

# Explanatory Note

**Port Stephens Council ABN 16 744 377 876**

**and**

**McCloy Kings Hill Pty Ltd ACN 652 158 202**

## **Draft Planning Agreement**

*Environmental Planning & Assessment Act 1979 (NSW), section 7.4*  
*Environmental Planning and Assessment Regulation 2021 (NSW), section 205*

### **Introduction**

The purpose of this explanatory note is to provide a plain English summary to support the notification of the draft planning agreement (**Planning Agreement**) prepared under Subdivision 2 of Division 7.1 of Part 7 of the *Environmental Planning and Assessment Act 1979 (NSW) (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 Port Stephens Council ABN 16 744 377 876 (**Council**) and McCloy Kings Hill Pty Ltd ACN 652 158 202 (**Developer**).

### **Description of the Subject Land**

The Planning Agreement applies to:

- Lot 32 in Deposited Plan 554875; and
- Lot 2 in Deposited Plan 37430,

known as 514 Newline Road, Kings Hill and 587 Newline Road, Raymond Terrace (**Subject Land**).

### **Description of the Proposed Development**

The Developer is seeking to subdivide the Subject Land by way of a two into 97 lot staged Torrens title subdivision and provide associated infrastructure in accordance with the Development Consent granted to Development Application DA 16-2013-599 which was granted by Council on 8 July 2024 (**Proposed Development**). The Developer has made an offer to Council 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 the following contributions:

- the Developer will carry out the Conservation Area Works on the Conservation Land in accordance with the Vegetation Management Plan (VMP) and the Development Consent and Schedule 3 to the Planning Agreement;
- the dedication of the Conservation Land to Council free of any encumbrances; and
- two monetary contributions of \$700,000 each. The first is not subject to indexation and is payable prior to or simultaneously with the transfer of the Conservation Land to Council, and no later than the

issue of the Subdivision Certificate to create the 95<sup>th</sup> Residential Development Lot. The second contribution is subject to indexation and is payable 5 years after the date of dedication of the Conservation Land to Council.

The Developer is required provide a \$700,000 bank guarantee to secure payment of the second monetary contribution in accordance with Schedule 3 of the Planning Agreement.

The objective of the Planning Agreement is to secure land as an ecological offset for impacts of the Proposed Development including securing its restoration as a native eco-system and ongoing management in perpetuity.

### **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 public purpose of the conservation or enhancement of the natural environment.

The Council 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 provides for the conservation or enhancement of the natural environment and provides for funding of recurrent expenditure for the ongoing management of the Conservation Land in perpetuity.

#### **How the Planning Agreement promotes the Public Interest**

The Planning Agreement promotes the public interest by promoting the following objects of the Act:

- promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources (section 1.3(a));
- to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment (section 1.3(b)); and
- to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats (section 1.3(e)).

The Planning Agreement ensures that the Developer provides for the conservation or enhancement of the natural environment and provides for funding of recurrent expenditure for the ongoing management of the Conservation Land in perpetuity.

#### **Requirements relating to Construction, Occupation and Subdivision Certificates**

The Planning Agreement requires the Developer to dedicate the Conservation Land and to pay Portion 1 of the Monetary Contribution prior to the issue of a Subdivision Certificate to create the 95<sup>th</sup> Residential Development Lot.

# Indicative Plan of the Proposed Development

