

Explanatory Note

788-882 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 notification of a draft Voluntary Planning Agreement (**Planning Agreement**) under section 7.4 of the *Environmental Planning and Assessment Act 1979 (Act)* and clause 205 of the *Environmental Planning and Assessment Regulation 2021 (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 dedication of land, the provision of monetary contributions and the carrying out of works in connection with the proposed development of land known as 788-882 Mamre Road, Kemps Creek.

Parties

The parties to the Planning Agreement are:

- (a) Penrith City Council;
- (b) Mirvac Projects Pty Ltd;
- (c) Mirvac Industrial Developments Pty Ltd; and
- (d) Mirvac Funds Management Limited (as trustee for the Mirvac Kemps Creek Trust) as the owner of the Land (together, the **Developer**).

Description of subject land

The land to which the Planning Agreement applies is described as Lots 1-2 and 5 DP1285305 and Lots 6-7 DP1291562, known as 788-882 Mamre Road, Kemps Creek (**Land**).

Description of the Development to which the Planning Agreement applies

The Planning Agreement commences on and from the date it is executed by the parties and will apply to the staged development of the Land in accordance with Concept Approval SSD-10448 **Mod 3** (and any further Development Consent granted in accordance with that concept approval) with a total Net Developable Area of approximately 479,686 square meters and gross floor area of up to 247,646 square metres being the total gross floor area of approximately 9 buildings for the purpose of industrial, warehousing and distribution centres, and café uses, including: (a) Stage 1 comprising construction, fit-out and operation of one warehouse and one industrial building with ancillary offices, and ancillary car parking, landscaping, signage, services and utilities, carrying out of demolition, bulk earthworks, civil works, Mamre Road and Access Road 1 intersection works, realignment of existing creek and subdivision of the Land into three lots; and

(b) Other development on the Land, including further subdivision of the Land and the erection of warehouses, proposed to be carried out by the Developer in accordance with further Development Applications, being development which is not inconsistent with Concept Approval SSD-10448.

Summary of Objectives, Nature and Effect of the Planning Agreement

The objective of the Planning Agreement is to record the terms of the offer made by the Developer to provide development contributions in relation to the Development.

The Planning Agreement requires the Developer to provide the following:

Contribution	Details	Timing	Value (ex GST)
Provision of Monetary Contribution	Payment of monetary contribution to Penrith City Council	Prior to the issue of the second Occupation Certificate for the Development, but no later than 1 July 2025.	\$2,693,369.57
Provision of Works	Construction of: (a) Access Road 1; (b) Access Road 3 (South) Parts A and B; and (c) Roundabout at intersection of Access Road 1 and 3 (South).	In accordance with the timeframe for each component of the Works as set out in Column 4 of Schedule 1.	\$8,148,600.00
Dedication of Land	Dedication of land comprising: (a) Access Road 1; (b) Access Road 3 (South) Parts A, B and C; and (c) Access Road 3 (North).	In accordance with the timeframe for each component of the Dedication Land as set out in Column 4 of Schedule 1.	\$17,751,975.00
TOTAL:			\$28,593,944.57

On execution of the Planning Agreement the Developer must pay an administration fee.

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 ensuring that appropriate contributions are made towards the provision of transport infrastructure and other public purposes to satisfy needs that arise from the Development of the Land.

The Developer's offer to contribute towards the provision of transport infrastructure will have a positive impact on the public who ultimately use it.

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

- (a) the provision of (or the recoupment of the cost of providing) transport or other infrastructure relating to land and

(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 purpose, in accordance with section 7.4 of the Act:

- (a) the provision of (or the recoupment of the cost of providing) transport or other infrastructure relating to land.

It is considered that the Planning Agreement provides for a reasonable means by which to achieve this planning purpose as it secures the provision of appropriate contributions by the Developer to Council by way of registration on title and restrictions on the issue of a construction and occupation certificate for relevant stages of the Development.

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

The Planning Agreement requires that the certain contributions be provided prior to the issue of any occupation certificate for relevant stages of the Development.