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Canterbury-Bankstown Council

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Mirvac Residential (NSW) Developments Pty Ltd

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Western Sydney University

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# Voluntary Planning Agreement

2 and 2a Bullecourt Avenue, Milperra  
WSU Bankstown Campus

## Contents

<b>1</b>	<b>Definitions and interpretation</b>	<b>1</b>
1.1	Definitions	1
1.2	Interpretation	5
<b>2</b>	<b>Planning agreement under the Act</b>	<b>6</b>
<b>3</b>	<b>Application of this Agreement</b>	<b>6</b>
<b>4</b>	<b>Operation of this Agreement</b>	<b>6</b>
<b>5</b>	<b>Contributions to be made under this Agreement</b>	<b>6</b>
<b>6</b>	<b>Dedication of Dedication Land</b>	<b>7</b>
6.1	Delivery of the Dedication Land	7
6.2	Dedication process	7
<b>7</b>	<b>Carrying out and delivery of Works in Kind</b>	<b>8</b>
7.1	Design of Works in Kind	8
7.2	Carrying out of Works in Kind	8
7.3	Completion of Works in Kind	8
7.4	Failure to deliver Works in Kind	9
7.5	Alternative method of delivering Works in Kind	9
7.6	Deferral of Works in Kind	10
<b>8</b>	<b>Defects Liability</b>	<b>11</b>
8.1	Defects Notice	11
8.2	Developer to rectify Defects	12
8.3	Right of Council to step-in	12
8.4	Consequence of step-in	12
8.5	Costs of Council	12
<b>9</b>	<b>Affordable Housing Contribution</b>	<b>12</b>
<b>10</b>	<b>Application of s7.11, s7.12 and s7.24 of the Act to the Developer and benefits under this Agreement</b>	<b>13</b>
<b>11</b>	<b>Registration of this Agreement</b>	<b>13</b>
11.1	Registration	13
11.2	Release and discharge of Agreement	14
<b>12</b>	<b>Security and enforcement</b>	<b>14</b>
12.1	Compulsory Acquisition	14
12.2	Deferred Works Security	15
<b>13</b>	<b>Dispute Resolution</b>	<b>15</b>
13.1	Dispute	15
13.2	Notice of Dispute	16
13.3	Representatives of Parties to meet	16
13.4	Mediation	16
13.5	Court proceedings	16

13.6	Not use information	16
13.7	No prejudice	17
<b>14</b>	<b>Notices</b>	<b>17</b>
14.1	Delivery	17
14.2	Change of Details	17
14.3	Giving of Notice	18
14.4	Delivery outside of business hours	18
<b>15</b>	<b>Approvals and consent</b>	<b>18</b>
<b>16</b>	<b>Assignment and dealings</b>	<b>18</b>
<b>17</b>	<b>Termination of this Agreement</b>	<b>18</b>
<b>18</b>	<b>General</b>	<b>19</b>
18.1	Legal Costs	19
18.2	Entire Agreement	19
18.3	Further Acts	19
18.4	Governing law and jurisdiction	19
18.5	No Fetter	19
18.6	Representations and warranties	19
18.7	Severability	19
18.8	Modification	20
18.9	Waiver	20
18.10	Relationship of Parties	20
18.11	Further Steps	20
18.12	Explanatory Note	20
18.13	Counterparts	20
18.14	Rights cumulative	20
	<b>Schedule 1 - Section 7.4 Requirements</b>	<b>21</b>
	<b>Schedule 2 - Development Contributions</b>	<b>23</b>
	<b>Execution</b>	<b>29</b>
	<b>Annexure A - Dedication Land</b>	<b>30</b>
	<b>Annexure B - Explanatory Note</b>	<b>31</b>

## Date

# Parties

**Canterbury-Bankstown Council** ABN 45 985 891 846 of 66-72 Rickard Road,  
Bankstown NSW 2200 (**Council**)

**Mirvac Residential (NSW) Developments Pty Ltd** ABN 29 609 513 135 of Level 28,  
200 George Street, Sydney NSW 2000 (**Developer**)

