

NORTH TUNCURRY DEVELOPEMNT PROJECT STATEMENT OF INTENT FOR FUTURE VOLUNTARY PLANNING AGREEMENT

Introduction

The purpose of this draft Statement of Intent is to provide a plain English summary that describes the purpose and proposed content of a future draft planning agreement (the **Planning Agreement**) that will be prepared under Subdivision 2 of Division 7.1 of the *Environmental Planning and Assessment Act 1979* (the **Act**).

This explanatory note has been prepared by Landcom as required by clause 25E of the *Environmental Planning and Assessment Regulation 2000* (the **Regulation**).

This statement of intent is not to be used to assist in construing the future Planning Agreement (which will be drafted in due course).

Parties to the Planning Agreement

The parties to the Planning Agreement are proposed to be:

- the Minister for Planning and Public Spaces ABN 38 755 709 681 (the **Minister**) representing Landcom (the **Applicant**);
- Mid Coast Council (the **Council**).

Description of Subject Land

The Planning Agreement is proposed to apply to Lots 294 and 295 of Deposited Plan 43110 Lot 331 of Deposited Plan 1104340 (the **Subject Land**).

The Subject Land is located at The Lakes Way, North Tuncurry 2428.

Description of the Proposal

The Applicant has prepared a planning proposal (**Planning Proposal**) to rezone the Subject Land for a range of uses including retail, employment, housing, open space and community facilities.

In preparing the Planning Proposal, the Applicant has submitted a State Significant Precinct Study (**SSP Study**) to the Department of Planning and Environment. The SSP Study supports a rezoning proposal that will be effected by the making of a State Environmental Planning Policy which will operate to amend the planning controls of the *Great Lakes Local Environmental Plan 2014*.

In conjunction with the preparation of the Planning Proposal, the Applicant has prepared a draft master plan for the development of the Subject Land as part of the SSP Study (**Draft Master Plan**).

The Applicant intends to carry out development of the Land generally in accordance with the Draft Master Plan (**Development**)

The Applicant submits that the proposed Development will:

- 1.1 accommodate the housing and employment needs of the region's population over the next 25 years,
- 1.2 improve housing affordability and diversity,
- 1.3 secure approximately 327.71ha of land for permanent biodiversity conservation including over 70% of the known on site population of the critically endangered Tuncurry Midge Orchid,
- 1.4 provide positive outcomes for the traditional owners of the land, the Worimi and Birpai People of Forster Tuncurry, and
- 1.5 enhance Forster Tuncurry as a tourist destination.

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

The Applicant proposes to enter into negotiations with the Council with a view to preparing a Planning Agreement with the Mid Coast Council.

The objective of the Planning Agreement will be to facilitate the delivery of the Applicant's contributions towards the provision of local infrastructure, facilities and services and facilitate dedication of land for conservation purposes.

The Planning Agreement is intended to be entered into in connection with the rezoning of the Subject Land in accordance with the Planning Proposal. It is intended to secure the provision of development contributions if development consent is granted for the Development on the Land.

The proposed terms of the Planning Agreement are intended to be as set out in Schedule 1. The monetary contributions proposed to be reflected in the Planning Agreement are as set out in Schedule 2.

The identified development contributions are intended to replace any development contributions that may be imposed by the Council pursuant to section 7.11 of the Environmental Planning and Assessment Act, 1979.

The Applicant will be required to provide a bank guarantee or Letter of Undertaking.

No relevant capital works program by the Minister is associated with the proposed Planning Agreement.

Assessment of Merits of Planning Agreement

The Planning Purpose of the Planning Agreement

In accordance with section 7.4 (2) of the Act, the Planning Agreement has the following public purpose:

- the dedication of land to Mid Coast Council which is to be set aside for conservation purposes;
- the provision of (or the recoument of the cost of providing) public amenities or public services; and
- the provision of (or the recoument of the cost of providing) transport or other infrastructure relating to land.

The Applicant holds the view that a future Planning Agreement would provide a reasonable means of achieving the public purpose set out above. This is because it will ensure that the Applicant makes appropriate contributions towards the provision of local infrastructure, facilities and services.

