

Explanatory Note
Exhibition of draft Voluntary Planning Agreement
805-817 Mamre Road, Kemps Creek

Environmental Planning and Assessment Regulation 2021 (clause 205)

1 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 the objectives, nature and effect of the Planning Agreement, and how it is in the public interest.

The Planning Agreement will require the provision of a monetary contribution, delivery of road infrastructure works, and dedication of land in connection with the proposed development of land known as 805-817 Mamre Road, Kemps Creek. The value of the monetary contribution is proposed to be satisfied by the delivery of road infrastructure works performed by the developer to the Council's satisfaction and the land the subject of those works, along with additional land, being dedicated to the Council.

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

2 Parties

The parties to the Planning Agreement are:

- (a) Penrith City Council as the planning authority (**Council**);
- (b) Gibbs Group Development Management Pty Ltd (ACN 651 475 508) as the developer (**Developer**); and
- (c) 805 Mamre NSW Pty Ltd (ACN 665 235 441) as trustee for the 805 Mamre NSW Logistics Property Trust (ABN 73 562 683 102) as the owner of the Land (**Landowner**).

3 Description of subject land

The land to which the Planning Agreement applies is described as Lot 26 in DP 258414, known as 805-817 Mamre Road, Kemps Creek, as shown edged in red in the plan below (**Land**).



4 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 development on the Land approved under State significant development consent SSD-30871587 (**Development Consent**) authorising the demolition of existing structures, bulk earthworks, subdivision of Lot 26 into eight lots, construction of public roads and interim access to Mamre Road, site servicing, stormwater infrastructure and the construction and operation of two warehouses with ancillary office space, car parking, landscaping and signage on the Land and Part Lot 2001 in DP 1036837 (**Development**).

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

The objective of the Planning Agreement is to provide a material public benefit by facilitating contributions by the Developer for public purposes, being the construction and maintenance of road and transport infrastructure in the Mamre Road Precinct and the dedication of land for roads and public recreation.

The nature of the Planning Agreement is a contractual relationship between the Council and the Developer for providing the Public Benefit.

The effect of the Planning Agreement is that the Developer will provide the Public Benefit in the manner provided for by the Planning Agreement (as applicable).

Specifically, the Planning Agreement will require the Developer to provide the following:

Contribution	Details	Timing	Value (ex GST)
Construction of Collector Road	Construction of that part of the Collector Road located on the Land, comprising approximately 25.6 metre wide and 155.27 lineal metre portion of "Collector Road" and associated road verge in accordance with the <i>Mamre Road Precinct Development Control Plan 2021</i> , including design, project management, legal, earthworks, carriageway, utilities, stormwater and verge work and a 'temporary turning head'.	Prior to the earlier of: a) any Occupation Certificate being issued for any part of the Development, or b) 30 June 2027.	\$1,313,584.20
Dedication of Collector Road Land	3,991 square metre allotment (approximately 25.6 metre wide and 155.27 metre long) of IN1 General Industrial zoned land. Described as Lot 6 in proposed plan of subdivision of Lot 26 in DP 258414.	Prior to any Occupation Certificate being issued for any part of the Development.	\$2,294,825
Collector Road Conversion Works	Construction of the works required to connect the part of the Collector Road located on the Land to the parts of the Collector Road located on Lot 27 of DP 258414 to the south	Within 6 months of the Council advising the Developer in writing of the completion of that part of the Collector	\$164,924.46

	and Lot 2001 of DP 1036837 to the north, including converting both the southern turning head arrangement and the northern temporary private access road (including converting the northern curb alignment).	Road located on Lot 2001 of DP1036837 and Lot 27 of DP258414, and in any case prior to the completion of the Collector Road and its connection to the public road network so as to provide access to Mamre Road.	
Dedication of RE 1 Land	Dedication of the total area of the Land zoned RE1 Public Recreation comprising a portion at the rear of the Land (Rear Portion) and a portion at the front of the Land (Front Portion) with the total area to be determined at time of dedication.	<p>For the Front Portion: within 6 months of the date on which the interim access road has been decommissioned in satisfaction of condition B11(b) of the Development Consent.</p> <p>For the Rear Portion: Prior to the earlier of:</p> <p>a) 6 months after the Open Space Edge Road being completed and connected to the broader public road network; or</p> <p>b) 30 June 2027.</p>	\$575 per square metre
Dedication of Open Space Edge Road Land	<p>2,826 square metre allotment (approximately 19.5 metre wide) of part IN1 zoned land dedicated free of cost to Council.</p> <p>Described as that part of Lot 7 zoned IN1 in proposed plan of subdivision of Lot 26 in DP 258414.</p>	Within 6 months of the completion of the Open Space Edge Road.	\$Nil
Open Space Edge Road Works	Construction of that part of the Open Space Edge Road located on the Land.	<p>Prior to the earlier of:</p> <p>(a) any Occupation Certificate being issued for any part of the Development, or</p>	\$Nil

		(b) 30 June 2027.	
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The Planning Agreement:

- does not exclude the application of sections 7.11, 7.12 or 7.24 of the Act to the Development;
- is required to be registered on the title of the Land;
- imposes restrictions on the Developer assigning an interest under the Planning Agreement or transferring the Land without obtaining consent from Council to do so; and
- provides a dispute resolution method for any disputes arising under the Planning Agreement, being mediation and expert determination.

6 Assessment of the Merits of the Planning Agreement

The Planning Agreement promotes the public interests and the objects of the Act.

The Planning Agreement promotes the public interest by committing the Developer to provide road and transport infrastructure works that will enhance vehicular and public access to the Mamre Road Precinct, as well as dedicating land zoned for public recreation. The Planning Agreement provides a reasonable means of achieving these Public Benefits.

The Planning Agreement supports the public interest in the following ways:

- by facilitating the improvement of public infrastructure to be utilised by the broader community;
- by providing opportunity for community participation in environmental planning and assessment through public notification of this agreement and opportunity for the public to make submissions in response; and
- promoting the orderly and economic use and development of land.

7 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.

8 How the Planning Agreement promotes the Guiding Principles for Councils

The Planning Agreement promotes the Council's charter under section 8 of the Local Government Act 1993 by providing adequate, equitable and appropriate infrastructure to the community.

9 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 delivery of works and the dedication of land required under the Planning Agreement occur prior to the issue of any occupation certificate for the Development;
- security in the form of a bank guarantee required under the Planning Agreement to be provided prior to the issue of a subdivision works certificate for the Development; and
- the easement in gross required under the Planning Agreement be registered over the public access land before a subdivision certificate is issued for the Development.