environmental Planning and Assessment Act 1979* (ABN 20 770 707 468)
and
Ingle Place Pty Limited (ACN 106 977 691)
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 Ingle Place Pty Limited (ACN 106 977 691) (the **Developer**).

Description of the Subject Land

The Planning Agreement applies to Lot 12 and Lot 13 in Deposited Plan 11823, known as 4 and 6 Averys Lane, Heddons Greta NSW 2321 (**Subject Land**).

Description of the Proposed Development

The Developer is seeking to demolish all existing dwellings and sheds, except for two existing dwellings to be retained, and then subdivide the Subject Land to create approximately six lots, generally in accordance with the plan annexed at the end of this explanatory note and Development Application DA 8/2023/527/1 lodged with Cessnock 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.

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

The Development Contribution will be payable prior to the issue of the relevant Subdivision Certificate in accordance with clause 3 of Schedule 4 of 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 specifies that the Development Contribution is 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.

The Planning Agreement does not otherwise specify requirements that must be complied with prior to the issue of a construction certificate or an occupation certificate.

Indicative Plan of the Proposed Development

