

**Explanatory Note**  
**Minister for Planning ABN 38 755 709 681**  
**and**  
**Fulton Hogan Industries Pty Ltd ACN 000 538 689**  
**and**  
**IRM Property Group No 2 Pty Ltd ACN 114 816 296**  
**Draft Planning Agreement**

**Introduction**

The purpose of this explanatory note is to provide a plain English summary to support the notification of the draft planning agreement (the **Planning Agreement**) prepared under Subdivision 2 of Division 6 of Part 4 of the *Environmental Planning and Assessment Act 1979* (the **Act**).

This explanatory note has been prepared jointly by the parties as required by clause 25E of the *Environmental Planning and Assessment Regulation 2000* (the **Regulation**).

A reference in this explanatory note and the Planning Agreement to a provision of the Act is taken to be a reference to the renumbered and repealed and re-enacted provision in the *Environmental Planning and Assessment Amendment Act 2017*.

**Parties to the Planning Agreement**

The parties to the Planning Agreement are the Minister for Planning ABN 38 755 709 681 (the **Minister**) and Fulton Hogan Industries Pty Ltd ACN 000 538 689 and IRM Property Group No 2 Pty Ltd ACN 114 816 296 (the **Developer**).

**Description of the Subject Land**

The Planning Agreement applies to:

- Part of Lot 2 of Deposited Plan 1145808 known Archbold Road, Eastern Creek NSW 2766 (**Subject Land**).

**Description of the Proposed Development**

The Developer is seeking to construct and operate an asphalt plant, bitumen blending and storage facility and ancillary infrastructure and development of the Subject Land generally in accordance with Development Application DA-17-00823 which has been lodged with Blacktown City Council (**Proposed Development**). The Developer has made an offer to the Minister to enter into the Planning Agreement in connection with the Proposed Development.

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

The Planning Agreement provides that the Developer (as defined in the Planning Agreement) will make a monetary contribution of \$189,716 per net developable area (subject to indexation in accordance with the Planning Agreement) for the purposes of the provision

of designated State public infrastructure within the meaning of clause 29 of *State Environmental Planning Policy (Western Sydney Employment Area) 2009 (SEPP)*.

The monetary contribution will be payable:

1. before any Subdivision Certificate or Construction Certificate is issued for any part of the Proposed Development; or
2. if any part of the Proposed Development is to be carried out without the need for a Subdivision Certificate or Construction Certificate, then both:
  - a. before any part of the Proposed Development is commenced; and
  - b. any application for a Complying Development Certificate is made in respect of that part of the Proposed Development

whichever is earlier,

in accordance with Schedule 4 to the Planning Agreement.

The Developer is required to provide a bank guarantee.

The objective of the Planning Agreement is to facilitate the delivery of the Developer's contributions towards the provision of infrastructure, facilities and services referred to in clause 29 of the SEPP.

No relevant capital works program by the Minister is associated with the Planning Agreement.

## **Assessment of Merits of Planning Agreement**

### **The Planning Purpose of the Planning Agreement**

In accordance with section 93F(2) of the Act, the Planning Agreement has the following public purpose:

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

The Minister and the Developer have assessed the Planning Agreement and both hold the view that the provisions of the Planning Agreement provide a reasonable means of achieving the public purpose set out above. This is because it will ensure that the Developer makes appropriate contributions towards the provision of infrastructure, facilities and services referred to in clause 29 of the SEPP.

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

The Planning Agreement promotes the public interest by ensuring that an appropriate contribution is made towards the provision of infrastructure, facilities and services to satisfy needs that arise from development of the Subject Land.

### **How the Planning Agreement Promotes the Objects of the Act**

The Planning Agreement promotes the objects of the Act by encouraging:

- the promotion and co-ordination of the orderly and economic use and development of land.

The Planning Agreement promotes the objects of the Act set out above by requiring the Developer to make a contribution towards the provision of infrastructure, facilities and services referred to in clause 29 of the SEPP.

The Developer's offer to contribute towards the provision of State infrastructure will have a positive public impact as funds from the Developer will be available towards the provision of infrastructure, facilities and services referred to in clause 29 of the SEPP.

### **Requirements relating to Construction, Occupation and Subdivision Certificates**

The Planning Agreement requires each instalment of the Development Contribution to be paid prior to the issue of either the relevant construction certificate or subdivision certificate and therefore contains a restriction on the issue of a subdivision and construction certificates within the meaning of section 109J(1)(c1) and 109F(1) of the Act and clause 146A of the *Environmental Planning and Assessment Regulation 2000*.