



Environmental Planning and Assessment Regulation 2000

(Clause 25E Explanatory Note)

BELLBIRD HEIGHTS

Introduction

This Explanatory Note provides a plain English summary to support the exhibition of a proposed Draft Local Infrastructure Planning Agreement (the **Planning Agreement**) prepared under section 93F of the *Environmental Planning and Assessment Act 1979* (the **Act**).

This Explanatory Note relates to the Planning Agreement proposed to be entered into by the parties described below in respect of land at Bellbird Heights, in the Local Government Area of Cessnock.

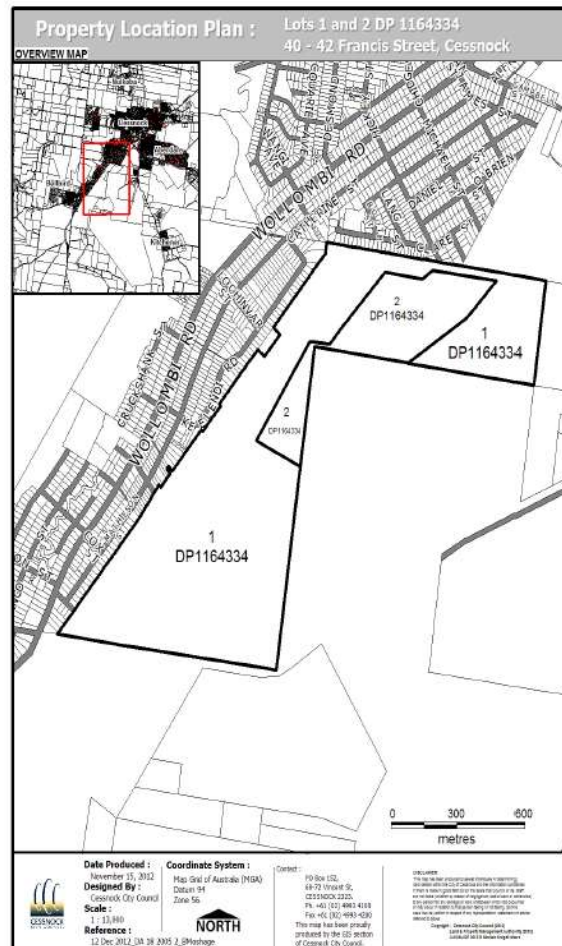
Parties to the Planning Agreement

The parties to the Planning Agreement are Cessnock City Council (the **Council**) and Winton Partners Bellbird Pty Limited ACN 156 002 185 (the **Developer**). This explanatory note has been prepared jointly by the parties.

Description of Subject Land

The Planning Agreement applies to land at Bellbird Heights owned by the Landowner being Lot 1 DP 1164334 and Lot 2 DP 1164334 (the **Land**). The Land is shown in the Locality Plan in Figure 1 below:

Figure 1 – Locality Plan



Description of the Development / change to environmental planning instrument

The Land is currently zoned RU2 Rural Landscape under the *Cessnock Local Environmental Plan 2011* (the **LEP**). The Landowner proposes to develop part of the Land for residential and other ancillary development (such as local roads and services) and to protect areas of high conversation value on the Land (the **Proposed Development**).

In order to facilitate the Proposed Development, the Landowner has sought an amendment to the LEP to rezone the Land to:

- R2 Low Density Residential;
- RU2 Rural Landscape; and
- E2 Environmental Conservation.

Subject to the proposed LEP amendment being made, the Landowner intends to lodge with the Council a development application(s) for the Proposed Development.

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

The Local Infrastructure Planning Agreement provides for a sum of \$2,347,825.90 towards the provision of services and facilities and the undertaking of works associated with the development of 305 allotments at Bellbird Heights.

The objective of the Local Infrastructure Planning Agreement is to record the terms of the offer made by the Developer and the obligations of each party (if the planning agreement is entered into with the Council).

The Planning Agreement also makes provision for:

- a. the indexation of contributions in (clause 5.3)
- b. the exclusion of the application of levying contributions under section 94 and 94A of the *Environmental Planning and Assessment Act 1979* (NSW) (the **Act**), for services and infrastructure.
- c. Council to apply a Development Contribution made by the Developer under this Agreement towards the Public Facilities for which it is made and at the locations, in the manner and to the standards required by or under this Agreement.
- d. if the Council decides that a Public Facility for which a Development Contribution is made under this Agreement is no longer required, the Council must apply the Development Contribution toward the provision of other Public Facilities for a public purpose within the locality of Bellbird Heights.
- e. monetary contributions that form part of the Development Contributions made by the Developer may be pooled by Council and applied in a progressive manner to the provisions of the Public Facilities detailed within the Planning Agreement.

Assessment of the Merits of the Planning Agreement

The Planning Agreement will contribute to the provision of local infrastructure and community services to facilitate the urban development of the Bellbird Heights precinct and where relevant the greater Cessnock Local Government area

How the Planning Agreement promotes the objects of the Act

The draft planning agreement will promote the objects of the Act through:

- Facilitation of the orderly and efficient use of the land;
- Dedication of land for a public purpose; and
- Contributions for the provision of community facilities and infrastructure.

How the Planning Agreement promotes the Council's Charter under the Local Government Act

The proposed Planning Agreement promotes the following elements of the Council's Charter under s8(1) of the *Local Government Act 1993*:

- 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 property manage, develop, protect, restore, enhance and conserve the environment of the area for which it is responsible; and

- 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.

The planning purposes served by the Planning Agreement

The Planning Agreement provides a reasonable means of ensuring the delivery of Local Infrastructure required to support the urban development of the Bellbird Heights precinct and the broader Cessnock Local Government Area, where relevant.

How the Planning Agreement promotes the public interest

The Planning Agreement promotes the public interest by committing the Developer to make the required commitments to ensuring the delivery of relevant and appropriate local infrastructure and community services.

Whether the Draft Planning Agreement conforms to the Council's Capital Works Program

The agreement provides for the payment of contributions and the dedication of land to Council by the Developer.

The contributions to be paid by the Developer, as set out in the Planning Agreement, are based on a work program for each of the respective services and facilities.

The Council is responsible for the completion of the Capital Works Program provided for in the agreement.