

# Explanatory Note

## Draft Planning Agreement for proposed rezoning at Cameron Park

### Introduction

Clause 25E of the Environmental Planning and Assessment Regulation 2000 requires a planning authority (Lake Macquarie City Council) proposing to enter into a voluntary planning agreement under Section 93F of the Environmental Planning and Assessment Act 1979 to prepare an explanatory note about the voluntary planning agreement.

This explanatory note relates to the draft Voluntary Planning Agreement (hereafter referred to as "Planning Agreement") proposed to be entered into by North Lakes Pty Limited ("North Lakes") and the Lake Macquarie City Council ('the Council').

A planning agreement results from an offer by a developer to the Lake Macquarie City Council to dedicate land, make monetary contributions, or provide any other material public benefit, to be used for or applied toward a public purpose.

This explanatory note has been prepared jointly between the parties as required by clause 25E of the Environmental Planning and Assessment Regulation 2000.

### Background

In July 2005 Lake Macquarie City Council approved the preparation of a draft amendment to the Lake Macquarie Local Environmental Plan 2004.

The Draft Lake Macquarie Local Environmental Plan 2004 – Amendment No.14 (DLMLEP) aims:

- a) To rezone land from Zone 7(2) Conservation (Secondary) Zone to Zone 2(1) Residential Zone to allow residential development on the land; and
- b) To rezone land from Deferred Matter to Zone 2(1) Residential Zone and Zone 7(2) Conservation (Secondary) Zone to allow residential development on the land and environmental conservation on the land;
- c) To remove relevant acquisition requirements.

The DLMLEP was exhibited from 24 September to 22 October 2007. The rezoning proposal is accompanied by an offer from North Lakes to enter into a Voluntary Planning Agreement with Lake Macquarie City Council to provide land for conservation.

### Objectives of the Proposed Planning Agreement

The objective of the draft Planning Agreement is to:

- 1) dedicate conservation land which is identified in the Lake Macquarie Section 94 Contributions Plan – Northlakes No.2, 2004 (Plan No.2); and
- 2) dedicate additional conservation land to that identified in Plan No.2; and
- 3) provide additional land for residential development.

## **Nature of the Proposed Planning Agreement**

The Planning Agreement is between North Lakes and Lake Macquarie City Council, and provides for North Lakes to transfer conservation land to Council at no cost.

## **Effect of the Proposed Planning Agreement**

If Draft amendment No.14 is gazetted by the Minister for Planning, North Lakes will be required to progressively transfer conservation land to Council, by no later than 31 December 2022.

## **Assessment of the Merits of this Planning Agreement**

The DLMLEP will provide:

- 1) additional residential zoned land to meet anticipated development yields required to support local community facilities (such as proposed schools, neighbourhood centres, child care facilities, open space and recreation facilities) and shops; and
- 2) provide for the transfer of an area of Cocked Hat Creek zoned for acquisition to Council without cost; and
- 3) provide for the transfer of land adjacent to the Newcastle Link Road to Council without cost.

The Planning Agreement aims to achieve a balanced outcome between the desires for additional land for residential development, limit the impacts on public funds of facilitating the development and preserving the key environmental attributes of the Northlakes Urban Release Area.

The Lake Macquarie Section 94 Contributions Plan – Northlakes No.2, 2004 (Plan No.2) identifies an area of the Cocked Hat Creek Corridor for acquisition. It is apparent that there will be a shortfall of Section 94 contributions for the purchase of this land and Council would have been required to fund the shortfall. The transfer of conservation land to Council without cost will remove a financial burden from the Council and ultimately the community.

The land adjacent to the Newcastle Link Road is zoned for secondary conservation purposes permitting limited development. Transfer of that land to Council for conservation purposes contributes to the balance between development and conservation in the North Lakes Urban Release area.

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

The Planning Agreement represents a positive financial outcome for the Council because it means that Council will not have to fund a shortfall of Section 94 contributions that would be needed to cover the full cost of acquiring the conservation lands.

Therefore, the facility is being provided to the community (including future generations) and this is being provided with minimal financial impact on the Council.

## **How this draft Planning Agreement promotes the Objects of the Environmental Planning and Assessment Act 1979**

The objects of this Act are:

- (a) to encourage:
  - (i) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,
  - (ii) the promotion and co-ordination of the orderly and economic use and development of land,
  - (iii) the protection, provision and co-ordination of communication and utility services,
  - (iv) the provision of land for public purposes,
  - (v) the provision and co-ordination of community services and facilities, and
  - (vi) the protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities, and their habitats, and
  - (vii) ecologically sustainable development, and
  - (viii) the provision and maintenance of affordable housing, and
- (b) to promote the sharing of the responsibility for environmental planning between the different levels of government in the State, and
- (c) to provide increased opportunity for public involvement and participation in environmental planning and assessment.

In relation to (a) the Planning Agreement particularly promotes the Objects (i), (ii), (iv), and (vi).

The Planning Agreement aims to achieve a balanced outcome between land available for residential development and the provision of conservation land to preserve the key environmental attributes of the Northlakes Urban Release Area. Public ownership of conservation land ensures public accessibility.

## **How this Planning Agreement promotes the Elements of the Council's Charter under Section 8 of the Local Government Act 1993**

Under Section 8 of the *Local Government Act 1993*, a council has the following charter:

- to provide directly or on behalf of other levels of government, after due consultation, adequate, equitable and appropriate services and facilities for the community and to ensure that those services and facilities are managed efficiently and effectively
- to exercise community leadership
- to exercise its functions in a manner that is consistent with and actively promotes the principles of multiculturalism
- to promote and to provide and plan for the needs of children

- to properly manage, develop, protect, restore, enhance and conserve the environment of the area for which it is responsible, in a manner that is consistent with and promotes the principles of ecologically sustainable development
- to have regard to the long term and cumulative effects of its decisions
- to bear in mind that it is the custodian and trustee of public assets and to effectively account for and manage the assets for which it is responsible
- to facilitate the involvement of councillors, members of the public, users of facilities and services and council staff in the development, improvement and co-ordination of local government
- to raise funds for local purposes by the fair imposition of rates, charges and fees, by income earned from investments and, when appropriate, by borrowings and grants
- to keep the local community and the State government (and through it, the wider community) informed about its activities
- to ensure that, in the exercise of its regulatory functions, it acts consistently and without bias, particularly where an activity of the council is affected
- to be a responsible employer.

The Planning Agreement promotes Council's Charter under Section 8 of the *Local Government Act 1993* as it:

- 1) facilitates the provision of community facilities through residential population, and
- 2) preserves the key conservation attributes of the Northlakes Urban Release Area, and
- 3) provides a facility, namely conservation land, for community use, and
- 4) informs the local community and State Government about its activities and decisions in relation to the Planning Agreement and rezoning.

**The Planning Purpose and an assessment of whether the draft Planning Agreement provides for a reasonable means of achieving the purpose**

The planning purpose is the reservation of land in the public estate for the protection and conservation of the natural environment.

The Planning Agreement provides a reasonable means of achieving that planning purpose as it makes provision for the transfer of the land to Council upon gazettal of the amendment to the LMLEP 2004 free of cost to the Council.

This has been accepted as a reasonable means by the Council and North Lakes.

**Assessment of whether the draft Planning Agreement conforms with Council's Capital Works Program**

Plan No.2 provides for the provision of land for conservation purposes.

These explanatory notes are not to be used to assist in construing the Planning Agreement, nor as a complete description of the draft planning agreement.