

Explanatory Note

Draft Planning Agreement

The purpose of this explanatory note is to provide a summary of the proposed planning agreement (PA) prepared jointly between Ku-ring-gai Council and the Developer *under s7.4 of the Environmental Planning and Assessment Act 1979* (the **Act**).

This explanatory note has been prepared as required by clause 25E of the *Environmental Planning and Assessment Regulation 2021*.

1. Parties

- a. Ku-ring-gai Council (**Council**)
- b. Jun Chao Pty Ltd (**Developer**)

2. Description of Subject Land

Land being Lot X in Deposited Plan 442469 and known as 139 Rosedale Road, St Ives, New South Wales (**Land**).

3. Description of Development

The proposed development will comprise a subdivision of the Land into 6 lots, construction of an extension of Dorset Drive St Ives, construction of a cul-de-sac at the end of the Dorset Drive extension and installation of or provision of Services for the new lots.

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

The Planning Agreement provides for the dedication to the Council and at no cost to the Council of an area of 947m² with a southern boundary of 25.16m for a turning area at the south end for public infrastructure, namely road (**Road Land**), and facilitating public access to land and waste collection, associated road works and maintenance for the period of 12 months.

The Planning Agreement requires the Developer to comply with certain requirements including registration of the Planning Agreement on the title of the Land and provision of a bank guarantee to secure the contribution under the Agreement. The dedication of Road Land to Council is to be delivered to Council simultaneously with the registration of any plan of subdivision for the

Development and associated road works are to be completed prior to the issue of any Subdivision Certificate for the Development.

The Agreement does not exclude the application of sections 7.11, 7.12 or 7.24 of the Act to the Development and the Development Contribution under this Planning Agreement is not to be taken into consideration in determining any contribution under s 7.11 or 7.12 of the Act.

The Agreement contains a number of standard provisions including in relation to dispute resolution and enforcement.

5. Assessment of the Merits of the Draft Planning Agreement

5.1 How the Draft Planning Agreement Promotes the objects of the Act and Public Interest

The dedication of land and associated works required under the Planning Agreement will promote the objects of the Act, in particular:

- 1.3(c) the promotion and co-ordination of the orderly and economic use and development of land; and
- 1.3(g) the promotion of good design and amenity of the built environment.

The dedication of Road Land and associated road works will encourage:

- the proper management and development of an urban precinct which will promote economic welfare of the community;
- the promotion and co-ordination of the orderly and economic use and development of land; and
- the provision of land for public purposes.

5.2 The Impact of the Draft Planning Agreement on the Public or any section of the Public

- The dedication of the Road Land and associated road works will have a positive impact on the members of the public. It will facilitate public access to in the immediate urban precinct, and create a new turning circle in a cul-de-sac that will allow vehicle to turn without executing a multi-point turn and will facilitate waste collection. It will facilitate further future road extension south of the Road Land which will reduce traffic and noise on Rosedale Road.
- There is considered to be no negative impact on the public arising from the planning agreement.

5.3 The Planning Purposes Served by the Draft Planning Agreement

In accordance with section 7.4(2) of the *Environmental Planning and Assessment Act 1979*, the Planning Agreement facilitates the following public purposes:

- the provision of public amenities (public road and footpath); and

- the provision of infrastructure relating to land.

5.4 How the Draft Planning Agreement Promotes the Council's Principles for Local Government

The dedication of Road Land and associated road works are in accordance with the Council's adopted planning policies and demonstrates effective planning and decision making which is providing the best value for residents and rate payers. Council is carrying out part of its functions to achieve desired outcomes and continuous improvement. Council is also managing land and assets so that current and future local community needs can be met in an affordable way. The dedication of the land at no cost to the Council assists with the principles of sound financial management.

5.5 Whether the Draft Planning Agreement conforms with the Authority's Capital Works Program

The dedication of Road Land and associated road works are not inconsistent with the Council's Capital Works Program.

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

- (i) **Before a subdivision works certificate is issued:** A Subdivision Works Certificate cannot be issued unless the Agreement is registered and bank guarantee security provided.
- (ii) **Before a subdivision certificate is issued:** Road Works must be completed in accordance with the Development Consent and the Agreement. The Road Land dedication must be incorporated in a subdivision plan the subject of any Subdivision Certificate.

This explanatory note is not to be used to assist in construing the Planning Agreement