**Western Sydney University** ABN 53 014 069 881 of Locked Bag 1797, Penrith NSW  
2651 (**Landowner**)

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## Background

- A The Landowner owns the Land.
  - B The Developer and the Landowner prepared the Planning Proposal seeking the Instrument Change, which includes a rezoning of the Land.
  - C The Developer intends to carry out the Development following the Instrument Change.
  - D The Developer has made an offer to enter into this Agreement with Council for the provision of Development Contributions in connection with the Planning Proposal and the Development.
  - E The combined agreed value of the Development Contributions is **[to be inserted]**.
  - F Council has accepted the offer to enter into this Agreement. The Parties wish to formalise that arrangement by entering into this Agreement in accordance with section 7.4 of the Act.
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## Agreed terms

### 1 Definitions and interpretation

#### 1.1 Definitions

Terms used in this Agreement have the following meanings:

<b>Act</b>	the <i>Environmental Planning and Assessment Act 1979</i> (NSW).
<b>Affordable Housing Contribution</b>	means the payment of a monetary contribution to Council for affordable housing purposes, as described in <b>Part C</b> of <b>Schedule 2</b> .

<b>Agreed Contribution Value</b>	means the estimated value for each Development Contribution as identified in <b>Column 3</b> of <b>Schedule 2</b> , indexed annually in accordance with the Consumer Price Index (All Groups Sydney) published by the Australian Bureau of Statistics on and from the date of this Agreement.
<b>Agreement</b>	this voluntary planning agreement, including any schedules and annexures.
<b>Approved Deferred Works</b>	means those Works in Kind that Council approves to defer under <b>clause 7.6</b> .
<b>Authority</b>	means, in respect of a particular context or circumstance, each Federal, State or Local Government, semi-Government, quasi-Government or other body or authority, statutory or otherwise, including but not limited to any court or tribunal, having jurisdiction and responsibility in respect of that context or circumstance.
<b>Business Day</b>	a day on which banks are open for business generally in Sydney, and which is not a Saturday, Sunday or bank or public holiday in Sydney and specifically excluding 27, 28, 29, 30 and 31 December.
<b>Certificate of Practical Completion</b>	has the meaning given to that expression in <b>clause 7.3(c)(i)</b> .
<b>Construction Certificate</b>	has the same meaning given to that expression in the Act.
<b>Dedication</b>	means transfer to Council for no cost in accordance with this Agreement. <b>Dedicate</b> has the same meaning.
<b>Dedication Land</b>	means the Local Roads Land and Open Space Land.
<b>Defect</b>	has the meaning given to that expression in <b>clause 8.1(a)</b> .
<b>Defects Liability Period</b>	with respect to each item of the Works in Kind, means 12 months from the date the particular Works in Kind is subject to a Certificate of Practical Completion issued in accordance with <b>clause 7.3(c)(i)</b> .
<b>Defects Notice</b>	has the meaning given to that expression in <b>clause 8.1(a)</b> .
<b>Deferred Works</b>	has the meaning given to that expression in <b>clause 7.6(a)</b> .
<b>Deferred Works Security</b>	has the meaning given to that expression in <b>clause 12.2(a)</b> .
<b>Development</b>	the development of the Land as contemplated in the Planning Proposal, including the construction of up to 430 residential dwellings and provision of local open space, a neighbourhood centre and drainage facilities.

