

Explanatory Note

Environmental Planning and Assessment Regulation 2021

Section 205

Bonnyrigg Estate Planning Agreement
Fairfield City Council
New South Wales Land and Housing Corporation

1 Planning Agreement

The purpose of this Explanatory Note is to provide a plain English summary to support the notification of the proposed planning agreement in relation to the Bonnyrigg Estate (**Planning Agreement**) under section 7.4 of the *Environmental Planning and Assessment Act 1979* (NSW) (**Act**).

This Explanatory Note has been prepared jointly by the relevant parties, in accordance with section 205 of the *Environmental Planning and Assessment Regulation 2021* (NSW) (**Regulation**).

2 Parties

The parties to the Planning Agreement are:

1. **Fairfield City Council** (ABN 83 140 439 239) of 86 Avoca Road, Wakeley, NSW 2176 (**Council**); and
2. **New South Wales Land and Housing Corporation** (ABN 24 960 729 253) a statutory corporation constituted by section 6 of the *Housing Act 2001* (NSW) of Level 15, 4 Parramatta Square, 12 Darcy Street, Parramatta NSW 2150 (**Developer**)

3 Description of the Land to which the Planning Agreement applies

The Land to which the Planning Agreement applies is described in Schedule 2 of the Planning Agreement (**Land**).

4 Background and description of proposed development

The Developer is the owner of the Land. The Land is located within the Fairfield local government area.

On 12 January 2009, the then Minister for Planning granted approval for concept plan application MP06_0046 for the development of the Bonnyrigg Estate (**Concept Plan Approval**). The Concept Plan Approval has been modified six times with the most recent modification (Mod 6) approved on 19th December 2022

The Developer has progressed the development of Stages 1 to 7 of the Bonnyrigg Estate in accordance with the Concept Plan Approval as modified.

A planning agreement under section 7.4 of the Act was entered into in respect of the public benefit contributions to be delivered by the Developer in relation to Stages 1-7 of the Bonnyrigg Estate development.

The Developer now intends to carry out the Development, being Stages 8-18 of the Bonnyrigg Estate development.

The Planning Agreement sets out arrangements for the delivery of infrastructure, facilities and services to meet the needs of the Project, consistent with the terms Concept Plan Approval for Stages 8-18, and to provide for the dedication of community land and roads to Council.

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

5.1 Objectives

The objective of the Planning Agreement is to provide for the delivery of public benefits in connection with the Development by requiring the Developer to:

- deliver infrastructure, facilities and services as works in kind,
- dedicate part of the Land to the Council for public purposes including roads.

5.2 Nature

The Planning Agreement is a planning agreement under section 7.4 of the Act. It is a voluntary agreement under which the Developer makes Development Contributions (as defined in clause 1.1 of the Planning Agreement) for various public purposes (as defined in section 7.4(2) of the Act).

The Development Contributions are broadly described as works in kind and the dedication of land to deliver open space, public domain, drainage infrastructure, road works, bus infrastructure, cycleways and pedestrian pathways and community facilities within the four remaining undeveloped precincts of the Bonnyrigg Estate, being the Humphries Road Precinct, Town Centre Precinct, Tarlington West Precinct, Tarlington East Precinct (comprising Stages 8-18).

The details, staging and timing of these Development Contributions are set out in Schedule 3 of the Planning Agreement. The Precincts are shown in Annexure E to the Planning Agreement.

The Planning Agreement (Schedule 3) sets out requirements for completion of the infrastructure by a certain point of the Development within each stage, with practical completion tied to the Occupancy Certificate for the relevant dwelling.

The Developer is not required to pay a monetary contribution under the Planning Agreement.

5.3 Effect

The Planning Agreement:

- relates to the carrying out of the Development by the Developer
- wholly excludes the application of sections 7.11 and 7.12 of the Act to the Renewal Project, unless the Development exceeds 3,000 dwellings in which case sections 7.11 and 7.12 of the Act would apply to those additional dwellings
- excludes the application of section 7.24 of the Act
- provides for the delivery of Development Contributions by the Developer by requiring the dedication of parts of the Land and carrying out of Works
- is not required to be registered on the title to the Land.

6 Assessment of the merits of the Planning Agreement

6.1 The Planning Purposes Served by the Draft Planning Agreement

The Draft Planning Agreement:

- promotes and co-ordinates the orderly and economic use and development of the land to which it applies; and
- provides increased opportunity for public involvement and participation in environmental planning and assessment of the Development.

6.2 How the Planning Agreement Promotes the Public Interest

The Planning Agreement sets out arrangements for the delivery of infrastructure, facilities and services to meet the needs of the Development, consistent with the terms Concept Plan Approval for stages 8-18, and to provide for the dedication of community land and roads to Council.

The Planning Agreement promotes the public interest by promoting the objects of the Act as set out in section 1.3 of the Act and through the provision of the public benefits outlined in section 5.3 above.

6.3 How the Draft Planning Agreement Promotes the Principles for Local Government Contained in Chapter 3 of the *Local Government Act 1993*

The Planning Agreement promotes the principles for local government by:

- strategically using the integrated planning and reporting framework for the provision of effective and efficient services and regulation to meet the diverse needs of the local community;
- working with others to secure appropriate services for local community needs;
- acting fairly, ethically and without bias in the interests of the local community;
- keeping the local and wider community informed about its activities; and
- providing adequate, equitable and appropriate services and facilities for the community and to ensure that those services and facilities are managed efficiently and effectively.

6.4 Whether the Planning Agreement Conforms with Council's Capital Works Program

Yes. The proposed contributions are consistent with the types of community infrastructure identified in Council's Voluntary Planning Agreement Policy and aligns with Council's Capital Works Program.

6.5 Whether the Planning Agreement specifies that certain requirements must be complied with before a construction certificate, occupation certificate or subdivision certificate is issued

Yes. Certain Development Contributions are required to be delivered prior to the issuing of an Occupation Certificate for a relevant stage of the Development.