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Googong Urban Development State Planning Agreement

Deed of Novation

The Minister for Planning ("Minister")

Googong Development Corporation Pty Limited

("Original Developer")

Googong Township Pty Limited ("New Developer")

Date: 2.5.16

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The Minister for Planning

Googong Development Corporation Pty Limited

Googong Township Pty Limited

Googong Urban Development State Planning Agreement Deed of Novation

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The Minister for Planning

Googong Development Corporation Pty Limited

Googong Township Pty Limited

**Googong Urban Development State Planning Agreement
Deed of Novation**

Summary Sheet

Minister:

Name: The Minister for Planning
Address: c/-, Department of Planning and Environment, 23-33 Bridge Street,
Sydney NSW 2000
Telephone: (02) 9228 6111
Facsimile: (02) 9228 6455
Email: wollongong@planning.nsw.gov.au
Representative: Director-General

Original Developer:

Name: Googong Development Corporation Pty Limited
Address: Level 3, 64 Allara St, Canberra ACT 2061
Telephone: (02) 6230 0800
Facsimile: (02) 6230 0811
Email: malcolm.leslie@cicaustralia.com.au
Representative: Malcolm Leslie, Senior Project Director

New Developer:

Name: Googong Township Pty Limited
Address: Level 3, 64 Allara St, Canberra ACT 2061
Telephone: (02) 6230 0800
Facsimile: (02) 6230 0811
Email: malcolm.leslie@cicaustralia.com.au
Representative: Malcolm Leslie, Senior Project Director



The Minister for Planning

Googong Development Corporation Pty Limited

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Parties

The Minister for Planning

of Level 15, 52 Martin Place, Sydney NSW 2000 (**Minister**)

and

Googong Development Corporation Pty Limited ACN 104 332 523 of Level 3, 64 Allara Street, Canberra ACT 2600 (**Original Developer**)

and

Googong Township Pty Limited ACN 154 514 593 of Level 3, 64 Allara Street, Canberra ACT 2600 (**New Developer**)

Background

- A The Minister and the Original Developer are parties to the Original Agreement.
- B The Original Agreement relates to the whole of the Land.
- C The Original Developer has transferred the whole of the Land to the New Developer, and has also assigned the benefits of options to purchase the Option Land to the New Developer.
- D The New Developer has entered into the Deed of Guarantee under which Mirvac and CIC undertake to meet the obligations of the New Developer under the New Agreement.
- E The Original Developer wishes to novate all of its rights and obligations under the Original Agreement to the New Developer on and from the Effective Date.
- F The Minister consents to the transfer of the Land and the novation of the Original Agreement to the New Developer.

Operative provisions

1 Definitions and Interpretation

- 1.1 In this Deed, the following definitions apply:

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CIC means CIC Australia Limited ACN 003 157 515.

Deed means this deed, and includes any schedules, annexures or appendices to this deed.

Deed of Guarantee means the Deed of Guarantee executed by the New Developer, the Minister, Mirvac and CIC on 19 December 2011.

Effective Date means the date of settlement of the contract for sale of any part of the Land to the New Developer.

Land has the meaning given to that term in the Original Agreement.

Mirvac means Mirvac JV's Pty Limited ACN 098 668 850.

New Agreement means the Original Agreement as novated to the New Developer in accordance with the terms of this Deed.

Option Land has the meaning given to that term in the Original Agreement.

Original Agreement means the voluntary planning agreement dated 15 September 2011 and made between the Minister and the Original Developer.

1.2 In this Deed unless the contrary intention appears:

1.2.1 words in the singular include the plural and vice versa;

1.2.2 any gender includes the other genders;

1.2.3 if a word or phrase is defined its other grammatical forms have corresponding meanings;

1.2.4 "includes" means includes without limitation;

1.2.5 no rule of construction will apply to a clause to the disadvantage of a party merely because that party put forward the clause or would otherwise benefit from it; and

1.2.6 a reference to:

- (a) a person includes a partnership, joint venture, unincorporated association, corporation and a government or statutory body or authority;
- (b) a person includes the person's legal personal representatives, successors, assigns and persons substituted by novation;
- (c) any legislation includes subordinate legislation under it and includes that legislation and subordinate legislation as modified or replaced; and
- (d) an obligation includes a warranty or representation and a reference to a failure to comply with an obligation includes a breach of warranty or representation.

1.2.7 Headings do not affect the interpretation of this document.

1.3 All other capitalised words used in this Deed have the meanings given to those words in the Original Agreement.

2 Commencement and Status

2.1 This Deed takes effect on the date when all Parties have executed this Deed.

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-
- 6.1.1 it has capacity unconditionally to execute, deliver and comply with its obligations under this document;
 - 6.1.2 it has taken all necessary action to authorise the unconditional execution and delivery of, and the compliance with, its obligations under this document;
 - 6.1.3 this document is a valid and legally binding obligation and is enforceable against it by each other party in accordance with its terms; and
 - 6.1.4 its unconditional execution and delivery of, and compliance with its obligations under, this document do not contravene:
 - (a) any law or directive from a government entity;
 - (b) its constituent documents;
 - (c) any agreement or instrument to which it is a party; or
 - (d) any obligation of it to any other person.
 - 6.2 The Original Developer and the New Developer warrant that the rights to purchase the Option Land as set out in clause 5.1 of the Original Agreement have been assigned to the New Developer.
 - 6.3 The warranties and representations in clause 6.1 survive the execution of this document and the novation and assignment of the Original Agreement.

7 GST

- 7.1 Where a supply made under this Deed gives rise to a liability for GST, the consideration to be provided for that supply (other than under this clause) shall be increased by an additional amount equal to the GST payable on the supply. The additional amount must be paid, and the supplier must provide a tax invoice, at the same time as the other consideration for that supply is to be provided under this Deed. Terms used in this clause have the meanings in the *A New Tax System (Goods and Services Tax) Act 1999*.

8 Stamp duty and costs

- 8.1 The Original Developer and the New Developer are jointly and severally responsible for the Minister's legal costs incidental to the negotiation, preparation and execution of this Deed.
- 8.2 The New Developer will pay all stamp duty arising directly or indirectly from this Deed.

9 Further acts

- 9.1 Each party will take all steps, execute all deeds and do everything reasonably required by any other party to give effect to any of the actions contemplated by this Deed.
- 9.2 This Deed binds each party which signs it even if other parties do not, or if the execution by other parties is defective, void or voidable.

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Execution

Executed as a Deed

Dated:

2.5.16

Executed on behalf of the Minister



Minister for Planning or delegate

Dr Liz Davelin

Name of the Minister for Planning or delegate



Signature of Witness

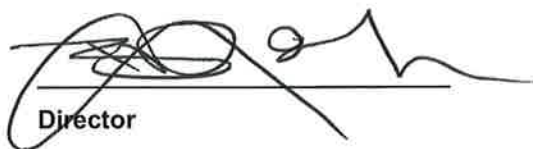
Lucie Geroudis

Name and Address of Witness

Executed on behalf of the Original Developer in accordance with s127(1)
of the Corporations Act (Cth) 2001



Secretary/Director


Director

**Googong Urban Development State Planning Agreement – Deed of
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Googong Development Corporation Pty Limited

Googong Township Pty Limited


Executed on behalf the New Developer in accordance with s127(1) of the
Corporations Act (Cth) 2001



Secretary/Director JAMES SERVICE



Director

x 

Gianni Carfi
DIRECTOR