<b>Development Consent</b>	has the same meaning given to that expression in the Act and includes any development consents granted by Council in respect of the Development.
<b>Development Contributions</b>	the contributions to be provided by the Landowner and Developer in accordance with <b>clause 5</b> and <b>Schedule 2</b> .
<b>Explanatory Note</b>	The explanatory note prepared pursuant to section 205 of the Regulation and attached at <b>Annexure B</b> .
<b>Instrument Change</b>	means an amendment to the LEP envisaged by the Planning Proposal, which is given effect by the publication of a new LEP in the NSW Government Gazette.
<b>Land</b>	means Lot 105 DP1268911 and Lot 1 DP101147, situated at 2 and 2a Bullecourt Avenue, Milperra and currently known as the Western Sydney University Bankstown Campus.
<b>LEP</b>	means the <i>Bankstown Local Environmental Plan 2015</i> (NSW).
<b>Local Roads Land</b>	that part of the Land that is proposed to be dedicated as public road, as indicatively shown on the plan at <b>Annexure A</b> .
<b>Monetary Contribution</b>	means the payment of an amount to Council in lieu of carrying out an item of Works in Kind that is equivalent to the Agreed Contribution Amount for that item.
<b>Notice</b>	has the meaning given to that expression in <b>clause 13.2</b> .
<b>Occupation Certificate</b>	has the same meaning given to that expression in the Act.
<b>Open Space Land</b>	that part of the Land that is proposed to be Dedicated to Council for public open space, as shown on the plan at <b>Annexure A</b> .
<b>Party</b>	a party to this Agreement, including their successors and assigns.
<b>Planning Proposal</b>	<p>means a planning proposal within the meaning of section 3.33 of the Act reference number PP-2021-5837, which proposes to:</p> <ul style="list-style-type: none"><li>(a) rezone the Land from SP2 Infrastructure (Educational Establishment) and SP2 (Electricity Transmission or Distribution Network) to R1 General Residential, B1 Neighbourhood Centre, RE1 Public Recreation, RE2 Private Recreation and SP2 Infrastructure (for stormwater drainage reserve); and</li><li>(b) make associated amendments to the LEP to facilitate the Development, including provisions relating to maximum building height, floor space ratio, minimum lot size and additional local provisions under Part 6 of the LEP.</li></ul>

<b>Practical Completion</b>	<p>the stage in the carrying out and completion of the Works in Kind when construction is complete, except for minor omissions and defects:</p> <ul style="list-style-type: none"><li>(a) which do not prevent the Works in Kind from being reasonably capable of being used for their intended purpose; and</li><li>(b) the rectification of which will not prejudice the convenient use of the Works in Kind.</li></ul>
<b>Public Domain Work Permit</b>	<p>means an approval issued by Council under the <i>Roads Act 1993</i> and <i>Local Government Act 1993</i> pursuant to which a developer is authorised to carry out works within, on, under or above any land owned by Council (including roads).</p>
<b>Register</b>	<p>the Torrens title register maintained under the <i>Real Property Act 1900</i> (NSW).</p>
<b>Regulation</b>	<p>the <i>Environmental Planning and Assessment Regulation 2021</i> (NSW).</p>
<b>Release Land</b>	<p>has the meaning given to that expression in <b>clause 11.2(a)</b>.</p>
<b>Residential Accommodation</b>	<p>has the meaning given to that expression in the <i>Standard Instrument—Principal Local Environmental Plan</i>.</p>
<b>Residential Lot</b>	<p>means a lot that forms part of the Land to be created by registration of a plan of subdivision and is intended to be developed for Residential Accommodation, excluding any Service Lots or Super Lots.</p>
<b>Service Lot</b>	<p>means a Lot that is created for one or more of the following purposes:</p> <ul style="list-style-type: none"><li>(a) to be dedicated or otherwise transferred to an Authority (including to Council);</li><li>(b) any public utility undertaking within the meaning of the <i>Standard Instrument—Principal Local Environmental Plan</i>;</li><li>(c) open space, recreation, environmental conservation, drainage or riparian land management; or</li><li>(d) a road,</li></ul> <p>but does not include a Super Lot.</p>
<b>Subdivision Certificate</b>	<p>has the same meaning given to that expression in the Act.</p>
<b>Super Lot</b>	<p>means a Lot which, following the registration of a plan of subdivision, is intended for further subdivision (including strata and community title subdivision) for Residential Accommodation, but does not include a Service Lot.</p>

**Works in Kind** each of the works to be carried out as specified in **Column 2** of **Schedule 2**.

## **1.2 Interpretation**

In this Agreement, unless the context clearly indicates otherwise:

- (a) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (b) the singular includes the plural and vice versa;
- (c) the word "person" includes a firm, a body corporate, an unincorporated association or an authority;
- (d) a reference to a person includes a reference to the person's executors, administrators, successors, substitutes (including, without limitation, persons taking by novation) and assigns;
- (e) a reference to anything (including, without limitation, any amount) is a reference to the whole and each part of it and a reference to a group of persons is a reference to all of them collectively, to any two or more of them collectively and to each of them individually;
- (f) "include" or "including" when introducing a list of items does not limit the meaning of the words to which the list relates to those items or to items of a similar kind;
- (g) a reference to a body, whether statutory or not which ceases to exist or whose powers or functions are transferred to another body is a reference to the body which replaces it or which substantially succeeds to its powers or functions;
- (h) no rule of construction applies to the disadvantage of a Party because that Party was responsible for the preparation of this Agreement;
- (i) any capitalised term used, but not defined in this Agreement, will have the meaning ascribed to it under, and by virtue of, the Act;
- (j) headings are inserted for convenience only and do not affect the interpretation of this Agreement;
- (k) if the day on which any act, matter or thing is to be done under this Agreement is not a Business Day, the act, matter or thing must be done on the next Business Day;
- (l) a reference in this Agreement to dollars or \$ means Australian dollars and all amounts payable under this Agreement are payable in Australian dollars;
- (m) a reference in this Agreement to any agreement, deed or document is to that agreement, deed or document as amended, novated, supplemented or replaced; and



