

Explanatory Note

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

and

Goodman Property Services (Aust) Pty Ltd
(ACN 088 981 793)

and

BGMG 11 Pty Limited (ABN 73 616 276 076) as trustee for the BGMG 1 Oakdale
West Trust (ABN 79 264 172 511)

Variation to Planning Agreement

Introduction

The purpose of this explanatory note is to provide a plain English summary to support the notification of the Deed of Variation to planning agreement SVPA2017-8367 relating to Oakdale West Estate, Erskine Park dated 26 July 2019 (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 and its contents have been agreed by the parties.

Capitalised terms used but not defined in this explanatory note will have the meanings assigned to them in the Planning Agreement.

Parties to the Planning Agreement

The parties to the Deed of Variation are the Minister for Planning and Public Spaces (ABN 20 770 707 468) (the **Minister**), Goodman Property Services (Aust) Pty Ltd (ACN 088 981 793) (the **Developer**) and BGMG 11 Pty Limited (ABN 73 616 276 076) as trustee for the BGMG 1 Oakdale West Trust (ABN 79 264 172 511) (the **Landowner**).

Description of the Subject Land

The Planning Agreement as varied by the Deed of Variation applies to the same land to which the Planning Agreement applies, being Lot 11 DP 1178389 and Lot 1 DP 663937 as shown in the plan at Annexure A to the Planning Agreement (**Subject Land**).

Description of the Development

The development to which the Planning Agreement applies is as described in that agreement as development of the Subject Land for the purposes of a warehouse and logistics estate known as the 'Oakdale West Estate', including as contemplated by SSD7348 and any future Development Applications (the **Development**).

Summary of Objectives, Nature and Effect of the Planning Agreement as amended by the Deed of Variation

The Planning Agreement requires the Developer to make Development Contributions in connection with the Proposed Development for the purposes of the provision of regional transport infrastructure and services referred to in clause 29 of the *State Environmental Planning Policy (Western Sydney Employment Area) 2009* (**WSEA SEPP**).

No amendments are being made to the Subject Land, the Proposed Development or the Development Contributions payable in accordance with the Planning Agreement. The Development Contributions have been provided under the Planning Agreement.

The proposed Deed of Variation makes amendments to:

- allow the Developer (and certain other persons) to use its 'Excess Contributions Credit' determined under clause 4.3 of Schedule 4 of the Planning Agreement to discharge an obligation to make a housing and productivity contribution (other than a strategic biodiversity component or a transport project component) for development on land within Western Sydney Employment Area, being the land to which Chapter 2 of the *State Environmental Planning Policy (Industry and Employment) 2021* applies; and
- clarify the amount of the Excess Contributions Credit as at 1 July 2025 and the manner in which it is to be indexed on an annual basis.

The Deed of Variation recognises the change to the framework for State infrastructure contributions with the introduction of the housing and productivity contributions scheme on 1 October 2023.

Assessment of Merits of Planning Agreement as varied by the Deed of Variation

The Public Purpose of the Planning Agreement as varied by the Deed of Variation

In accordance with section 7.4(2) of the Act, the Planning Agreement has the public purpose of providing (or the recouping the cost of providing) transport or other infrastructure relating to Western Sydney Employment Area.

The Minister and the Developer have assessed the Planning Agreement as proposed to be varied by the Deed of Variation and both hold the view that the Deed of Variation does not change the means of achieving the public purpose of the Planning Agreement. This is because the Development Contributions under the Planning Agreement towards the provision of regional transport infrastructure and services in the Western Sydney Employment Area have been made.

How the Planning Agreement as varied by the Deed of Variation Promotes the Public Interest

The Planning Agreement has promoted the public by ensuring that an appropriate contribution was made towards the provision of regional transport infrastructure having regard to the needs that arise from the Proposed Development on the Subject Land. The Deed of Variation to the Planning Agreement does not affect the achievement of this public purpose.

Requirements relating to Construction, Occupation and Subdivision Certificates

The Planning Agreement includes requirements that must be complied with before the issue of construction certificate or a subdivision certificate (such as the making of a monetary contribution or obtaining an updated Offset Credits Schedule). The Planning Agreement therefore contains restrictions on the issue of each of these types of certificates (for the purposes of provisions of the Act and the regulations under that Act). It does not specify requirement that must be complied with before the issue of an Occupation Certificate.

The proposed Deed of Variation does not affect the requirements relating to the relevant certificates.