



## Planning Agreement

*Under section 7.4 of the Environmental Planning and Assessment Act, 1979*

Central Coast Council &  
Scentre Pty Limited and Orta Pty Limited

Final  
Central Coast Council  
December 24

Two handwritten signatures in black and blue ink, located at the bottom of the page.



Planning Agreement

Author: Central Coast Council

Central Coast Council & Scentre Pty Limited and Orta Pty Ltd

Date: December 24

Final Version

Approved by: Central Coast Council

Date of Approval: 10 December 2024

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**Wyong Office:** 2 Hely St / PO Box 20 Wyong NSW 2259 | **P** 02 4350 5555

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# Planning Agreement

## Index

SUMMARY SHEET.....	4
BACKGROUND.....	5
OPERATIVE PROVISIONS.....	5
1    PLANNING AGREEMENT UNDER THE EP&A ACT 1979 (NSW) (Act).....	5
2    APPLICATION OF THIS AGREEMENT.....	5
3    OPERATION OF THIS AGREEMENT.....	5
4    DEFINITIONS AND INTERPRETATION.....	5
5    PAYMENT OF MONETARY CONTRIBUTIONS.....	7
6    PROPONENT OBLIGATIONS.....	7
7    PROPONENT WARRANTIES AND INDEMNITIES.....	8
8    REVIEW OF THIS AGREEMENT.....	8
9    FURTHER AGREEMENT RELATING TO THIS AGREEMENT.....	8
10   DISPUTE RESOLUTION.....	8
11   COSTS.....	9
12   ENFORCEMENT.....	9
13   REGISTRATION OF THIS AGREEMENT.....	9
14   NOTICES.....	10
15   ENTIRE AGREEMENT.....	10
16   FURTHER ACTS.....	11
17   GOVERNING LAW AND JURISDICTION.....	11
18   NO FETTER.....	11
19   SEVERABILITY.....	11
20   WAIVER.....	11
21   EXPLANATORY NOTE.....	11
22   EXECUTION PANEL.....	12
SCHEDULE 1.....	13
SCHEDULE 2.....	19
APPENDIX.....	20
EXPLANATORY NOTE.....	20
ATTACHMENT 1 – PUBLIC OPEN SPACE (POS) PROVISION FRAMEWORK.....	23
ATTACHMENT 2 – LOCATION OF REGIONAL SHARED PATHWAY.....	24

## Planning Agreement

### SUMMARY SHEET

**Council:**

**Name:** Central Coast Council

**Wyong Office:** 2 Hely St / PO Box 20 Wyong NSW 2259 | P 02 4350 5555

**Email:** [ask@centralcoast.nsw.gov.au](mailto:ask@centralcoast.nsw.gov.au)

**Representative:** Chief Executive Officer

**Proponent:**

**Name:** Scentre Pty Limited ACN 000 317 279 and Orta Pty Ltd ACN 008 617 810

**Address:** 85 Castlereagh Street, Sydney NSW 2000

**Telephone:** 0409 155 803 / 0408 328 772

**Email:** [jgordon@scentregroup.com](mailto:jgordon@scentregroup.com); [Achterstraat@scentregroup.com](mailto:Achterstraat@scentregroup.com)

**Representative:** Jamie Gordon/Adam Achterstraat

**Land:**

See definition of *Land* in clause 4.1.

**Development:**

See definition of *Development* in clause 4.1.

**Application of s7.11 s7.12 and s7.24 of the Act:**

See clause 3.

**Registration:**

See clause 9.

**Dispute Resolution:**

See clause 7.

**DATE:** 10 December 2024

**Central Coast Council** (ABN 73 149 644 003) of 2 Hely St, Wyong, in the State of New South Wales (**Council**)  
and

**Scentre Pty Limited** ACN 000 317 279 and **Orta Pty Limited** ACN 008 617 810 of 85 Castlereagh Street, Sydney  
NSW 2000 (**Proponent**)

## **BACKGROUND**

- A. The Proponent is Orta Pty Limited who is the registered proprietor of Lot 3 in DP 1084221, and Scentre Pty Limited who is the registered proprietor of Lot 2 in DP 1056960, which form the Land.
- B. The Proponent has sought the Instrument Change.
- C. The Proponent intends to lodge a Development Application for the Development of the Land.
- D. The Proponent is prepared to provide the Contributions to Council set out in Schedule 1 of this Agreement if the Instrument Change is made.

## **OPERATIVE PROVISIONS**

### **1 PLANNING AGREEMENT UNDER THE EP&A ACT 1979 (NSW) (Act)**

- 1.1 The parties agree that this Agreement is a Planning Agreement governed by Subdivision 2 of Division 6 of Part 4 of the Environmental Planning and Assessment Act (EP&A Act) 1979.

### **2 APPLICATION OF THIS AGREEMENT**

- 2.1 This Agreement applies to the Land, the Development and the Instrument Change.