- (n) a reference to a clause, part schedule or attachment is a reference to a clause, part, schedule or attachment of or to this Agreement.

## 2 Planning agreement under the Act

- (a) The Parties agree that this Agreement is a planning agreement within the meaning of section 7.4 of the Act.
- (b) **Schedule 1** of this Agreement summarises the requirements for planning agreements under section 7.4 of the Act and the ways in which this Agreement addresses those requirements.

## 3 Application of this Agreement

This Agreement applies to the:

- (a) Land;
- (b) Instrument Change; and
- (c) Development.

## 4 Operation of this Agreement

- (a) **Clauses 11** and **18.1** operate on and from the date of this Agreement.
- (b) The Parties agree that the balance of the terms of this Agreement are effective and binding on the Parties if the Instrument Change is made.
- (c) Notwithstanding **clause 4(b)**, the Parties agree that the Landowner and Developer are not bound by this Agreement to deliver the Development Contributions unless:
  - (i) the Instrument Change is made;
  - (ii) a Development Consent or Development Consents (as necessary) is or are granted for the Development; and
  - (iii) the Development is physically commenced in accordance with section 4.53 of the Act.

## 5 Contributions to be made under this Agreement

Subject to this Agreement and in accordance with **Schedule 2**, the Developer and the Landowner undertakes (as applicable) to deliver the Development Contributions, comprising the:

- (a) Dedication of the Dedication Land;
- (b) carrying out and delivery of the Works in Kind or the provision of an equivalent Monetary Contribution; and

- (c) provision of the Affordable Housing Contribution.

## 6 Dedication of Dedication Land

### 6.1 Delivery of the Dedication Land

The Landowner undertakes to Dedicate the Dedication Land specified in **Part A of Schedule 2**, by the time specified in **Column 4 of Schedule 2**, in accordance with **clause 6.2**.

### 6.2 Dedication process

- (a) The Landowner must take all steps necessary, and may be assisted by the Developer in the taking of such steps, to give effect to the Dedication of the Dedication Land to Council in accordance with the timing specified in **clause 6.1** by:
  - (i) in the case of the Open Space Land, either:
    - (A) preparing and registering a deposited plan which indicates that the Open Space Land is intended to be Dedicated to Council; or
    - (B) arranging the electronic conveyance of the Open Space Land to Council for \$1.00, including:
      - (1) preparing and registering a deposited plan to create the Open Space Land as separate parcels;
      - (2) procuring all necessary consents to facilitate the transfer of the Open Space Land to Council; and
      - (3) coordinating the electronic conveyance of the Open Space Land to Council via Property Exchange Australia Ltd (PEXA) or another applicable electronic lodgement network;
  - (ii) in the case of the Local Roads Land, preparing and registering a deposited plan which indicates that the Local Road Land is intended to be Dedicated to Council as public road in accordance with section 9 of the *Road Act 1993*; and
  - (iii) taking any other necessary action to give effect to the transfer of the title of the Dedication Land to Council.
- (b) Council must promptly do all things reasonably required by the Landowner to facilitate the registration of a deposited plan or plans to create the Dedication Land, including but not limited to issuing a Subdivision Certificate.
- (c) Subject to the requirements under this **clause 6.2**, Council agrees that it will accept the Dedication Land free of all encumbrances and interests other than any easements or interests required by any authority or utility service provider or required under any Development Consent.

- (d) The Developer is responsible for paying any costs associated with the Dedication of the Dedication Land to Council.

