

## Explanatory Note

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

and

Mirvac Retail Sub SPV Pty Limited (ACN 122 863 521)  
as the trustee for Mirvac Harbourside Sub Trust

and

Mirvac Projects Pty Ltd (ACN 001 069 245)

## 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 and its contents have been agreed by the parties.

### Parties to the Planning Agreement

The parties to the Planning Agreement are the Minister administering the *Environmental Planning and Assessment Act 1979* (ABN 20 770 707 468) (the **Minister**) and Mirvac Retail Sub SPV Pty Limited (ACN 122 863 521) as the trustee for Mirvac Harbourside Sub Trust (**Mirvac**) and Mirvac Projects Pty Ltd (ACN 001 069 245) (**Mirvac Projects**) (together the **Developer**).

### Description of the Subject Land

The Planning Agreement applies to the following land, known as the Harbourside Shopping Centre, 2-10 Darling Drive, Sydney (**Subject Land**):

Lot	Deposited Plan
1	776815
2	776815
3	776815
4	776815
5	776815

6	776815
7	776815
8	776815
9	776815
10	776815
12	776815
13	776815
15	776815
17	776815

### Description of the Proposed Development

The Developer is proposing to redevelop the Subject Land and part of Lot 2015 in Deposited Plan 1234971 (**Part Lot 15**) and part of Lot 300 in Deposited Plan 836419 (**Part Lot 300**) in accordance with development consent reference SSD 7874 (**SSD 7874**), being a concept proposal comprising:

- (a) a residential and commercial building envelope, comprising:
  - (i) a maximum height of Reduced Level 166.95;
  - (ii) a maximum Gross Floor Area of 87,000 square metres, including:
    - (A) 42,000 square metres residential Gross Floor Area;
    - (B) 45,000 square metres non-residential Gross Floor Area;
- (b) minimum publicly accessible open space of 3,500 square metres on the Northern Podium;
- (c) sitewide concept landscaping including public domain upgrades and through site links;
- (d) Bunn Street bridge;
- (e) design guidelines and design excellence strategy;
- (f) car parking rates, and

stage 1 works, being works for the demolition of existing shopping centre and structures, southern pedestrian link bridge, monorail infrastructure and tree removal.

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

The Planning Agreement provides that the Developer will provide the following development contributions to the Minister as set out in the table below in accordance with Schedule 4 to the Planning Agreement:

<b>Development Contribution</b>	<b>Value</b>	<b>Timing</b>
Affordable Housing Monetary Contribution	\$5,200,000	Prior to the issue of the first Construction Certificate for any part of the Development, other than the demolition of existing buildings on the Land or Part Lot 2015 or Part Lot 300
Public Art and Future Activation Contribution	\$7,009,100	Prior to the issue of the final Occupation Certificate for the Development

**(Development Contribution).**

The Public Art and Future Activation Contribution comprises the provision of:

- the Public Art (being an artistic work, structure or piece (other than an architectural feature for a building) that is located in the public domain, or within a publicly accessible space, within Darling Harbour and, to the extent possible, in close proximity to the Development), with a minimum value of \$3,000,000 (excluding GST); and
- Future Activation Works (if the value of the Public Art to be provided is less than the Total Public Art and Future Activation Contribution Value of \$7,009,100), being such works as approved by Place Management NSW for the enhancement, embellishment and activation of the public domain within Darling Harbour, which may include such items as street furniture, wayfinding or public art.

The Public Art and Future Activation Contribution is to be provided in accordance with a deed to be agreed between the Developer and Place Management NSW (the Public Art Works Arrangement), being the owner of the Subject Land.

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 provision of the Development Contribution to satisfy conditions A6 and A7 of Schedule 2 of SSD 7874

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

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

In accordance with section 7.4 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) affordable housing,
- the funding of recurrent expenditure relating to the provision of public amenities or public services and affordable housing.

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 services, facilities and infrastructure.

### **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 affordable housing and public art will have a positive impact on the public who will ultimately use the affordable housing and view the public art.

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

The Planning Agreement requires payment of the Affordable Housing Monetary Contribution prior to the issue of the first construction certificate for any part of the Development (other than the demolition of existing buildings on the Land or Part Lot 2015 or Part Lot 300), and therefore contains a restriction on the issue of a construction certificate within the meaning of section 21 of the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*.

The Planning Agreement requires the Developer to make the Public Art and Future Activation Contribution prior to the issue of the final occupation certificate for the Development, and therefore contains a restriction on the issue of an occupation certificate within the meaning of section 48 of the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*.

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