### **3 OPERATION OF THIS AGREEMENT**

- 3.1 This Agreement takes effect once executed by all parties.
- 3.2 This Agreement identifies that the Proponent will provide the Contributions to Council set out in Schedule 1 of this Agreement.
- 3.3 By complying with the obligations of this Agreement, the Proponent will provide a benefit in the form of community facilities and infrastructure as described in **Schedule 1**.
- 3.4 This Agreement does **not** exclude the operation of section 7.11, section 7.12 and section 7.24 of the Act.
- 3.5 This Agreement does **not** apply to any obligation that the Proponent may have to pay contributions, fees or charges under section 7.11, section 7.12 and section 7.24 of the Act or the *Water Management Act 2000* in respect to the Development of the Land.

### **4 DEFINITIONS AND INTERPRETATION**

- 4.1 In this Agreement the following definitions apply:

**Act** means the *Environmental Planning and Assessment Act 1979*.

**Agreement** means this agreement and any schedules, annexures and appendices to this Agreement.

**Amending LEP** means an environmental planning instrument that has the effect of amending the *Central Coast Local Environmental Plan 2022* so the Development of the Land is permissible with Consent.

**Consent** means the consent granted to the Development Application.

**Contributions** means the contributions set out in **Schedule 1** of this Agreement.

**Council** means Central Coast Council.

**Current Development Contributions Plan** means the applicable plan and the Section 7.11 Contributions Plan for Central Coast Council.

**Dedication Date** has the meaning given to that term in clause 2.1(b) of **Schedule 1**.

**Development** means the proposed development of the Land that complies with the Amending LEP.

**Development Application** means a development application under Part 4 of the Act seeking consent to undertake the Development on the Land.

**Instrument Change** means the taking of effect of the Amending LEP.

**Land** means Lot 3 Deposited Plan 1084221 and Lot 2 Deposited Plan 1056960, also known as 68 Tonkiss Street, Tuggerah and 60 Wyong Road, Tuggerah.

**Maintenance Management Plan (MMP)** means the plan outlining the maintenance and servicing of the POS Land and facilities by the Proponent, at no cost to Council, for the designated **Maintenance Period**.

**Maintenance Period** is the period of five (5) years from the time that the POS Land is dedicated to Council in accordance with clause 2.1 (b) of **Schedule 1**.

**Parties** mean the Council and the Proponent, including both their successors and assigns.

**Party** means a party to this Agreement including its successors and assigns.

**Planning Proposal** means the document required by section 3.33 of the Act that explains the intended effect of the proposed Amending LEP and sets out the justification for making that Amending LEP, being Council reference number RZ/2/2021 and Department of Planning and Environment reference number PP\_2021\_WYONG\_5416.

**Proponent** means the owner of the Land from time to time, which as at the date of this Agreement is the person or entity identified in Item 1 of **Schedule 2** to this Agreement.

**Proponent's Representative** is the person identified in Item 2 of **Schedule 2** to this Agreement, appointed by the Proponent to act on behalf of the Proponent, or that person, from time to time, notified to Council in writing by the Proponent.

**Public Open Space (POS) Contribution** means the dedication of Public Open Space (POS) Land to Council and the carrying out of the Public Open Space (POS) Works.

**Public Open Space (POS) Land** means the Public Open Space (POS) land as described in clause 2.1(a) of **Schedule 1**.

**Public Open Space (POS) Embellishment Works** means embellishment and physical works to the Public Open Space (POS) Land with a minimum contribution value of \$1,000,000.

**Regulation** means the *Environmental Planning and Assessment Regulation 2000*.

**Shared Pathway** means the pathway constructed within the road reserve connecting the Land to the pedestrian overhead bridge on Wyong Road, Tuggerah, as described in clause 4.1(a) of **Schedule 1**.

**Shared Pathway works** means the physical works to construct the shared pathway as described in clause 4.2 of **Schedule 1**.

**Stage 1** means the first stage of the Development.

**Stage 1 Development Application** means the Development Application submitted for Stage 1 of the Development.

**Subdivision Certificate** has the same meaning as in the Act.

**Youth Centre** means the facility as described in clause 3.1(a) of **Schedule 1**.

**Youth Centre Works** means the works to establish the Youth Centre with a minimum contribution value of \$1,000,000 and a maximum contribution value of \$1,250,000.

## **5 PAYMENT OF MONETARY CONTRIBUTIONS**

- 5.1 This Agreement does not require the Proponent to pay any monetary contribution to Council.
- 5.2 The Parties agree that nothing that the Proponent does to meet its obligations under this Agreement will give rise to a reduction or variation or credit in any monetary contributions that might later be required by a Consent to undertake the Development on the Land.

