

Explanatory Note

Draft Planning Agreement Kolodong Estate

Environmental Planning & Assessment Act 1979, section 7.4
Environmental Planning & Assessment Regulation 2000, clause 25E

1. Introduction

The purpose of this Explanatory Note is to provide a plain English summary to support the exhibition of a proposed draft planning agreement (the **Planning Agreement**) prepared under section 7.4 of the *Environmental Planning and Assessment Act 1979* (the **Act**).

2. Parties

The parties to the Planning Agreement are MidCoast Council (**Council**) and the owners of the land the subject of the Planning Agreement (Wayne Peter Green and Nancy Jean Green and Benwaydan Pty Ltd). This explanatory note has been prepared jointly by the parties.

3. Description of the Subject Land

The Planning Agreement applies to the following land owned by the Landowners:

Lot 54 DP 1042462, known as 353 – 377 Kolodong Road, Taree NSW 2430

Lot 61 DP 1252146, known as 327 Kolodong Road, Taree NSW 2430 (the **Land**).

4. Description of the Development

The Landowner proposes to develop part of the Land for residential purposes (the **Development**).

In order to facilitate the Development, the Landowner has sought an amendment to the *Greater Taree Local Environmental Plan 2010* (the **Amendment**) which proposes changes to the planning controls applying to part of the Land (and other adjoining land), including to rezone part of the Land from RU1 (Primary Production) to R1 (General Residential) and E2 (Environmental Conservation). A Planning Proposal explaining the intended effect and justification of the Amendment has been on public exhibition.

Traffic studies carried out in association with the preparation of the Planning Proposal identified that the Development will contribute to the need to upgrade the intersection of Kolodong Road with Wingham Road (the **Intersection Works**). More specifically, the contribution to

intersection load during peak hours is roughly 50:50 between the traffic from existing uses and the traffic generated by the Development of the Land.

5. Summary of Objectives, Nature and Effect of the Planning Agreement Objectives

The Landowner has offered to enter into the Planning Agreement with the Council.

The main objective of the Planning Agreement is to secure monetary development contributions to be paid to the Council for the purpose of recouping funds expended by the Council, if the Council carries out the Intersection Works prior to the Development occurring. The maximum Monetary Contribution payable under the Planning Agreement is the lesser of either 55% of the actual costs incurred by the Council in carrying out the Intersection Works or \$990,000 (subject to indexation) (the **Monetary Contributions**).

By requiring the Monetary Contributions, the Planning Agreement will help ensure that the costs incurred by Council in responding to the increase in demand for road infrastructure created by Development are contributed to by the Landowner.

The Planning Agreement does not exclude the application of sections 7.11, 7.12 and 7.24 of the Act, however if the Landowner pays the Monetary Contributions, the Landowner is not liable to pay development contributions for road upgrades that would otherwise be imposed.

The Planning Agreement specifies a percentage of the Monetary Contribution that must be paid before an occupation certificate, subdivision certificate or approval to install a manufactured home, moveable dwelling or associated structure under section 68 of the *Local Government 1993*, is issued in respect of a specified percentage of the residentially zoned Land.

The obligations of the Developer are secured by registration of the Planning Agreement.

Assessment of the merits of the Planning Agreement

How the Planning Agreement promotes the public interest and the objects of the Act

The Planning Agreement is in the public interest because it promotes the social and economic welfare of the community and sustainable development and is consistent with and promotes the objects in section 1.3 of the Act. In particular:

- 1.3 (c) to promote the orderly and economic use and development of land,
- 1.3 (g) to promote good design and amenity of the built environment.

How the Planning Agreement promotes the objects of the Local Government Act 1993

The Monetary Contributions required by the Planning Agreement are consistent with and promote the objects in section 7 of the *Local Government Act 1993*. In particular:

7 (e) to provide for a system of local government that is accountable to the community and that is sustainable, flexible and effective.

How the Planning Agreement promotes the elements of the Councils' charter (now the principles for local government)

The Planning Agreement promotes the principles for local government under Chapter 3 of the *Local Government Act 1993*. In particular:

8A (b) Councils should carry out functions in a way that provides the best possible value for residents and ratepayers.

8A (f) Councils should manage lands and other assets so that current and future local community needs can be met in an affordable way.

8A (g) Councils should work with others to secure appropriate services for local community needs.

8B (b) Councils should invest in responsible and sustainable infrastructure for the benefit of the local community.

8C (a) Councils should identify and prioritise key local community needs and aspirations and consider regional priorities.

How the Planning Agreement serves planning purposes

The Planning Agreement facilitates the provision of road transport infrastructure for the local community and is a reasonable means for achieving that planning purpose, as it provides for the payment of Monetary Contributions to the Council for the Intersection Works that the Development increases demand for.

The timing of the payment of Monetary Contributions allows the Council to recoup part of the costs of carrying out the Intersection Works as the Land is developed.

Whether the Planning Agreement conforms with the Councils' capital works program

The Councils' capital works program provides for the maintenance and upgrade of roads, including the Intersection Works if undertaken prior to the Development occurring.

Further information

The Planning Agreement is available on the Council's website.