## 7 Carrying out and delivery of Works in Kind

### 7.1 Design of Works in Kind

The Developer must, promptly after the date of the Development Consent applicable to the relevant Works in Kind, prepare plans and specifications for the Works in Kind having regard to:

- (a) the relevant Development Consent;
- (b) applicable Council standards (except to the extent such standards are varied by the relevant Development Consent); and
- (c) applicable Australian standards.

### 7.2 Carrying out of Works in Kind

The Developer must:

- (a) carry out the Works in Kind:
  - (i) in a good and workmanlike manner; and
  - (ii) in accordance with the plans and specifications prepared under **clause 7.1**; and
- (b) bring the Works in Kind to Practical Completion by the time specified in **Column 4 of Schedule 2**.

### 7.3 Completion of Works in Kind

- (a) When the Developer is of the reasonable opinion that any item of the Works in Kind is near Practical Completion, the Developer must notify Council in writing within 10 Business Days before the date when Practical Completion is expected to be reached.
- (b) Council must inspect the relevant Works in Kind promptly following, and within 10 Business Days of Council receiving, the notice under **clause 7.3(a)**.
- (c) Council must, within 10 Business Days of completing its inspection of the Works in Kind (and in any event, no later than 20 Business Days after receipt of the notice under **clause 7.3(a)**), provide notice to the Developer specifying that either:
  - (i) it is of the opinion that Practical Completion has been reached for the relevant Works in Kind stating the date when Practical Completion was reached (**Certificate of Practical Completion**); or
  - (ii) it is of the opinion that Practical Completion has not been reached, in which case it must set out all the matters that Council

reasonably considers must be completed in order for Practical Completion to be reached.

- (d) If the Council does not provide the Developer with a notice under **clause 7.3(c)**, the Works in Kind the subject of the Developer's notice under **clause 7.3(a)** will be deemed to have been subject to a Certificate of Practical Completion on the date nominated in the Developer's notice.
- (e) The Developer:
  - (i) must correct any defects or finalise any incomplete work specified by Council under **clause 7.3(c)(ii)**, within the agreed time as reasonably nominated by the Developer, or if no time is nominated and agreed, within 10 Business Days after the Developer receives the notice issued under **clause 7.3(c)(ii)** from Council. Once complete, the provisions of **clauses 7.3(a) – (d)** will apply; or
  - (ii) if it does not agree with the matters set out in Council's notice issued under **clause 7.3(c)(ii)**, must notify Council that a dispute has arisen and **clause 11** of this Agreement will apply.
- (f) Council takes possession of the Works in Kind at 4:00pm on the date Council issues a Certificate of Practical Completion in accordance with **clause 7.3(c)(i)**.

#### **7.4 Failure to deliver Works in Kind**

- (a) If the Developer fails to complete all or any part of the Works in Kind as required by this Agreement by the time required by **clause 7.2(b)** and **Column 4 of Schedule 2** for that item of Works in Kind and:
  - (i) the Developer has not elected to pay a Monetary Contribution in lieu of the relevant Works in Kind in accordance with **clause 7.5**; or
  - (ii) Council has not agreed to a deferral of the relevant Works in Kind under **clause 7.6**,

Council may elect to complete that item or such part or parts of that item as are outstanding, or as otherwise agreed, or appoint a contractor to carry out the relevant Works in Kind on Council's behalf.

- (b) If **clause 7.4(a)** applies, the Landowner and Developer authorise, following at least 5 Business Days' notice provided by Council to the Landowner and Developer, Council, its officers, employees, agents and contractors to enter the Land for the purposes of completing the relevant Works in Kind.

#### **7.5 Alternative method of delivering Works in Kind**

- (a) The Developer may decide, at any time prior to the issue of a Construction Certificate and/or Public Domain Work Permit (whichever is applicable) in respect of items 7, 9 and 14 in **Schedule 2**, to pay to Council a Monetary Contribution in lieu of carrying out that item.