## **6 PROPONENT OBLIGATIONS**

- 6.1 The Proponent undertakes that it will, as part of the process to seek development consent for the Development of the Land, undertake each contribution set out in Schedule 1 of this Agreement, at no cost to Council.
- 6.2 The Proponent undertakes that it will, as part of the process to seek development consent for the Development of the Land, undertake further traffic impact assessment to ascertain potential impacts to the surrounding road network and identify mitigation measures relevant to any proposed staging. A microsimulation model (prepared in accordance with TfNSW's base model) is required to assess the impacts of the development on the broader network, including the M1 Pacific Motorway interchange and the intersection of the Pacific Highway and Wyong Road.
- 6.3 The Proponent undertakes that it will, as part of the process to seek development consent for the Development of the Land, update or renew the executed existing planning agreement dated 26 October 2015 between the Proponent and the Minister for Planning. This existing planning agreement must be

amended prior to the determination of the first Development Application for housing on the R1 General Residential portion of the Land, to reflect the required infrastructure improvements and the proposed timing of road upgrades to support the development of the site.

- 6.4 The Proponent undertakes that it will, as part of the process to seek development consent for the Development of the Land, model all intersection and access points to the Land to demonstrate what configurations are proposed and ensure they operate safely. The modelling is to demonstrate how any potential conflicts with the adjoining Westfield Tuggerah Shopping Centre are resolved.

## **7 PROPONENT WARRANTIES AND INDEMNITIES**

7.1 As at the date of this Agreement the Proponent warrants to Council that:

- (a) Orta Pty Limited is the registered proprietor of Lot 3 in DP 1084221 and Scentre Pty Limited is the registered proprietor of Lot 2 in DP 1056960 which form the Land;
- (b) It is able to fully comply with its obligations under this Agreement;
- (c) It has full capacity to enter into this Agreement; and
- (d) There is no legal impediment to it entering into this Agreement or performing its obligations under this Agreement.

## **8 REVIEW OF THIS AGREEMENT**

- 8.1 Any amendments, variation or modification to or of, or consent to any departure by any party from the terms of this Agreement shall have no force or effect unless effected by a document executed by the parties which complies with the requirements of section 7.5 of the Act.

## **9 FURTHER AGREEMENT RELATING TO THIS AGREEMENT**

- 9.1 The Parties may, at any time and from time to time, enter into agreements relating to the subject matter of this Agreement for the purpose of implementing this Agreement that are not inconsistent with this agreement.

## **10 DISPUTE RESOLUTION**

- 10.1 If a dispute arises out of or relates to this Agreement (including any dispute as to the meaning, performance, validity, subject matter, breach or termination of this Agreement or as to any claim in tort, in equity or pursuant to any statute) (**Dispute**), any court or arbitration proceedings shall not be commenced by or against Council, the Proponent or their successors or assigns, relating to the Dispute unless the parties to the Dispute (**Parties**) have complied with this clause, except where a party seeks urgent interlocutory relief.
- 10.2 A party claiming that a Dispute has arisen under or in relation to this Agreement is to give written notice to the other parties to the Dispute, specifying the nature of the Dispute.
- (a) The Parties agree to mediate the Dispute in accordance with the Mediation Rules of the Law Society of New South Wales and to take action to have the Dispute mediated within 7 working days of the receipt of written notice of the Dispute.



- (b) The Parties agree that the President of the Law Society of New South Wales or the President's nominee will select the mediator and determine the mediator's remuneration.
  - (c) The Parties to the mediation will be jointly responsible for the fees of the mediation and each party shall bear its own costs.
  - (d) The Parties may, but are not required, to enter into a written agreement before mediating a Dispute.
  - (e) A legal representative acting for either of the Parties may participate in the mediation.
- 10.3 From the time when a notice of Dispute is served, neither party shall take action to terminate this Agreement, until after the conclusion of the mediation.
- 10.4 Despite clause 10.1, either Council or the Proponent may institute court proceedings to seek urgent equitable relief in relation to a dispute or difference arising out of or in connection with this Agreement.

## **11 COSTS**

- 11.1 The Proponent agrees to pay or reimburse the costs of Council in connection with the:
- (a) Negotiation, preparation and execution of this planning agreement, to a maximum of \$2,500.00.
  - (b) Advertising and exhibiting this planning agreement in accordance with the Act, to a maximum of \$350.00, and
  - (c) All costs related to registration of this planning agreement where required, within 7 working days after receipt of a tax invoice from Council.

## **12 ENFORCEMENT**

- 12.1 The Proponent has agreed to provide security to Council for the performance of the Proponent's obligations under this Agreement by:
- 12.2.1 The registration of the Agreement on the Land pursuant to Clause 13 in relation to all Contributions; and
  - 12.2.2 clause 2.3, 2.4 and 2.5 of Schedule 1 are security for the dedication of the Open Space Land to Council.

## **13 REGISTRATION OF THIS AGREEMENT**

- 13.1 The parties agree to register this Agreement for the purposes of section 7.6(1) of the Act.
- 13.2 On execution, the Proponent is to provide Council with each of the following, at no cost to Council:
- 13.2.1 An instrument in registrable form requesting registration of this Agreement on the title to the Land duly executed by the Proponent, and
  - 13.2.2 The written and irrevocable consent of each person to referred in section 7.6(1) of the Act to that registration; and

13.2.3 Production of the certificate of title for the Land, for the purpose of procuring the registration of this Agreement.

