

Explanatory Note
Exhibition of draft Planning Agreement
528 Lowes Lane, Booral

Environmental Planning & Assessment Regulation 2021 (clause 205)

Planning Agreement

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

This Explanatory Note has been prepared jointly between the parties as required by clause 205 of the *Environmental Planning and Assessment Regulation 2021* (the **Regulation**).

This Explanatory Note is not to be used to assist in construing the Planning Agreement.

Parties

Michael Richard Downes and Barrington Tops Developments Pty Ltd (the **Developer**) made an offer to MidCoast Council (the **Council**) to enter into a voluntary Planning Agreement, in connection with a Development Application.

Description of the subject land

The land to which the Planning Agreement applies is described as:

- Lot D in Deposited Plan 162940 with folio identifier D/162940;
- Lot 46 in Deposited Plan 95406 with folio identifier 46/95406;
- Lot 82 in Deposited Plan 95418 with folio identifier 82/95418; and
- Lot 820 in Deposited Plan 1277990 with folio identifier 820/1277990,

known as 528 Lowes Lane, Booral (the **Land**).

Description of the Development Application to which the Planning Agreement applies

The Development Application numbered DA2021/2166 (as amended) proposes to subdivide the Land into four-lots.

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

The Planning Agreement requires the Developer to enter into a conservation agreement with the New South Wales Biodiversity Conservation Trust for one of the subdivided lots, to be known as Lot 824.

Assessment of the Merits of the Planning Agreement

How the Planning Agreement promotes the objects of the Act and public interest

The draft Planning Agreement promotes the following objectives of the Act:

- to promote the social and economic welfare of the community and a better environment by the proper management, development, and conservation of the State's natural and other resources (section 1.3(a)); and
- to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities, and their habitats (section 1.3(e)).

The draft Planning Agreement promotes the public interest by conserving and enhancing biodiverse and environmentally sensitive land for the benefit of the public at large.

The planning purposes served by the Planning Agreement

Lot 824 will be retained for conservation and will be prevented from being further developed. The retention of Lot 824 as a conservation lot under the Planning Agreement will contribute to the locality by retaining biodiverse and environmentally sensitive land for current and future generations to enjoy.

How the Planning Agreement promotes the principles in the *Local Government Act 1993* and Council's capital works program (if any)

The Planning Agreement promotes the principles in the *Local Government Act 1993* (the **LGA**) by:

- managing land so that the current future and local community needs can be met in an affordable way (section 8A(1)(f) LGA); and
- considering the principles of ecologically sustainable development (section 8A(2)(d) LGA).

No relevant capital works program by Council is associated with this Planning Agreement. However, the Planning Agreement supports the following outcomes taken from Council's Delivery Program 2022 – 2026:

- to protect, maintain and rehabilitate natural areas (objective 2.1.1); and
- to balance the needs of the natural and built environment (objective 2.5)

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

The Planning Agreement requires the following to be satisfied prior to issue of a subdivision certificate:

- the vegetation management plan that forms part of the Development Application must be approved by Council; and

- the Developer must enter into a conversation agreement with the New South Wales Biodiversity Conservation Trust for the ongoing protection of biodiversity and native vegetation of Lot 824 and provide Council with a signed copy of that agreement.