

Explanatory Note
Minister for Planning (ABN 20 770 707 468)
and
IRM Property Group NO2 Pty Ltd (ACN 114 816 296)
and
The Next Generation (NSW) Pty Ltd (ACN 166 368 869)
Deed of Variation to Planning Agreement

Introduction

The purpose of this explanatory note is to provide a plain English summary to support the notification of the draft Deed of Variation to the Planning Agreement for 1 Kangaroo Avenue, Eastern Creek (the **Deed**) 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 25B of the *Environmental Planning and Assessment Regulation 2000* and its contents have been agreed by the parties.

Parties to the Deed

The parties to the Deed are the Minister for Planning (ABN 20 770 707 468) (the **Minister**) and the following **Developer** entities:

- The Next Generation (NSW) Pty Ltd (ACN 166 368 869); and
- IRM Property Group NO2 Pty Ltd (ACN 114 816 296).

Description of the Subject Land

The Deed applies to:

- that part of Lot 2 in Deposited Plan 1145808 shown hatched on the plan in Annexure A to the Planning Agreement for 1 Kangaroo Avenue, Eastern Creek (**Planning Agreement**); and
- Lot 3 in Deposited Plan 1145808,

known as 1 Kangaroo Avenue, Eastern Creek 2766 (**Subject Land**).

Description of the Proposed Development as amended by the Deed

The Developer is seeking to:

- subdivide the Subject Land into approximately eight (8) lots, including two (2) residue lots for future development;
- construction of a precinct road to be dedicated as a public road;
- the carrying out of bulk earthworks and associated civil, infrastructure and landscaping works including construction of retaining walls, a bioretention basin and onsite detention basin;

- construction of a warehouse and distribution facility including a warehouse and distribution space, main ancillary office and dock office, hardstand area for heavy vehicle manoeuvring and marshalling, provision of 281 car parking spaces, signage and retaining walls,

generally in accordance with Development Application DA-21-01557 and SPP-21-00007 (**Proposed Development**). The Developer has made an offer to the Minister to enter into the Deed to vary 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 will make a monetary contribution of \$201,989 per hectare of net developable area (subject to indexation in accordance with the Planning Agreement) (**Development Contribution**) for the purposes of the provision of regional transport infrastructure and services within the meaning of clause 29 of *State Environmental Planning Policy (Western Sydney Employment Area) 2009 (SEPP)*.

An instalment of the Development Contribution will be payable prior to the issue of each relevant Subdivision Certificate in accordance with Schedule 4 to the Planning Agreement.

The Developer is required to provide a bank guarantee in accordance with Schedule 5 to the Planning Agreement.

The objective of the Planning Agreement is to facilitate the delivery of the Developer's contributions towards the provision of regional transport infrastructure 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 Public Purpose of the Planning Agreement

In accordance with section 7.4(2) of the Act, the Planning Agreement has the following public purpose:

- the provision of (or the recoupment of the cost of providing) public amenities or public services;
- 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 an appropriate contribution towards the provision of infrastructure, facilities and services.

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.

The Developer's offer to contribute towards the provision of infrastructure, facilities and services will have a positive impact on the public who will ultimately use them.

Requirements relating to Construction, Occupation and Subdivision Certificates

The Planning Agreement does not specify requirements that must be complied with prior to the issue of a construction certificate or an occupation certificate.

The Planning Agreement requires each instalment of the Development Contribution to be paid prior to the issue of the relevant Subdivision Certificate and therefore contains a restriction on the issue of a Subdivision Certificate within the meaning of section 6.15(1)(d) of the Act.