13.3 The Proponent is to do such other things as are reasonably necessary to remove any notation relating to this Agreement from the title to the Land once the Proponent has completed its obligations under this Agreement or this Agreement is terminated or otherwise comes to an end for any other reason.

## 14 NOTICES

14.1 Any notice, consent, information, application or request that must or may be given or made to a Party under this Agreement is only given or made if it is in writing and sent in one of the following ways:

- (a) Delivered or posted to that Party at its address set out in (b) below.
- (b) Faxed or emailed to that Party at the relevant details set out below.

**(i) Council: Central Coast Council**

Attention: Chief Executive Officer  
Address: 2 Hely Street, WYONG NSW 2259  
Fax No: (02) 4350 2098  
Email: [ask@centralcoast.nsw.gov.au](mailto:ask@centralcoast.nsw.gov.au)

**(ii) Proponent: Scentre Pty Limited and Orta Pty Ltd**

Attention: Jamie Gordon / Adam Achterstraat  
Address: 85 Castlereagh Street, Sydney NSW 2000  
Email: [jgordon@scentregroup.com](mailto:jgordon@scentregroup.com); [aachterstraat@scentregroup.com](mailto:aachterstraat@scentregroup.com)

14.2 If a party gives the other party 3 working days' notice of a change of its address or email address, any notice, consent, information, application or request is only given or made by that other party if it is delivered, posted or emailed to the latest postal address or email address.

14.3 Any notice, consent, information, application or request is to be treated or given or made at the following time:

- (a) If it is delivered, when it is left at the relevant address.
- (b) If it is sent by post, 2 working days after it is posted.
- (c) If it is sent by email, on the date it was sent if it was sent during business hours, (unless the sender is aware that the email transmission is impaired, not completed or undelivered), or if it was sent outside normal business hours it will be deemed to have been received on the next business day.

## 15 ENTIRE AGREEMENT

15.1 This Agreement contains everything to which the parties have agreed in relation to the matters it deals with. No party can rely on an earlier document, or anything said or done by another party, or by a director, officer, agent or employee of that party before this Agreement was executed, except as permitted by law.

**16 FURTHER ACTS**

- 16.1 Each Party agrees to promptly execute all documents and do all such things that another Party from time to time reasonably requests to affect, perfect or complete this Agreement and all transactions incidental to it.

**17 GOVERNING LAW AND JURISDICTION**

- 17.1 This Agreement is governed by the law of New South Wales, Australia. The parties submit to the nonexclusive jurisdiction of its Courts and Courts of appeal from them. The parties will not object to the exercise of jurisdiction by those Courts on any basis provided that the dispute resolution provisions in clause 8 of this Agreement have first been satisfied.

**18 NO FETTER**

- 18.1 Nothing in this Agreement is to be construed as requiring Council to do anything that would cause it to be in breach of any of its obligations at law, and without limitation, nothing is to be construed as limiting or fettering in any way the exercise of any statutory discretion or duty.

**19 SEVERABILITY**

- 19.1 If a clause or part of a clause in this Agreement can be read in a way that makes it illegal, unenforceable or invalid, but can also be read in a way that makes it legal, enforceable and valid, it must be read in the latter way. If any clause or part of a clause is illegal, unenforceable or invalid, that clause or part is to be treated as removed from this Agreement, but the rest of the Agreement is not affected.

**20 WAIVER**

- 20.1 The fact that a Party fails to do, or delays in doing, something the Party is entitled to do under this Agreement, does not amount to a waiver of any obligation of, or breach of obligation by, another Party. A waiver by a Party is only effective if it is in writing. A written waiver by a Party is only effective in relation to the particular obligation or breach in respect of which it is given. It is not to be taken as an implied waiver of any other obligation or breach or as an implied waiver of that obligation or breach in relation to any other occasion.

**21 EXPLANATORY NOTE**

- 21.1 The Appendix attached to this Agreement at Attachment 2 contains the Explanatory Note relating to this Agreement required by Clause 25E of the Regulation.
- 20.2 Pursuant to Clause 25E(7) of the Regulation, the Parties agree that the Explanatory Note in the Appendix is not to be used to assist in construing this Agreement.

