

Explanatory Note
Voluntary Planning Agreement
657-769 Mamre Road, Kemps Creek

Environmental Planning and Assessment Regulation 2021 (clause 205)

Summary

The purpose of this Explanatory Note is to provide a plain English summary to support the Voluntary Planning Agreement (**the Planning Agreement**) under section 7.4 of the *Environmental Planning and Assessment Act 1979* (**the Act**) and clause 205 of the *Environmental Planning and Assessment Regulation 2021* (**the Regulation**). This explanatory note explains what the Planning Agreement is proposing, how it delivers public benefit, and how it is an acceptable means of achieving the proposed planning outcomes.

The Planning Agreement will require the provision of monetary contributions in connection with the proposed development of land known as 657-769 Mamre Road, Kemps Creek. The Planning Agreement is being entered into by the parties in satisfaction of clause 66(1)(a) of the Regulation.

Parties

The parties to the Planning Agreement are:

- (a) Penrith City Council as the planning authority;
- (b) Altis Frasers JV Pty Ltd ATF ARET Frasers Project Trust (ACN 640 585 897) as the developer; and
- (c) The Trust Company (Australia) Ltd (ACN 652 872 880) as the owner of the Land.

Description of subject land

The land to which the Planning Agreement applies is described as Lot 1 in DP 1018318 and Lot 1 in DP 1271677, known as 657-769 Mamre Road, Kemps Creek (the **Land**).

Description of the Development to which the Planning Agreement applies

The Planning Agreement was executed on Thursday 29 September 2022 and applies to development on the Land in accordance with any future development consent, including any Development Consent given in relation to:

- (a) State significant development application SSD25725029 for subdivision and construction and operation of a manufacturing plant to produce 48,000 tonnes per annum of powder and 25,000 tonnes per annum of liquid chemicals for cement works and related products; and
- (b) State significant development application SSD9522, for the construction and use of a Warehouse Distribution Centre,

(the Development). Summary of Objectives, Nature and Effect of the Planning Agreement

The objective of the Planning Agreement is to enhance the public domain for visitors to the Mamre Road Precinct, through the provision of a monetary contribution payable to Penrith City Council to be used by Penrith City Council for provision of new trees, shrubs and ground cover to areas reserved for in open space, construction of bike and pedestrian tracks for use by the local community, and provision of outdoor exercise equipment, picnic areas, and rest areas (refer clause 6.1(c) of the Planning Agreement).

Specifically, subject to the granting of development consent for the Development, the Planning Agreement will require the Developer to provide the following:

Contribution	Details	Timing	Value (ex GST)
Provision of monetary contribution	<p>Payment of monetary contribution to Penrith City Council for the provision of landscaping and open space embellishment within the Mamre Road Precinct, extending to the following:</p> <ul style="list-style-type: none"> (a) provision of new trees, shrubs and ground cover to areas reserved for open space; (b) construction of bike paths and walking tracks; (c) outdoor exercise equipment; and picnic and rest areas. 	Prior to the issue of the first construction certificate for the Development (excluding any construction certificate for SSD 9522), or if no such certificate is required, prior to the commencement of any work comprising the Development (excluding for SSD 9522).	\$9,600,000 (subject to CPI increase at the time of payment)
TOTAL:			\$9,600,000

Assessment of the Merits of the Planning Agreement

(a) How the Planning Agreement promotes one or more of the objects of the Act

The draft Planning Agreement promotes the following objectives of the Act:

- (a) the facilitation of ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment;
- (b) the promotion and co-ordination of the orderly and economic use and development of land; and
- (c) the promotion of good design and amenity of the built environment.

The Planning Agreement promotes the objects of the Act set out above by facilitating development of the Land in accordance with the Planning Agreement.

The Planning Agreement is consistent with Council's role under the *Local Government Act 1993* to provide facilities, appropriate to the current and future needs of local communities and the wider public by the enhancement of the public domain.

(b) How the Planning Agreement promotes the public interest

The Planning Agreement promotes the public interest by committing the Developer to provide the agreed monetary contribution that will fund the enhancement and embellishment of the public domain and public open space and contribute to greater amenity for the community in the Mamre Road Precinct area.

(c) How the Planning Agreement promotes the objects of the *Local Government Act 1993*

The Planning Agreement promotes the objects of the *Local Government Act 1993* by facilitating engagement with the local community by the Council and demonstrating and giving effect to a system of local government that is accountable to the community and that is sustainable, flexible and effective.

(d) The planning purposes served by the Planning Agreement

The monetary contributions proposed to be provided under the Planning Agreement will be used to achieve the following planning purposes:

- (a) Embellishments to public open space;
- (b) Enhancement of the public domain; and

- (c) Providing ecologically sustainable development.

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

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

- (a) 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
- (b) 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 Planning Agreement is consistent with the guiding principles of councils, set out in section 8A of the *Local Government Act 1993*, including that Councils should:

- (a) provide strong and effective representation, leadership, planning and decision-making;
- (b) carry out functions in a way that provides the best possible value for residents and ratepayers;
- (c) 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;
- (d) manage lands and other assets so that current and future local community needs can be met in an affordable way;
- (e) consider the long term and cumulative effects of actions on future generations;
- (f) consider the principles of ecologically sustainable development; and
- (g) actively engage with their local communities, through the use of the integrated planning and reporting framework and other measures.

(f) Whether the Planning Agreement conforms with the Council Capital Works Program

The proposed works are not part of a capital works program for the area.

(g) The planning purposes served by the Planning Agreement and whether the Planning Agreement provides a reasonable means of achieving those purposes

The Planning Agreement provides for the following public purposes, in accordance with section 7.4 of the Act:

- (a) the provision of (or the recoupment of the cost of providing) public amenities or public services; and
- (b) the provision of (or the recoupment of the cost of providing) infrastructure relating to land.

It is considered that the Planning Agreement provides for a reasonable means by which to achieve these planning purposes as it secures the provision of the monetary contributions by the Developer to Council by way of registration on title and the requirement for payment before a construction certificate may be issued.

(h) Requirements of the agreement that must be complied with before a construction certificate, occupation certificate or subdivision certificate is issued

The Voluntary Planning Agreement requires that the monetary contribution be paid prior to the issue of any construction certificate for the Development (excluding any construction certificate for SSD 9522, which is an existing approval).