

Explanatory Note

**Minister administering the Environmental Planning and
Assessment Act 1979 (ABN 20 770 707 468)**

and

**Mirvac Projects (Retail and Commercial) Pty Ltd (ACN 151
466 241) as trustee for the Mirvac Pennant Hills Residential
Trust**

**Planning Agreement for 55 Coonara Avenue, West Pennant
Hills 2125**

Environmental Planning and Assessment Regulation 2021

(Clause 205)

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 7.1 of Part 7 of the *Environmental Planning and Assessment Act 1979* (the **Act**).

This explanatory note has been prepared having regard to the Planning Agreements Practice Note issued under clause 205 of the *Environmental Planning and Assessment Regulation 2021* and its contents have been agreed by the parties.

Parties

Minister

Minister administering the Environmental Planning and Assessment Act 1979 (ABN 20 770 707 468) of Level 15, 52 Martin Place, Sydney, New South Wales 2000

Developer

Mirvac Projects (Retail and Commercial) Pty Ltd (ACN 151 466 241) as trustee for the Mirvac Pennant Hills Residential Trust of Level 28, 200 George Street, Sydney, New South Wales 2000

Description of the Land to which the Draft Planning Agreement Applies

This Draft Planning Agreement applies to the land comprised in Lot 61 in DP737386 (**Land**).

Description of Proposed Development

This draft Planning Agreement applies to the development of the Land, made permissible by the amendment of the *Hills Local Environmental Plan 2019* by the *Hills Local Environmental Plan 2019 (Amendment No 14)* including a maximum of 600 Dwellings.

Description of Development Contributions

This draft Planning Agreement requires the Developer to:

- carry out arboricultural works recommended in the Tree Assessment Report dated 23 October 2020 prepared in respect of the Land by ArborSafe Tree Consultancy and Management Systems in respect of trees identified as 'High Risk Trees within the Forest Dedication Land,
- carry out weed management works within the Forest Dedication Land in accordance with the weed management plan contained in Schedule 8 of the planning agreement,
- dedicate the Forest Dedication Land,
- pay monetary contribution in the amount of \$500,000 to be applied towards maintenance of the Forest Dedication Land for a 10 year period,
- carry out work to replace 2 timber bridges.

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

Objectives, Nature and Effect of Draft Planning Agreement

The draft Planning Agreement is a planning agreement under s7.4 of the *Environmental Planning and Assessment Act 1979*. The Draft Planning Agreement is a voluntary agreement under which Development Contributions (as defined in clause 1.1 of the Draft Planning Agreement) are made by the Developer for various public purposes (as defined in s7.4(3) of the Act)

The objective of the draft Planning Agreement is to require the carrying out of arboricultural works and weed management works on the Forest Dedication Land, the replacement of 2 timber bridges, as well as the dedication of Forest Dedication Land and payment of monetary contributions to be applied towards the ongoing maintenance of the Forest Dedication Land.

The Development Contributions are provided in conjunction with the development of the Land.

The Draft Planning Agreement:

- relates to the carrying out of the Development (as defined in clause 1.1 of the Draft Planning Agreement) on the Land,
- does not exclude the application of s7.11 or s7.12 of the Act to the Development,
- excludes the application of s7.24 of the Act to the Development,
- makes provision for the carrying out of arboricultural works and weed management works on the Forest Dedication Land by the Developer,
- makes provision for the dedication of the Forest Dedication Land by the Developer,

- makes provision for the payment of monetary contributions by the Developer to be applied towards the maintenance of the Forest Dedication Land for 10 years,
- makes provision for the carrying out of the replacement of 2 timber bridges by the Developer.
- Makes provision for access arrangements by the Developer to carry out the weed management works after the Forest Dedication Land is dedicated,
- is to be registered on the title to the Land,
- imposes restrictions on the Developer transferring the Land or any part of it or assigning, or novating an interest under the agreement,
- provides two dispute resolution methods for a dispute under the agreement, being expert determination and mediation,
- provides that the agreement is governed by the law of New South Wales, and
- provides that the A New Tax System (Goods and Services Tax) Act 1999 (Cth) applies to the agreement.

Assessment of the Merits of the Draft Planning Agreement

How the Draft Planning Agreement Promotes the Public Interest

The Forest Dedication Land contains plant community types of Sydney Turpentine Ironbark Forest and Blue Gum High Forest of the Sydney Bioregion which are listed as critically endangered ecological communities under the NSW Biodiversity Conservation Act 2016. The aboricultural works and weed management works required to be carried out on the Forest Dedication Land by the Developer and the dedication of the Forest Dedication Land will ensure that land that is dedicated to the State government for the benefit of the public which includes ecological communities are of a specified health and standard.

The payment of monetary contributions will ensure that there are funds available for the ongoing maintenance of the Forest Dedication Land for a period of 10 years.

The replacement of 2 timber bridges that are located on the Forest Dedication Land will ensure that these public infrastructure assets will be of an approved standard for use by the public.

The Draft Planning Agreement:

- promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,
- protects the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,
- promotes the proper construction and maintenance of buildings, being the timber bridges,
- provides increased opportunity for public involvement and participation in environmental planning and assessment of the Development.

The Draft Planning Agreement promotes the public interest by promoting the objects of the Act as set out in s1.3(a), (e), (h) and (j) of the Act.

Whether the Draft Planning Agreement Conforms with the Authority's Capital Works Program (if any)

Not applicable as the Minister does not have any applicable capital works program..

Whether the Draft Planning Agreement specifies that certain requirements must be complied with before a construction certificate, occupation certificate or subdivision certificate is issued

Yes. The draft Planning Agreement contains obligations to be completed before the issuing of the first Subdivision Certificate for the Development.