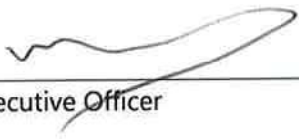


**22 EXECUTION PANEL**

**EXECUTED** as a Planning Agreement

Date: 6/3/2025

Executed pursuant to delegated authority under section 377 of the *Local Government Act, 1993*, in accordance with the resolution of the Central Coast Council dated 10 December 2024



Chief Executive Officer



Witness signature

**DAVID FARMER**

Name [BLOCK LETTERS]

Date: 8/3/2025

**NICOLE JENKINS**

Witness Name [BLOCK LETTERS]

Date: 6/3/2025

Executed by **SCENTRE PTY LIMITED ACN 000 317 279**  
in accordance with Section 127 of the Corporations Act



Director/Secretary

**PAUL FRANCIS GIUGNI**

Name [BLOCK LETTERS]

Date:



Director

**ELLIOTT RUSANOW**

Name [BLOCK LETTERS]

Date:

Executed by **ORTA PTY LIMITED ACN 008 617 810**  
in accordance with Section 127 of the Corporations Act

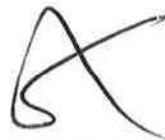


Director/Secretary

**PAUL FRANCIS GIUGNI**

Name [BLOCK LETTERS]

Date:



Director

**ELLIOTT RUSANOW**

Witness Name [BLOCK LETTERS]

Date:

## SCHEDULE 1

### 1. Contributions

The Proponent undertakes to provide Contributions to the Council in the manner set out below:

<b>Contribution</b>	<b>Timing</b>
Public Open Space (POS) Contribution	In accordance with clause 2 of this Schedule
Community Facilities Contribution	In accordance with clause 3 of this Schedule
Transport Contribution	In accordance with clause 4 of this Schedule

### 2. Public Open Space (POS) Contribution

#### 2.1 Public Open Space (POS) Land

- (a) The POS Land to be dedicated to Council must be:
- (i) at least 1 hectare in size;
  - (ii) located on unencumbered land with a minimum of 75% of the site useable and free of hazards to support recreation activity, facilities and access; and
  - (iii) be fit for purpose and suitable to be developed as a District Recreation Park.
- (b) The POS Land must be dedicated to Council at the same time as the first Occupation Certificate for Stage 1 of the Development is issued. The associated Plan of Subdivision must indicate the dedication of the Land to Council as a Public Reserve (to be dedicated at an agreed land value cost at the Dedication Date).

#### 2.2 Public Open Space (POS) Embellishment Works

- (a) The Proponent must:
- (i) consult with Council regarding the Concept Design of the POS Embellishment Works which is to be prepared generally in accordance with the POS Provision Framework (refer to Attachment 1) for a District Recreation Park outlined in Council's *Open Space Strategy 2024-2031* (December 2024);
  - (ii) submit the Concept Design to be reviewed and agreed in principle by Council prior to lodgement of the Stage 1 Development Application for the Land. The Concept Design will identify the preferred layout of the park, play elements, park infrastructure, access requirements, landscape design and tree plantings, and including costings of the works and maintenance considerations for Council;
  - (iii) prepare necessary Concept Design drawings, construction drawings and any necessary reports to Council for review and to obtain Development Approval for the proposed District Recreation Park as part of the lodgement of the Stage 1 Development Application for the Land;

- (iv) carry out the POS Embellishment Works consisting of playground equipment, physical works, landscaping works and District Level Park works on the POS Land to a minimum value of \$1,000,000 prior to the issue of the Occupation Certificate for Stage 1 of the Development; and
  - (v) consider Crime Prevention Through Environmental Design (CPTED) principles in the POS Embellishment Works to maximise public safety and park function.
- (b) The Proponent must:
- (i) provide or ensure that Council has a Contamination Report prior to the first Subdivision Certificate for Stage 1 of the Development being issued; and
  - (ii) must not dedicate the POS Land until the Council has provided the Proponent with a notice in writing which states that the Council is satisfied that the POS Land is free of contamination and suitable for use as a District Recreation Park.
- (c) The Proponent must ensure that at the Dedication Date, the POS Land is:
- (i) free from noxious weeds and vermin; and
  - (ii) free from all encumbrances as agreed in writing by the Council.
- (d) The Proponent must pay all rates and taxes owing in respect of the POS Land up to and including the Dedication Date.

### **2.3 Consent to Compulsory Acquisition of the Public Open Space (POS) Land**

Subject to clause 2.4(a) of this Schedule 1, the Proponent consents to the compulsory acquisition of the POS Land:

- (a) in accordance with the *Land Acquisition (Just Terms Compensation) Act 1991 (Acquisition Act)*; and
- (b) on the terms set out in clause 2.4 of this Schedule 1.

### **2.4. Council's right to acquire**

- (a) Council may acquire the POS Land compulsorily in accordance with the Acquisition Act if the Proponent has failed to comply with its obligations with respect to the dedication of that land under this Agreement.
- (b) If Council acquires the POS Land compulsorily in accordance with the Acquisition Act:
  - (i) the Developer agrees that the compensation payable to it on account of that acquisition under the Acquisition Act is \$1.00; and
  - (ii) Council must complete that acquisition within twelve (12) months of a written notice from Council to the Proponent setting out the Proponent's failure to comply with its obligations with respect to the dedication of the POS Land under this Agreement.

## **2.5 Consent of owners**

The Proponent agrees that the provisions of clause 2.3 and 2.4 of this Schedule 1 are an agreement with respect to the compulsory acquisition of the POS Land for the purpose of section 30 of the Acquisition Act.

