

Environmental Planning and Assessment Regulation 2021
(NSW)
(Clause 205)

Explanatory Note

Draft Planning Agreement

Under s7.4 of the *Environmental Planning and Assessment Act 1979* (NSW)

1 Parties

Newcastle City Council

Dangar St Wickham Pty Ltd (ACN625 741 344)

2 Description of Subject Land

This Planning Agreement applies to Lot 1 DP1197377, known as 10 Dangar Street, Wickham

3 Description of Proposed Change to Environmental Planning Instrument/Development Application

The draft Planning Agreement is in connection to DA 2022/00488 which is a development application for alterations and additions to a development already approved by DA 2018/01197.2. The proposed alterations and additions involve an additional (3) three storeys of residential accommodation to the already approved built form.

4 Summary of Objectives, Nature and Effect of the Draft Planning Agreement

Objectives of Draft Planning Agreement

The draft Planning Agreement provides for the payment of monetary contributions in the amount of \$1,587,976.50, payable before the issue of any Occupation Certificate for the Development.

The monetary contribution which has been calculated at a rate of \$518.10 per sq m of GFA of the Development which is an additional 3,065sqm of GFA beyond the existing DA approval DA 2018/01197.02 for the Land. The rate of \$518.10 is specified in the Fees and Charges Schedule of the Newcastle Operational Plan 2021/2022 and has been applied to an additional 3,065 sq m of GFA.

The monetary contribution is consistent with the Incentive Gross Floor Area (GFA) Rate contained within the draft Community Infrastructure Incentives Planning Proposal and consistent with Council's Infrastructure Incentive Policy.

Council will use the monetary contributions for provision of local public amenities or infrastructure that supports the implementation of the Wickham Masterplan 2021.

Nature of Draft Planning Agreement

The Draft Planning Agreement is a planning agreement under s7.4(1) of the *Environmental Planning and Assessment Act 1979*. The Draft Planning Agreement is a voluntary agreement under which Development Contributions are made by the Developer for public community infrastructure.

Effect of the Draft Planning Agreement

The Draft Planning Agreement:

- is in connection with a development application, DA2022/00448
- relates to the carrying out of the Development (as defined in the Draft Planning Agreement) on the Land,
- does not exclude the application of s7.11 or s7.12 of the Act to the Development,
- is to be registered on the title to the Land,
- imposes restrictions on the Parties transferring the Land or part of the Land or assigning, or novating an interest under the agreement,
- provides for the payment of monetary contributions by the Developer.

5 Assessment of the Merits of 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,
- provides increased opportunity for public involvement and participation in environmental planning and assessment of the Development,
- provides for additional monetary contributions by a developer to the Council to be used for public purposes, additional to other development contributions under s7.11 or s7.12 and s7.24 required for a proposed Development on the land to which it applies.

6 The Planning Purposes Served by the Draft Planning Agreement

The draft Planning Agreement promotes the public interest by requiring payment of monetary contributions which will be used for the provision of local public amenities or infrastructure that supports the implementation of the Wickham Masterplan 2021.

7 How the Draft Planning Agreement Promotes the Objects of the Environmental Planning and Assessment Act 1979

The draft Planning Agreement promotes the objects of the Act as set out in s1.3(a), (b), (c), (d), (g), (j) of the Act.

8 How the Draft Planning Agreement Promotes the Public Interest

The draft Planning Agreement promotes the public interest by requiring the payment of monetary contributions which are to be used by Council to contribute towards local public amenities and infrastructure.

9 Any requirements of the Draft Planning Agreement that must be complied with before a construction certificate, occupation certificate or subdivision certificate is issued

The draft Planning Agreement requires that monetary contributions be paid prior to the issue of any Occupation Certificate.

10 Capital Works Program

The Capital Works Program will be updated to reflect the implementation of the Wickham Masterplan 2021.