In addition, a future Planning Agreement is an appropriate mechanism given Mid Coast Council has only recently been amalgamated and the existing Section 94 Contributions Plan does not contemplate the proposed redevelopment of the Subject Land.

How the Planning Agreement Promotes the Public Interest and the Objects of the Act

The development contributions being offered meet the demand for public facilities and services generated by the Development.

The Planning Agreement will promote the public interest by ensuring that an appropriate contribution is made towards the provision of local infrastructure, facilities and services to satisfy needs that arise from future development of the Subject Land.

The Planning Agreement will be in addition to the Hunter Region Special Infrastructure Contribution (SIC), if and when, adopted by State Government. The recently released draft Hunter Region SIC will

assist funding State and regional infrastructure including State and regional roads, schools, health facilities and emergency services facilities.

The Planning Agreement will promote the objects of the Act by encouraging:

- the promotion and co-ordination of the orderly and economic use and development of land
- the promotion of the orderly and economic use and development of land by facilitating the future development of the Subject Land in accordance with the future Planning Agreement;
- the promotion of good design and amenity of the built environment;
- the promotion of the sharing of responsibility for environmental planning and assessment between the different levels of government in the State; and
- the provision of increased opportunity for community participation in environmental planning and assessment.

The Planning Agreement will promote the objects of the Act set out above by requiring the Applicant make a contribution towards the provision of infrastructure, facilities and services.

The Applicant's intended offer to contribute towards the provision of local infrastructure will have a positive public impact as funds will be available towards the provision of infrastructure, facilities and services that will be used and enjoyed by the public.

Requirements relating to Construction, Occupation and Subdivision Certificates

The Planning Agreement is unlikely to specify requirements that must be complied with prior to the issue of a construction certificate or an occupation certificate.

The future Planning Agreement is proposed to require each instalment of the Development Contribution to be paid prior to the issue of the relevant subdivision certificate and therefore is proposed to contain a restriction on the issue of a subdivision certificate within the meaning of section 6.15 of the Act.

Schedule 1

Details of Intended Offer to Enter into a Planning Agreement with Great Lakes Council relating to rezoning and development of the Subject Land at North Tuncurry.

1	Description of Land to which the Offer applies	<ul style="list-style-type: none"> • Lot 331 DP 1104340 owned by The State of New South Wales • Lot 294 DP43110 owned by Crown Lands Reserve Trust • Lot 295 DP43110 perpetual lease to Forster-Tuncurry Golf Club Limited
2	Development to which the Offer applies/Changes to the EPI to which the Agreement Applies	<p>Planning Agreement entered into in connection with a rezoning of the Subject Land to enable a range of uses including retail, employment, housing, open space and community facilities.</p> <p>Development contributions required to be provided subject to development consent being granted for the Development.</p>
3	Is Section 7.11 excluded?	<p>Section 7.24 is not to be excluded from applying to the Development unless approval referred to in s7.4 (5A) of the <i>Environmental Planning and Assessment Act 1979</i> is obtained from the Minister or a development corporation designated by the Minister.</p>
4	Nature of the Contribution	<p>Monetary contributions, carrying out of works and dedication of land.</p>
5	Extent of the Contribution	<p><u>Monetary contribution</u></p> <p>Monetary contributions would be provided on the basis of the applicable section 7.11 Contributions Plan adopted by Council under the <i>Environmental Planning and Assessment Act, 1979</i> and which applies to the Development.</p> <p>Monetary contributions would be provided on a per residential lot basis and would be offset by any works in kind or dedication of land.</p> <hr/> <p><u>Carrying out of works</u></p> <p>Works in the following categories:</p> <ul style="list-style-type: none"> • open space – embellishment of parks generally in accordance with the landscape masterplan prepared by Context and submitted with the SSP Study, • major roads - extension and upgrading of Beach Street, construction of intersection of Lakes Way and northern access road, and future local roads throughout the Development, • community facilities being the construction of a 350m² community centre including storage for mobile surf life-saving facility and associated car parking, • foreshore improvements, • walking and cycling trails. <p>Details of work to be provided to be negotiated between the parties.</p>