## **2.5 Maintenance of Works**

- (a) The Proponent must:
  - (i) provide to Council a Maintenance Management Plan (MMP) that sets out the proposed maintenance of the POS Land and embellishment works in accordance with Council's current minimum service provisions and a proposed reporting regime, at least 30 days prior to the delivery of the POS Land to Council in accordance with clause 2.2;
  - (ii) incorporate any required amendments by Council, acting reasonably, and deliver the final version of the MMP to Council for endorsement of the Chief Executive Officer (CEO) or a nominated delegate;
  - (iii) commence the implementation of the MMP as approved by Council within 10 days of the finalisation of the plan; and
  - (iv) continue to maintain the POS Land and facilities in accordance with the MMP for a maintenance period of five (5) years commencing on and from the Dedication Date.
- (b) Should the Proponent default on completing the maintenance works in the timeframe outlined in the MMP, the Council may carry out the work necessary and may recover from the Proponent the reasonable costs incurred by it in doing so.

## **3. Community Facilities Contribution**

### **3.1 Youth Centre**

- (a) The Proponent must establish a ground floor Youth Centre in connection with the Development of that part of the Land zoned R1 General Residential zone.
- (b) The Youth Centre may be incorporated within either of:
  - (i) that part of the Land zoned MU1 Mixed Use; or
  - (ii) the Westfield Tuggerah shopping centre located at 50 Wyong Road, Tuggerah.

### **3.2 Youth Centre Works**

The Proponent must:

- (a) commence the design of the Youth Centre Works prior to the first Occupation Certificate for any Development on the part of the Land zoned R1 General Residential zone;

- (b) finalise the construction of the Youth Centre Works prior to the issue of an Occupation Certificate for any Development (excluding subdivision, remediation works or construction of access roads) on the part of the Land zoned MU1 Mixed Use zone;
- (c) consult with Council regarding the design of the Youth Centre Works which is to be reviewed and agreed in principle by Council prior to lodgement of any Development Application (excluding subdivision, remediation works or construction of access roads) for the part of the Land zoned MU1 Mixed Use zone; and
- (d) procure the grant to the Council of occupation rights over the Youth Centre by way of a lease for nil rent and otherwise on standard lease terms.

#### **4. Transport Contribution**

##### **4.1 Shared Pathway**

The Proponent must construct a 3 metre wide Regional dedicated Shared Pathway within the road reserve from the Land, along Wyong Road to the overhead pedestrian bridge, adjoining Westfield Tuggerah Shopping Centre generally as shown in Attachment 2. The Shared Pathway is to provide safe pedestrian access from the Land to the overhead pedestrian bridge.

##### **4.2 Shared Pathway Works**

- (a) The Proponent must:
  - (i) obtain all necessary approvals to carry out the roadworks, including any lease or licence for works within the road reserve, to facilitate the construction of the Shared Pathway;
  - (ii) consult with Council and Transport for NSW on the design of the Shared Pathway, including the on grade crossing of Tonkiss St at the intersection with Wyong Rd, which is to be reviewed and agreed in principle prior to lodgement of the Stage 1 Development Application for the Land;
  - (iii) ensure all works are constructed in accordance with Transport for NSW and Council requirements, Austroads guidelines, Australian Standards, and Central Coast Council Civil Works Specification – Design Guideline 2020, including obtaining any permit required for works within the road reserve; and
  - (iv) complete the construction of the Shared Pathway, including any upgrade required to create the on grade crossing of Tonkiss St at the intersection with Wyong Rd, within six (6) months of the issue of an Occupation Certificate for Stage 1 of the Development.



**Table 1 – Requirements under section 7.4 of the Act (clause 2.2)**

The parties acknowledge and agree that the table set out below provides for certain terms, conditions and procedures for the purpose of the Agreement complying with the Act.

Item	Section of Act or Regulation	Provision/clause of this Agreement
1.	<p><b>Planning instrument and/or development application</b> (section 7.4 of the Act)</p> <p>The Developer has:</p> <p>(a) sought a change to an environmental planning instrument;</p> <p>(b) made, or proposes to make, a Development Application; or</p> <p>(c) entered into an agreement with, or is otherwise associated with, a person, to whom paragraph (a) or (b) applies.</p>	<p>(a) Yes</p> <p>(b) Yes</p> <p>(c) No</p>
2.	<p><b>Description of land to which this document applies</b> (section 7.4(3)(a) of the Act)</p>	<p>Clause 4.1 – definition of Land, being Lot 3 Deposited Plan 1084221 and Lot 2 Deposited Plan 1056960, also known as 60 Wyong Road, Tuggerah.</p>
3.	<p><b>Description of change to the environmental planning instrument to which this document applies and/or the development to which this document applies</b> (section 7.4(3)(b) of the Act)</p>	<p>See definition of Development and Instrument Change in Clause 4.1.</p>
4.	<p><b>The scope, timing and manner of delivery of the provision to be made by the Developer required by this document</b> (section 7.4(3)(c) of the Act)</p>	<p>See Schedule 1</p>
5.	<p><b>Applicability of sections 7.11 or 7.12 of the Act</b> (section 7.4(3)(d) of the Act)</p>	<p>Clause 3.4 of this Agreement.</p>
6.	<p><b>Applicability of section 7.24 of the Act</b> (section 7.4(3)(d) of the Act)</p>	<p>Clause 3.4 of this Agreement.</p>
7.	<p><b>Consideration of benefits under this document if section 7.11 applies</b> (section 7.4(3)(e) of the Act)</p>	<p>Clause 3.5 of this Agreement.</p>