- (b) If the Developer decides to pay a Monetary Contribution in lieu of carrying out Works in Kind in accordance with **clause 7.5(a)**, the Developer must:
  - (i) give Council not less than 10 Business Days written notice of its intention to pay a Monetary Contribution;
  - (ii) transfer funds in the amount of the Monetary Contribution to Council by the time that the relevant item of Works in Kind was required to have been completed under this Agreement, provided Council has provided the Developer with sufficient details necessary to arrange the transfer of funds.
- (c) A Monetary Contribution is made for the purposes of this Agreement when cleared funds are deposited and credited by means of electronic funds transfer into a bank account nominated by Council.
- (d) If a tax invoice is required by law to be provided to the Developer by Council, the Developer is not required to pay the Monetary Contribution identified in its notice issued in accordance with **clause 7.5(b)(i)** until Council has given the Developer a tax invoice for the amount of the relevant Monetary Contribution.

## 7.6 Deferral of Works in Kind

- (a) Notwithstanding any other provision of this Agreement, if the Developer forms the view at any time that it is unable to deliver an item or items of Works in Kind (**Deferred Works**) by the time specified in **Column 4 of Schedule 2**, then the Developer may seek Council's approval to defer the relevant Works in Kind by providing written notice to Council:
  - (i) identifying the relevant Works in Kind that the Developer proposes to defer;
  - (ii) identifying the anticipated time for Practical Completion of the relevant Works in Kind; and
  - (iii) if the Developer seeks to reduce the Deferred Works Security from a default amount equal to the Agreed Contribution Value of the relevant Works in Kind, the Developer must provide reasons for that request including any evidence of the cost of achieving Practical Completion of the Deferred Works to support the reduction in the Deferred Works Security.
- (b) Within 10 Business Days of the Developer providing the notice under **clause 7.6(a)**, Council must give the Developer a written notice stating whether or not it consents to the deferral of the Deferred Works, the revised date for Practical Completion and any reduction in the Deferred Works Security. In determining whether it consents to the deferral of the Deferred Works, the revised date for Practical Completion and any reduction in the Deferred Works Security, Council must act reasonably.
- (c) If Council consents to the deferral of the Deferred Works, then:

- (i) the Developer must provide Council with the Deferred Works Security in the amount identified in Council's notice provided under **clause 7.6(b)**;
  - (ii) the time for completion of the Approved Deferred Works under this Agreement will be taken to be the revised date for Practical Completion approved by Council;
  - (iii) the Developer will not be considered to be in breach of this Agreement as a result of a failure to achieve Practical Completion of the Approved Deferred Works by the time for Practical Completion of those Works in Kind as specified in **Column 4 of Schedule 2**; and
  - (iv) if applicable, any relevant Subdivision Certificate may be issued notwithstanding that the time for Practical Completion of the Approved Deferred Works was required prior to the issue of a Subdivision Certificate in **Column 4 of Schedule 2**.
- (d) If the Approved Deferred Works do not achieve Practical Completion by the revised date, then Council may call on the Deferred Works Security in accordance with **clause 12.2(d)**.
- (e) The Developer may request a further deferral of Approved Deferred Works by following the procedures in this **clause 7.6**.

## 8 Defects Liability

### 8.1 Defects Notice

- (a) Where a Certificate of Practical Completion has been issued for all or any part of the Works in Kind pursuant to **clause 7.3(c)(i)**, but the relevant part of the Works in Kind contains a material defect, being a defect which:
- (i) adversely affects the ordinary use and/or enjoyment of the relevant part of the Works in Kind; or
  - (ii) will require maintenance or rectification works to be performed on the Works in Kind as a result of the existence of the defect,
- (**Defect**), Council may issue a defects notice (**Defects Notice**) to the Developer concerning that part of the Works in Kind, but only within the Defects Liability Period.
- (b) A Defects Notice must contain the following information:
- (i) the nature and extent of the Defect;
  - (ii) the specific details of the work Council requires the Developer to carry out in order to rectify the Defect; and
  - (iii) the time within which the Defect must be rectified (which must be a reasonable time and not less than 10 Business Days).

## 8.2 Developer to rectify Defects

- (a) The Developer must:
  - (i) procure the performance of the work required to rectify the Defects contained within a Defects Notice after receipt of the Defects Notice; or
  - (ii) serve a notice on Council that it disputes the matters set out in the Defects Notice.
- (b) The Developer must follow the procedure set out in **clauses 7.3(a) – (d)** in respect of the satisfaction of the Defects Notice.
- (c) Where the Developer serves notice on Council in accordance with **clause 8.2(a)(ii), clause 11** of this Agreement will apply.