		<p><u>Dedication of land</u></p> <ul style="list-style-type: none"> • An eastern conservation corridor is proposed to be dedicated to the Council, following the completion of the Biobanking Agreement and Stewardship Agreement, including payment of sufficient funding into a Biodiversity Conservation Fund. • Finger Drains/Orchid pollinator corridors (as identified within the Tuncurry Biodiversity Certification Assessment Report prepared by Eco Logical and dated 8 August 2018) to be dedicated to Council. The management requirements for the orchid pollinator requirements outlined in the Tuncurry Biodiversity Certification Assessment Report will be registered on title prior to dedication. • Local parks as shown in the Draft Masterplan to be dedicated to Council. • Offsite land for regional open space to be dedicated to Council. • Community Centre to be dedicated to Council. <p>Details of land to be dedicated to be negotiated between the parties.</p>
6	Timing of provision of development contribution	<p>Monetary contributions per residential lot will be provided before the issuing of the subdivision certificate that creates that lot.</p> <p>Open space and drainage works located in a particular stage of the development to be carried out during the development of that stage.</p> <p>Community centre to be provided by the later of the issuing of the subdivision certificate that creates the 1,100th residential lot or the issuing of the subdivision certificate for the 'B2 Local Centre Village Centre' stage referred to in the Draft Master Plan.</p> <p>Beach Street upgrade and extension to be provided before the issuing of the subdivision certificate for Stage 4 of the Development.</p> <p>Lakes Way intersection to be provided before the issuing of the subdivision certificate that creates residential lots located north of the reconfigured golf course as shown in the Draft Master Plan.</p> <p>Details of timing of any other development contributions to be negotiated between the parties.</p>
7	Resolution of Disputes	<p>Disputes to be resolved through expert determination or mediation.</p>
8	Security	<p><u>Security for monetary contributions</u></p> <p>Monetary contributions to be secured through requiring monetary contributions in respect of a residential lot to be paid before the issuing of a subdivision certificate that creates that residential lot. Section 6.15 operates to prohibit the issuing of a subdivision certificates unless and until the relevant monetary contributions are paid.</p> <p><u>Security for carrying out of work</u></p> <p>Work to be secured through requiring completion of work before the issuing of a certain subdivision certificate. Section 6.15</p>

		operates to prohibit the issuing of that subdivision certificates unless and until the work is complete.
		<u>Security for dedication of land</u> Land to be dedicated to be secured by a provision allowing the Council to compulsorily acquire the land for nominal consideration if the land is not dedicated by the time required.
9	Preparation of the Explanatory Note	Applicant in conjunction with the Council
10	Liability for the costs of preparing the agreement including the preparation of the Explanatory Note	Applicant
11	Is the Agreement to be registered on the Land to which it applies?	The Agreement is not to be registered on title unless and until the land is sold to a third party developer.

Schedule 2

Details of Intended Monetary Contributions to be reflected in a Planning Agreement with Great Lakes Council relating to rezoning and development of the Subject Land at North Tuncurry.

Major Roads		
Obligation	\$697.36/trip x 9 trips/lot x 2123 dwgs	\$13,324,457
	Less value of WIK (Beach St)	<u>\$795,652</u>
		\$12,528,805
	North Tuncurry Per lot rate	\$5,901.46
Aquatic Centre		
Obligation	Contribution as per Council Section 94 Plan	
	North Tuncurry Per lot rate	\$758.62
Surf Lifesaving		
Obligation	\$223.73/lot x 2123 lots.	\$474,979.00
	To be satisfied by WIK. WIK comprise establishment of mobile surf club.	
Library		
Obligation	Contribution as per Council Section 94 Plan	
	North Tuncurry Per lot rate	\$1,255.34
Community Facilities		
Obligation	\$570.94/person x 2.4 x 2123 lots	\$2,909,053.00
	Less value of proposed community centre WIK on site	<u>\$1,605,000.00</u>
		\$1,304,053.00
	North Tuncurry Per lot rate	\$614.25
Open Space		
Foreshore Development Obligation	Contribution for works at Point Road, Little Street and Breckenridge Channel (\$216/lot adjusted for CPI to 2014-15)	\$490,668.00
	North Tuncurry Per lot rate	\$262.14
	Provision of WIK to minimum value of \$321,000.00 comprising beach access boardwalks etc. Recognition given to, and offset for, non-resident patronage of facilities	
Sports Fields Development Obligation	Contribution of \$699/dwelling adjusted for CPI to 2014-15	
	North Tuncurry Per lot rate	\$848.30
Linkages Program Obligation	Obligation as per Section 94 Plan adjusted for CPI to 2014-15 = \$170,855.00	
	Contribution by WIK to minimum value of \$170,855.00	
	North Tuncurry Per lot rate	\$0.00

