

## Explanatory Note

### Exhibition of draft amendment to Voluntary Planning Agreement

#### Lot 100 DP 1288242, known as 1 Martins Lane, Carlingford NSW

*Environmental Planning & Assessment Regulation 2021 (section 205)*

#### Amendment to Planning Agreement

The purpose of this Explanatory Note is to provide a plain English summary to support the notification of a draft amendment to an existing voluntary Planning Agreement in relation to the Land, being registered dealing no. AP564640 (the **Planning Agreement**).

The Planning Agreement was entered into between City of Parramatta Council (the **Council**) and BaptistCare NSW & ACT (the **Developer**) in connection with a changes to provisions of the *Parramatta Local Environmental Plan 2011* (the **LEP**), and was executed by Council in accordance with a Council Resolution dated 27 May 2019.

The amendments proposed to the Planning Agreement are documented in the draft Deed of Variation of Planning Agreement (the **Amendment**), which accompanies this Explanatory Note.

The Planning Agreement was entered into under Section 7.4 of the *Environmental Planning and Assessment Act 1979* (the **Act**). It is now proposed to amend the Planning Agreement pursuant to clause 9 of the Planning Agreement and section 203(5) of the *Environmental Planning & Assessment Regulation 2021* (the **Regulation**).

The Amendment does not propose any changes to the scope of the works-in-kind and dedication of land to be provided by the Developer under the Planning Agreement. The Amendment is limited only to:

- varying the time by which certain works-in-kind and land dedication are to be delivered;
- clarifying the location of works-in kind and land dedication by reference to new land titles which will be created following the proposed subdivision of the Land; and
- permitting part of the Land to be transferred to a related entity of the Developer.

This Explanatory Note has been prepared jointly between the parties as required by section 205 of the Regulation.

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

#### Parties

The parties will continue to be Council and the Developer.

#### Description of subject land

The land to which the Amendment applies is described as Lot 100 DP 1288242, also known as 1 Martins Lane, Carlingford NSW (formerly Lot 1 DP 1033201 and Lot 2 DP 364225, known as 264-268 Pennant Hills Road, Carlingford NSW) (the **Land**).

#### Description of the Planning Proposal to which the Planning Agreement applies

'Planning Proposal, BaptistCare Site, 264-268 Pennant Hills Road, Carlingford' prepared by DFP Planning Consultants on behalf of Council dated February 2015 submitted to the

Department of Planning and Environment for gateway determination and determined on 12 September 2016 (no. PP\_2016\_COPAR\_002\_00), for the rezoning of the Land by means of an amendment to the LEP, as updated in June 2017 and on 12 June 2018, and as supplemented by the Urban Design Report.

## Summary of Objectives, Nature and Effect of the Amendment

### Works

Consistent with the Planning Agreement, the Amendment will continue to require the following works-in-kind to be provided by the Developer (some of which have already been delivered):

- Item 1A: Public domain improvement works along the western side of Martins Lane north of the East West Road (now known as Wulaba Place); **\*Complete (but awaiting land dedication)**
- Item 1B: Public domain improvement works along the western side of Martins Lane south of the East West Road (now known as Wulaba Place); **\*Partially complete and subject to this variation to change timing for completion**
- Item 2A: Martins Lane upgrade (northern section); **\*Complete**
- Item 2B: Martins Lane upgrade (southern section); **\*Complete**
- Item 3: Signalisation of the intersection of Pennant Hills Road and Baker Street; **\*Complete**
- Item 4: Left turn lane; **\*Complete (but awaiting land dedication)**
- Item 5: Provision of a new north-south road to link with the new east-west road; **\*Complete (but awaiting land dedication)**
- Item 6: Provision of a new east-west road through the site linking the north-south road to Martins Lane; **\*Complete (but awaiting land dedication)**
- Item 7: Public access and maintenance of the high ecological constraint area and associated Blue Gum High Forest vegetation at the southern portion of the site **\*Required at a later stage**; and
- Item 8: Affordable housing. **\*Complete**

The Amendment proposes to vary the timing for delivery of Item 1B to allow those works to be delivered as part of the development of the southern part of the Land, and to clarify the location of each contribution item by reference to new titles to be created following a proposed subdivision of the Land.

### Land

The Amendment does not propose any change to the parts of the Land to be dedicated to Council under the Planning Agreement.

## Assessment of the Merits of the Amendment

### How the Amendment Promotes the Objects of the Act and the public interest

The Planning Agreement, as proposed to be varied by the Amendment, promotes the following objectives of the Act:

- Promotes the social and economic welfare of the community (section 1.3(a));
- Promotes the orderly and economic use and development of land (section 1.3(c));

- Promotes the delivery and maintenance of affordable housing (section 1.3(d));
- Protects the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats (section 1.3(e));
- Promotes good design and amenity of the built environment (section 1.3(g)).

The Planning Agreement, as proposed to be varied by the Amendment, promotes the public interest by improving pedestrian, cyclist and vehicular access, enhancing the protection of an endangered ecological community, and providing affordable housing to meet the needs of the community.

#### **The Planning Purposes served by the Amendment**

The works will be carried out for the purposes of providing public amenities, affordable housing, transport or other infrastructure relating to land and conservation or enhancement of the natural environment.

That land will be dedicated for the purposes of providing transport or other infrastructure relating to land .

#### **How the Amendment promotes the objectives of the *Local Government Act 1993* and the elements of the Council's Charter (now section 8A)**

The Amendment is consistent with the following purposes of the *Local Government Act 1993*:

- to give councils the ability to provide goods, services and facilities, and to carry out activities, appropriate to the current and future needs of local communities and the wider public; and
- to give councils a role in the management, improvement and development of the resources of their areas.

By enabling Council to provide public infrastructure and facilities, the Amendment is consistent with the following guiding principles of councils, set out in section 8A of the *Local Government Act 1993* (replacing the Council's Charter):

- Councils should provide strong and effective representation, leadership, planning and decision-making.
- Councils should carry out functions in a way that provides the best possible value for residents and ratepayers.
- Councils should plan strategically, using the integrated planning and reporting framework, for the provision of effective and efficient services and regulation to meet the diverse needs of the local community.
- Councils should manage lands and other assets so that current and future local community needs can be met in an affordable way.
- Councils should consider the long term and cumulative effects of actions on future generations.
- Councils should consider the principles of ecologically sustainable development.
- Councils should actively engage with their local communities, through the use of the integrated planning and reporting framework and other measures.

### **Whether the Amendment Conforms with the Council's Capital Works Program**

The works-in-kind and dedication of land provided by the Planning Agreement, including as varied by the Amendment, are not identified in Council's *Delivery Program 2022-26, Operational Plan & Budget 2022/23* and as such are additional to any capital works Council has planned.

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

Consistent with the Planning Agreement, the Amendment requires each of the works-in-kind contribution items to be completed prior to the issue of either a construction certificate or occupation certificate. Whether completion is required prior to a construction certificate or occupation certificate varies according to the particular contribution item.

The Amendment proposes to change the timing for completion of Item 1B (public domain improvement works along the western side of Martins Lane south of Wulaba Place) to be completed within 18 months after the issue of an occupation certificate for the first building on the southern part of the Land. This period may be extended by 6 months with Council's consent.