Item	Section of Act or Regulation	Provision/clause of this Agreement
8.	<b>Mechanism for Dispute Resolution</b> (section 7.4(3)(f) of the Act)	Clause 10
9.	<b>Enforcement of this document</b> (section 7.4(3)(g) of the Act)	Clause 12
10.	<b>No obligation to grant consent or exercise functions</b> (section 7.4(9) of the Act)	Clause 18
11.	<b>Registration of this document</b> (section 7.6 of the Act)	Clause 13
12.	<b>Whether certain requirements of this document must be complied with before a construction certificate is issued</b> (section 205(2) of the Regulation)	Not required
13.	<b>Whether certain requirements of this document must be complied with before a subdivision certificate is issued</b> (section 205(2) of the Regulation)	Required – see Schedule 1.
14.	<b>Whether certain requirements of this document must be complied with before an occupation certificate is issued</b> (section 205(2) of the Regulation)	Not required.
15.	<b>Whether the explanatory note that accompanied exhibition of this document may be used to assist in construing this document</b> (section 205(5) of the Regulation)	Clause 21

## SCHEDULE 2

ITEM	DEFINED TERM	PARTICULARS
1	Proponent	Scentre Pty Limited ACN 000 317 279 and Orta Pty Ltd ACN 008 617 810 85 Castlereagh Street, Sydney NSW 2000
2	Proponent's Representative	Jamie Gordon / Adam Achterstraat 85 Castlereagh Street, Sydney NSW 2000

## APPENDIX

*Environmental Planning and Assessment Regulation 2000*

*(Clause 25E)*

### EXPLANATORY NOTE

#### Voluntary Planning Agreement

Under section 7.4 of the *Environmental Planning and Assessment Act, 1979*

#### Parties

**Central Coast Council** (ABN 73 149 644 003) of 2 Hely Street, Wyong, in the State of New South Wales  
**(Council)**

and

**Scentre Pty Limited** ACN 000 317 279 and **Orta Pty Ltd** ACN 008 617 810 of 85 Castlereagh Street, Sydney  
NSW 2000 **(Proponent)**

#### Description of the Land to which the Planning Agreement Applies

Part Lot 3 Deposited Plan 1084221 and Part Lot 2 Deposited Plan 1056960 also known as 68 Tonkiss Street,  
Tuggerah and 60 Wyong Road, Tuggerah.

#### Description of Proposed Development

Development means the proposed development of the Land that complies with the Amending LEP and is  
otherwise approved by Council.

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

##### Objectives of the Agreement

The objective of the Agreement is to document the voluntary contributions to be provided by the Proponent  
to Council in connection with the Instrument Change.

##### Nature of the Planning Agreement

The Agreement is a planning agreement under section 7.4 of the *Environmental Planning and Assessment Act  
1979* (Act). It is an agreement between the Council and the Proponent. The Agreement is a voluntary agreement  
under which provisions are made by the Proponent for the conservation or enhancement of the natural  
environment section 7.4(2)(f).

##### Effect of the Agreement

The Agreement:

- relates to the Instrument Change,
- relates to the carrying out by the Proponent of the Development on the Land,

- does/does not exclude the application of section 7.11, section 7.12 or section 7.24 to the Development,
- requires the Proponent to provide the contributions to Council set out in Schedule 1,
- is to be registered on the title to the Land,
- provides dispute resolution methods for a dispute under the Agreement, being mediation and arbitration, and
- provides that the Agreement is governed by the law of New South Wales.

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

### **Planning Purposes Served by the Agreement**

In accordance with section 7.4(2) of the Act, the Agreement has the following public purposes:

- the provision of public amenities and/or public services
- the provision of transport and other infrastructure relating to land

The Agreement provides the best means of achieving the above public purposes through the provision of a District Level Park, a Youth Centre and infrastructure for roads.

### **How the Agreement Promotes the Public Interest**

The Agreement promotes the public interest by ensuring the embellishment and dedication of land to provide for community recreation, public recreation and undertaking the construction of roadworks.

### **For Planning Authorities:**

#### ***How the Agreement Promotes the Objects of the Act under which it is Constituted***

The Agreement promotes the objects of the Act by:

- Promoting the social and economic welfare of the community and a better environment by the proper management and development of the State's natural and other resources;
- Facilitating sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment;
- Facilitating the orderly and economic use and development of the Land.