General Park Improvement Obligation	Obligation as per Section 94 Plan adjusted for CPI to 2014-15 = \$686,066.88 Contribution by WIK – embellishment of 9 proposed parks at an estimated value of \$7,629,100.00 North Tuncurry Per lot rate	\$0.00
Land Acquisition	Dedication of 6.1ha of parks (@\$160,500 = \$979,050.00) Contribution for acquisition of land for sports fields 3.6ha @\$150,000 \$540,000/2123 lots = \$254.35/lot adjusted for CPI to 2014-15 North Tuncurry Per lot rate	\$308.63

Summary Table

	Cash Contribution Per Lot	Total Value of Cash Contribution (2123 lots)	Value of WIK & Land Dedication	Total Value of Cash Contribution + WIK
Major Roads	\$5,901.46	\$12,528,800.00	\$795,652.00	\$13,324,452.00
Aquatic Centre	\$758.62	\$1,610,550.00		\$11,610,550.00
Surf Lifesaving			\$474,979.00	\$474,979.00
Library	\$1,255.34	\$2,655,087.00		\$2,665,087.00
Community Facilities	\$614.25	\$1,304,052.00	\$1,605,000.00	\$2,909,052.00
Open Space	\$1,419.07	\$3,012,686.00	\$9,100,005.00	\$12,112,691.00
Total	\$9,948.74	\$21,121,175.00	\$11,975,636.00	\$33,096,811.00

18 April 2019

Michael Pring
Development Director
Landcom
PO Box Q1744, QVB
Sydney NSW 2000

Ref: Land Use and Planning/ North Tuncurry
Release Area

Enquiries: Louise Morris

Dear Michael,

Planning Agreement North Tuncurry Urban Release Area

I refer to your correspondence dated 23 November 2018, offering to enter into a planning agreement with Council in relation to the proposed rezoning and associated master plan on land in North Tuncurry (Lot 331 DP 1104340 and Lots 294-295 DP 43110).

Council considered this offer at its Ordinary meeting held on the 10 April 2019 and resolved the following;

- A. *That Landcom be advised that Council will not accept the 270 hectares of western and northern conservation areas referred to as 'Management Areas 1 and 3' located adjacent to the Lakes Way and the Darawank Nature Reserve.*
- B. *That Landcom be advised that Council is prepared to consider entering into negotiations for a Planning Agreement for the North Tuncurry Release Area for:*
 - 1. *The dedication of Conservation Management Area 2, as described in the letter of offer from Landcom dated 23 November 2018, following the completion of the Biobanking Agreement and Stewardship Agreement, including payment of sufficient funding into the Biodiversity Conservation Fund.*
 - 2. *The application of developer contributions applicable to the proposed development and possible credits for works in kind and the provision of services and facilities.*
- C. *That Landcom be advised that any documentation placed on public exhibition should only refer to Council's position as set out in this resolution.*

The full Council Report and Resolution are enclosed for your information.

Please contact me in relation to the next steps to negotiating a planning agreement for the North Tuncurry Urban Release Area.

Yours sincerely



Roger Busby
Manager, Strategic Planning

Enclosed: Council Report dated 10 April 2019 'North Tuncurry Urban Release Area' and associated Council Resolution