## 8.3 Right of Council to step-in

If the Developer fails to rectify a Defect which it is obliged to rectify, then Council may have the rectification carried out by others without prejudice to any other rights and remedies Council may have, but only after giving the Developer 5 Business Days' written notice of its intention to do so.

## 8.4 Consequence of step-in

If Council elects to exercise the step-in rights granted to it under **clause 8.3** then:

- (a) Council may:
  - (i) enter upon any part of the Land that it requires to access in order to satisfy the obligations of the Developer in accordance with the Defects Notice; and
  - (ii) rectify the relevant Defects in accordance with the Defects Notice; and
- (b) the Developer must not impede or interfere with Council in undertaking that work.

## 8.5 Costs of Council

Where Council exercises its step-in rights all reasonable costs incurred by Council in rectifying the relevant Defects may be claimed by Council as a liquidated debt owed by the Developer. The Developer is entitled to dispute the costs in which case **clause 11** of this Agreement will apply.

## 9 Affordable Housing Contribution

- (a) The Developer is to pay to Council the Affordable Housing Contribution specified in **Part C** of **Schedule 2** in the manner and at the time or times specified in that **Part**.
- (b) The amount of the Affordable Housing Contribution is to be indexed annually from the date of this Agreement in accordance with the

Consumer Price Index (All Groups Sydney) published by the Australian Bureau of Statistics.

- (c) The Affordable Housing Contribution is made for the purposes of this Agreement when Council receives the full amount of the contribution payable under this Agreement by unendorsed bank cheque or deposit by means of an electronic funds transfer of cleared funds into a bank account nominated by Council.

## 10 Application of s7.11, s7.12 and s7.24 of the Act to the Developer and benefits under this Agreement

- (a) This Agreement does not exclude the application of sections 7.11, 7.12 and 7.24 of the Act to the Land and the Development.
- (b) Benefits under this Agreement are to be taken into consideration under section 7.11(6) of the Act to the extent stated in **clause** Error! Reference source not found..
- (c) Council accepts the provision of certain Works in Kind identified in **Schedule 2** as a material public benefit and agrees that these will be offset against any contributions required to be made under sections 7.11 or 7.12 of the Act in connection with the development of the Land up to total of:
  - (i) \$5,447,240 for “open space and recreational facilities”;
  - (ii) \$1,534,670 for “access and public domain facilities”; and
  - (iii) \$392,400 for “community and cultural facilities”.

## 11 Registration of this Agreement

### 11.1 Registration

- (a) The Landowner represents and warrants that it is the registered proprietor of the Land.
- (b) The Landowner agrees that it will procure the registration of this Agreement in the relevant folios of the Register for the Land in accordance with section 7.6 of the Act.
- (c) The Landowner must, promptly after this Agreement comes into operation, take all practical steps, and otherwise do anything that Council reasonably requires, to procure:
  - (i) the consent of each person who:
    - (A) has an estate or interest in the Land; or
    - (B) is seized or possessed of an estate or interest in the Land; and



- (ii) the execution of any documents,  
to enable the registration of this Agreement in accordance with **clause 11.1(b)**.

## **11.2 Release and discharge of Agreement**

- (a) Council agrees to provide the Landowner and Developer with a release and discharge of this Agreement with respect to a lot or lots forming part of the relevant Land or any lot created or to be created on subdivision of the Land (or part of the Land) (**Release Land**) on the earlier of the date:
  - (i) that Council consents to the deferral of Deferred Works under **clause 7.6** and the Developer provides any Deferred Works Security required to be provided with respect to the Approved Deferred Works; or
  - (ii) of satisfaction by the Landowner or Developer (as applicable) of the obligation to provide the Development Contributions for that Release Land.
- (b) Council agrees to do all things reasonably required by the Landowner or Developer to, following a request to release this Agreement from the Release Land:
  - (i) release and discharge this Agreement with respect to the Release Land; and
  - (ii) execute the relevant documents to enable the Landowner or Developer to remove the notation of this Agreement from the relevant folio(s) of the Register in respect of the Release Land,  
upon Council being satisfied that:
    - (iii) the Landowner and Developer have satisfied all of their obligations under this Agreement in respect of the Release Land; and
    - (iv) the Landowner and Developer are not otherwise in default of their obligations under this Agreement.