The Agreement provides Council with the land for a District Level Park to serve the local community, a Youth Centre to service the local community and roadworks to ensure the safety of residents and visitors to the Land.

#### ***Councils – How the Agreement Promotes the Council's Charter***

The Agreement promotes the elements of the Council's Charter by:

- enabling the provision of adequate, equitable and appropriate services and facilities for the community

- enabling the proper management, development and enhancement of the area for which it is responsible in a manner that is consistent with and promotes the principles of sustainable development
- enabling it as the custodian and trustee of public assets to effectively plan for, account for and manage the assets for which it is responsible
- keeping the local community and the State Government (and through it the wider community) informed about its activities.

The Agreement provides Council with land and public works to enable appropriate services to be provided to the community and for the management of the natural environment for the benefit of those living in the area.

***Whether the Agreement Conforms with Council's Capital Works Program***

Yes

- Council's Operational Plan has a number of focus areas including Cherished and Protected Natural Beauty, Delivering Essential Infrastructure and Balanced and Sustainable Development.
- The Agreement conforms with Council's current Operational Plan and Delivery program as it includes embellishment and dedication of land to Council for open space and community facilities, and the undertaking of roadworks that will improve transport, safety and liveability.

***Whether the Agreement specifies that certain requirements be complied with before issuing a Construction Certificate, Subdivision Certificate or Occupation Certificate***

Yes.

The Agreement specifies that the Proponent must undertake the following:

- embellish and dedicate open space to Council prior to the issue of an Occupation Certificate for Stage 1 Development of the Land;
- construct and embellish a Youth Centre prior to the issue of an Occupation Certificate for any Development (excluding in relation to remediation works or construction of access roads) on the part of the Land zoned MU1 Mixed Use; and
- complete roadworks involving the construction of a shared pathway within six (6) months of the issue of an Occupation Certificate for Stage 1 Development of the Land.

## ATTACHMENT 1 – PUBLIC OPEN SPACE (POS) PROVISION FRAMEWORK

### 7.3. Proposed Provision Framework - Public Open Space for Recreation and Sport

A proposed provision framework for the Central Coast has been developed around a set of performance criteria to ensure that the network of open space providing for sport and recreation is:

- « Fit for Purpose- able to accommodate use, not constrained by other or adjacent uses, and affordable to develop and maintain
- « Accessible – located within walking distance (for local parks), visible, able to be accessed easily and can be designed for inclusion
- « Comprised of parks and open space areas that are a suitable size and shape to be used for recreation or sport
- « Diverse in the range of landscape settings supporting parks and providing diverse activations within each site
- « Supportive of a range of co-located recreation uses and shared use of spaces including access to sporting spaces for informal recreation.

The provision framework provides guidance on multiple performance features for parks at local, district and regional levels and for district and regional sporting parks.

#### 7.3.1. Open Space for Recreation

Table 10: Draft Provision Framework for Open Space and Recreation Parks

ATTRIBUTES/ CHARACTERISTICS	LOCAL RECREATION PARK	DISTRICT RECREATION PARK	REGIONAL RECREATION PARK
<b>Size Distribution &amp; Accessibility</b>			
<b>Preferred Minimum Size:</b> Minimum sizes are not the "preferred size", it is a minimum. It is recommended that park sizes are larger where possible and a diversity of sizes 0.5 Ha and above is the target	0.5-1ha	1 -4ha	4ha +
<b>Shape</b>	More regular shapes preferred over linear open space. No edge/ boundary to be less than 20 m.	Shape can be variable but no edge/ boundary to be less than 50 m.	Shape can be variable, but in general edges/ boundaries should be greater than 50 m.
<b>Linear – tracks, trails, pathways</b>	Connections between residential streets, active transport network and activity spaces Widths and surface treatments to align with Council's design standards, including Universal Design Principles		
<b>Minimum width for access points</b>	Greater than 15 m wide (excluding the width of creeks or waterways measured from the top of bank). If part of a pathway or linear access connection or providing a minor entry point, then 10 m minimum width providing it is no longer than 20 m.		
<b>Useable Area/ Hazard free</b> The "functional" area of the park- the amount of space fit for recreation use and public activity. (refer to Quality Criteria)	75% of site useable, free of hazards For parks proposed to be less than 0.5 Ha an absolute minimum useable area of 3000 m <sup>2</sup>	75% of site useable and free of hazards to support sport and recreation activity, facilities and access	Must have at least 50% flood free and level land to support sport and recreation activity, facilities and access.
<b>Service Area/ population and access radius</b>	Local neighbourhood/ suburban area; one park for every 1,500 persons	Serves a number of suburbs or planning catchment; one park for every 5,000-10,000 persons. District parks also serves local catchment i.e. its locality provide	Serves whole council area and some regional (beyond Central Coast Council) demand. Major destination parks also serves local and district catchment i.e. its locality.

# ATTACHMENT 2 – LOCATION OF REGIONAL SHARED PATHWAY



*[Handwritten signatures and initials]*