

# Planning Agreement Explanatory Note

## Introduction

The purpose of this explanatory note is to provide a plain English summary to support the notification of the draft planning agreement (**the Planning Agreement**) prepared under Subdivision 2 of Division 7.1 of Part 7 of the *Environmental Planning and Assessment Act 1979* (**the Act**).

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

## Parties to The Planning Agreement

- I. Penrith City Council (**Council**)
- II. Winter Sports World Pty Ltd (**Developer**)

## Description of the Subject Land

The Planning Agreement applies to Lot 1, DP 38950, 2 Tench Avenue Jamisontown NSW 2750 (**Land**)

## Description of Proposed Change to the Penrith Local Environmental Plan 2010

The Developer is seeking an amendment to the planning controls for the Land in accordance with planning proposal no: PP\_2018\_PENRI\_10\_00/IRF18/7077 prepared under Section 3.33 of the Act, dated October 2020, and endorsed by Council on 24 May 2021, proposing to amend the LEP to insert an additional local provision under Part 7 of the LEP applying to the Land, to facilitate the which includes an indoor ski facility (**Development**).

The Development is to be a multi activity Winter Sporting facility and will include variety of uses such as an advanced snow run, nursery snow run, snow play, ice rink, hotel, conference / function rooms, cafes / restaurants, parking and back of house support services.

## Objectives, Nature and Effect of the Planning Agreement

The Planning Agreement is a voluntary agreement under s7.4 of the Act. The objectives of the Planning Agreement is to require the Developer to carry out Works, in connection with the amendments to the Penrith Local Environmental Plan 2010 as a result of the Planning Proposal and the Proposed Development.

The Works required to be carried out by the Developer under the Planning Agreement will comprise of upgrade treatment works for the Jamison Rd / Blaikie Rd intersection eastbound channelised right turn treatment including provision of pedestrian refuge, an indent bus bay, kerb ramps, kerb and gutter works including other associated works.

The Works are subject to further refinement due to detailed design development, consultation with bus operators, meeting the requirements of Penrith Council and the relevant Local Traffic Committee.

The Planning Agreement:

- Commences within 12 months after obtaining Construction Certificate and completion prior to Occupation Certificate.
- Does not exclude the application of s7.11, s7.12 or s7.24 of the Act to the Proposed Development.
- Imposes restrictions on the Developer assigning an interest under the agreement or transferring any part on the Land.
- Provides a dispute resolution method for a dispute under the Agreement, being mediation.
- Required to be registered on the title to the Land in accordance with section 7.6 of the Act
- The Developer is required to provide security (**Security**) in the form of a Bank Guarantee, Bond or Cash Deposit based on 200% of the cost of Works.

### **Assessment of the Merits of the Planning Agreement**

In accordance with section 7.4(2) of the Act, the Planning Agreement requires Works to be undertaken by the Developer to upgrade road infrastructure to facilitate the Development.

The Council and the Developer have assessed the Planning Agreement and both hold the view that the provisions of the Planning Agreement provide a reasonable means of achieving the public purpose set out above. This is because it will ensure that the Developer undertakes the required Works in the event that the Development is carried out.

The Planning Agreement promotes the objects of the Act by:

- Promoting the social and economic welfare of the community by requiring the carry out of Works for public road infrastructure (section 1.3(a)).
- Promoting the orderly and economic use and development of land and good design and amenity of the built environment by ensuring improved traffic conditions (section 1.3(c)).

- Promoting increased opportunity for community participation in environmental planning assessment through public notification of this agreement and opportunity for the public to make submissions in response to it (section 1.3(j)).

The Planning Agreement provides for a reasonable means of achieving the above planning purposes by requiring the carrying out of the Works.

The Planning Agreement promotes the principles for local government in s8 of the Local Government Act 1993 by:

- Ensuring that lands and other assets are managed so that current and future local community needs can be met in an affordable way.
- Providing a means by which Council can work with others to secure appropriate services for local community needs.
- Ensuring that Council actively engages with the local community through the public notification of this Planning Agreement and allowing the wider community to make submissions to the Council in relation to the Agreement.

No relevant capital works program by Council is associated with this agreement.