

Bingara Gorge No 2 Voluntary Planning Agreement

Wollondilly Shire Council

Explanatory Note

Introduction

On 3 November 2009 Wollondilly Shire Council (**Council**) entered into a planning agreement with Lendlease Communities (Wilton) Pty Ltd (**Lendlease**) in relation to the Bingara Gorge site.

Council and Lendlease are currently in negotiations in relation to a second voluntary planning agreement for the Bingara Gorge site (**Bingara Gorge No 2 VPA**).

The purpose of this Explanatory Note is to provide a plain English summary to support the notification of the proposed Bingara Gorge No 2 VPA prepared under Subdivision 2 of Division 6 of Part 4 of the *Environmental Planning and Assessment Act 1979 (Act)*.

This Explanatory Note has been prepared jointly by the parties as required by clause 25E of the *Environmental Planning and Assessment Regulation 2000 (Regulation)* and considers any relevant practice note prepared by the Planning Secretary under clause 25B(2) of the Regulation.

Words appearing with initial capital letters in this note have the meanings given to them in this note or (if not defined in this note) in the Bingara Gorge No 2 VPA.

Parties to the Bingara Gorge No 2 VPA

The parties to the Bingara Gorge No 2 VPA are Lendlease and the Council.

Purpose of Bingara Gorge No 2 VPA

The purpose of the Bingara Gorge No 2 VPA Deed is to ensure that Lendlease makes appropriate contributions towards the provision of Council infrastructure and services.

Description of the Subject Land

The Bingara Gorge No 2 VPA will apply to Lots 36, 39 and 40 DP270536, Lots 210 and 211 in DP1104390, Lot 5 in DP280045, Lot 23 in DP280028 and part Lot 81 in DP280044 (**Land**).

Description of the Proposed Development

The Proposed Development is described as subdivision of land into 635 residential allotments, residue lots, community association lot, public roads, associated utility provisions and landscaping and associated works and infrastructure at Bingara Gorge, Wilton, NSW 2571.

Summary of objectives, nature and effect of Bingara Gorge No 2 VPA

The objective of the Bingara Gorge No 2 VPA is to facilitate the delivery of appropriate contributions by Lendlease and to make provision for Council infrastructure to meet certain demands created by the Proposed Development of an additional 635 residential dwelling allotments.

Assessment of the merits of Bingara Gorge No 2 VPA

The public purpose of the Bingara Gorge No 2 VPA

In accordance with section 7.4(2) of the Act, the Bingara Gorge No 2 VPA has the following public purpose:

- the provision of (or the recoupment of the cost of providing) public amenities or public services.

The Council and Lendlease have assessed the Bingara Gorge No 2 VPA and both hold the view that the provisions of the Bingara Gorge No 2 VPA provide a reasonable means of achieving the public purpose set out above. This is because it will ensure that Lendlease makes appropriate contributions towards the provision of Council and community infrastructure and services.

How the Bingara No 2 VPA promotes the public interest

The Bingara Gorge No 2 VPA promotes the public interest by ensuring that an appropriate contribution is made towards the provision of Council and community infrastructure and services to satisfy needs that arise from the development of the Land.

How the Bingara Gorge No 2 VPA promotes the objects of the Act

The Bingara Gorge No 2 VPA promotes the objects of the Act by encouraging:

- the promotion and co-ordination of the orderly and economic use and development of land; and
- the provision of land for public purposes.

The Bingara Gorge No 2 VPA promotes the objects of the Act set out above by requiring Lendlease to make a contribution towards the provision of Council and community infrastructure and services.

This purpose represents an important public benefit, and Lendlease's offer to contribute towards this purpose will provide an important positive impact on the public who use the infrastructure and services to which these purposes relate.

Requirements relating to construction certificates, occupation certificates and subdivision certificates

The Bingara Gorge No 2 VPA does not specify requirements that must be complied with prior to the issue of a construction certificate or an occupation certificate.

The Bingara Gorge No 2 VPA requires payment of contributions in relation to the issuing of Subdivision Certificates as set out below under the heading of "Timing of delivery". Accordingly, the Bingara Gorge No 2 VPA contains a restriction on the issue of a subdivision certificate within the meaning of section 6.15(1)(d) of the Act.

Council's capital works program

The Planning Agreement is not inconsistent with Council's Capital Works Program.

Timing of delivery

The Bingara Gorge No 2 VPA sets out the following requirements in relation to timing of delivery:

1. Monetary contributions – Pro-rata payments to be paid with the relevant Subdivision Certificate for a residential allotment.
2. Dedication of land to Council:
 - (a) Condell Park Road widening – to be completed before the issue of a Subdivision Certificate for the 1,300th residential allotment.
 - (b) Bingara Gorge Homestead lot – to be completed before the issue of a Subdivision Certificate for the 1,600th residential allotment.
3. Carrying out of Lendlease works (to be dedicated to the Council):
 - (a) New Oval Road – Practical Completion to be achieved before the issue of a Subdivision Certificate for the 1,300th residential allotment.
 - (b) Fairway Drive widening - Practical Completion to be achieved before the issue of a Subdivision Certificate for the 1,600th residential allotment.
4. Carrying out of Lendlease works (to be dedicated to the Community Association):
 - (a) Local and linear parks - Practical Completion to be achieved no later than 12 months and one day following the issue of a Subdivision Certificate for the residential allotments adjoining the relevant park.
 - (b) Small and large dog parks – Practical Completion to be achieved before the issue of a Subdivision Certificate for the 1,500th residential allotment.
 - (c) Skate park - Practical Completion to be achieved before the issue of a Subdivision Certificate for the 1,500th residential allotment.

Interpretation of the Bingara Gorge No 2 VPA

This Explanatory Note is not to be used to assist in construing the Bingara Gorge No 2 VPA.