

## **Explanatory Note**

**Minister for Planning and Public Spaces (ABN 20 770 707 468)**

**and**

**Mirvac Projects Pty Ltd (ACN 001 069 245)**

**and**

**Mirvac Industrial Developments Pty Limited (ACN 127 755 239)**

**and**

**Mirvac Funds Management Limited (ACN 067 417 663) as trustee for the Mirvac  
Kemps Creek Trust**

**and**

**Pasquale Maltese and Concetta Maltese**

**and**

**Angelo Perri, Antonio Perri and Emilia Ierufi**

**and**

**Benito Vitalone and Francesca Vitalone**

**and**

**Diab Finianos and Sayde Finianos**

## **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 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* (the **Regulation**) and its contents have been agreed by the parties.

### **Parties to the Planning Agreement**

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

- Mirvac Projects Pty Ltd (ACN 001 069 245);

- Mirvac Industrial Developments Pty Limited (ACN 127 755 239);
- Mirvac Funds Management Limited (ACN 067 417 663) as trustee for the Mirvac Kemps Creek Trust;
- Pasquale Maltese and Concetta Maltese;
- Angelo Perri, Antonio Perri and Emilia Ierufi;
- Benito Vitalone and Francesca Vitalone; and
- Diab Finianos and Sayde Finianos.

## **Description of the Subject Land**

The Planning Agreement applies to the **Subject Land**, being:

- Lot 54 in DP259135;
- Lot 55 in DP259135;
- Lot 56 in DP259135;
- Lot 57 in DP259135; and
- Lot 58 in DP259135.

The Subject Land is located at 788-882 Mamre Road, Kemps Creek.

## **Description of the Proposed Development**

The Developer proposes to develop the Subject Land in stages up to 246,912 square metres of gross floor area, being the total gross floor area of approximately 11 buildings for the purpose of industrial, warehousing and distribution centres, and café uses generally in accordance with Concept Development Application SSD-10448 lodged with the Department and any Development Consent granted to that application, including:

- Stage 1 comprising construction, fit-out and operation of two warehouses with ancillary offices and café having a total gross floor area of 58,257 square metres, and ancillary car parking, landscaping, signage, services and utilities, carrying out of demolition, bulk earthworks, civil works, Mamre Road and Access Road 1 intersection works, realignment of existing creek and subdivision of the Subject Land into three lots; and
- other development on the Subject Land, including further subdivision of the Subject Land and the erection of warehouses, proposed to be carried out by the Developer in accordance with further Development Applications, being development which is not inconsistent with any Development Consent granted pursuant to SSD-10448,

**(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 will make the following **Development Contribution** at the times provided:

<b>Development Contribution</b>	<b>Timing</b>
<p>Carry out and complete works to upgrade an intersection along Mamre Road in accordance with any Development Consent granted to SSD-10448, and as generally shown on the Mamre Road Works Plan at Annexure B to the Planning Agreement as:</p> <ul style="list-style-type: none"> <li>• “Ultimate Proposed Road Pavement”;</li> <li>• “Ultimate Verge Works (Footpaths, Landscaping, Underground Utility Relocations)”;</li> <li>• “Ultimate Raised Concrete Island/Median”;</li> </ul> <p><b>(Mamre Road Works).</b></p>	<p>Prior to the issue of the first occupation certificate for a building or part of a building within the Proposed Development.</p>
<p>Dedicate a minimum of 14,004 square metres of land (for the purposes of widening Mamre Road) to be used as a public road, generally as identified on the Mamre Road Land Plan at Annexure A to the Planning Agreement <b>(Mamre Road Land)</b>.</p>	<p>Within three months after the Mamre Road Works are completed.</p>
<p>Pay a monetary contribution of \$201,874 per hectare of net developable area (subject to indexation in accordance with the Planning Agreement) less the offset amount for the value of the Mamre Road Works and the Mamre Road Land to the Minister to contribute to the provision of regional transport infrastructure and services in relation to the Subject Land.</p>	<p>Within 30 days after the Minister issues a notice which specifies the amount to the Developer.</p>

The Developer is required to provide the following bank guarantees as security for the following obligations:

<b>Bank guarantee (amount)</b>	<b>Secured obligation</b>
\$200,000	All obligations imposed on the Developer under the Planning Agreement.
\$1,997,500	The obligation to deliver the Mamre Road Works under the Planning Agreement.
An amount to be calculated in accordance with clause 4(a) of Schedule 5 to the Planning Agreement.	The obligation to make the Development Contribution in respect of the part of the Land to be transferred or sold after entry into the Planning Agreement.
An amount to be calculated in accordance with clause 5(b) of Schedule 5 to the Planning Agreement.	The obligation to make the Development Contribution.

The Planning Agreement provides the circumstances in which the security above could be returned or replaced with security of a lesser value.

The Planning Agreement will be registered on the titles to the Subject Land.

The objective of the Planning Agreement is to facilitate the delivery of the Developer's contribution towards the provision of regional transport infrastructure and services in relation to the Subject Land..

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

### **The Planning 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) transport or other infrastructure relating to land.

The Minister and the Developer have assessed the Planning Agreement and 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 regional transport infrastructure and services within the Western Sydney Employment Area.

### **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 regional transport infrastructure and services to satisfy needs that arise from development of the Subject Land.

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

### **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 a subdivision certificate.

The Planning Agreement requires the Mamre Road Works to be completed prior to the issue of the first occupation certificate for a building or part of a building within the Proposed Development and therefore contains a restriction on the issue of an occupation certificate within the meaning of clause 154E of the Regulation.