## **12 Security and enforcement**

### **12.1 Compulsory Acquisition**

- (a) If the Landowner does not procure the Dedication of the Dedication Land in accordance with **clause 6**, the Landowner agrees that Council may compulsorily acquire all or part of the Dedication Land that has not been Dedicated in accordance with the *Land Acquisition (Just Terms Compensation) Act 1991* (NSW) for the amount of \$1.00.
- (b) The Parties acknowledge and agree that:

- (i) **clause 12.1(a)** is an agreement between the Developer and Council for the purpose of section 30 of the *Land Acquisition (Just Terms Compensation) Act 1991* (NSW); and
- (ii) all relevant matters concerning the compulsory acquisition and the compensation to be paid for the acquisition are agreed.

## 12.2 Deferred Works Security

- (a) In the event that the Developer and Council agree to defer any Works in Kind under **clause 7.6**, the Developer must deliver to Council a Bank Guarantee for the amount equivalent to the Agreed Contribution Value of the relevant Works in Kind, or any lesser amount specified in Council's notice provided under **clause 7.6(b) (Deferred Works Security)**.
- (b) The Developer may replace the Deferred Works Security provided by it at any time, provided that the amount of that replacement is not less than that which is required to be provided under this Agreement. On receipt of a replacement Deferred Works Security, Council must immediately release the Deferred Works Security being replaced and return it to the Developer.
- (c) Council must release the Deferred Works Security or the relevant part of the Deferred Works Security to the Developer within 20 Business Days of:
  - (i) it issuing, or being deemed to have issued, a Certificate of Practical Completion for the relevant part of the Approved Deferred Works in accordance with **clause 7.3**; or
  - (ii) the Developer satisfying any of its obligations under this Agreement by paying a Monetary Contribution to Council in accordance with **clause 7.5** in respect of Approved Deferred Works.
- (d) Council may call on any or all of the Deferred Works Security if the Developer has not achieved Practical Completion of the Approved Deferred Works by the revised date specified in Council's notice provided under **clause 7.6(b)**. However, Council must not call on any of the Deferred Works Security unless Council:
  - (i) has first given 40 Business Days written notice to the Developer of its intention to do so within which period the Developer may rectify the breach identified in Council's notice;
  - (ii) will only use the amount so paid to it in satisfaction of any reasonable costs incurred by it in delivering the Approved Deferred Works that were not able to be completed by the Developer; and
  - (iii) takes reasonable steps to mitigate any loss.

## 13 Dispute Resolution

### 13.1 Dispute

If any dispute arises out of this Agreement, then the Parties must resolve that dispute in accordance with this **clause 13** and a Party to the Agreement must not commence any court or arbitration proceedings, except where a Party seeks urgent interlocutory relief. Any referral or undertaking of the dispute resolution process as set out in this **clause 13** does not suspend any other obligations of the Parties' under this Agreement.

### 13.2 Notice of Dispute

A Party to this Agreement claiming that a dispute has arisen out of or in relation to this Agreement must give written notice (**Notice**) to the other Party to this Agreement specifying the nature of the dispute.

### 13.3 Representatives of Parties to meet

- (a) The representatives of the Parties must promptly (and in any event within 20 Business Days of receipt of a Notice) meet in good faith to attempt to resolve the notified dispute.
- (b) The Parties may, without limitation:
  - (i) resolve the dispute during the course of that meeting; or
  - (ii) agree that further material or consideration is needed to effectively resolve the dispute (in which event the Parties will, in good faith, agree to a timetable for resolution); or
  - (iii) agree that the Parties are unlikely to resolve the dispute and, in good faith, agree to mediation in accordance with **clause 13.4**.

### 13.4 Mediation

If the Parties agree in accordance with **clause 13.3(b)(iii)** to attempt to resolve the dispute by mediation, then the Parties must mediate the dispute in accordance with the Law Society of NSW's Mediation Program. The mediation will take place in Sydney, Australia. The parties must, as soon as possible, request the president of the Law Society or the president's nominee to select the mediator and determine the mediator's remuneration.

### 13.5 Court proceedings

If the dispute is not resolved within 80 Business Days after notice is given under **clause 13.2** then any Party which has complied with the provisions of this **clause 13** may in writing terminate any dispute resolution process undertaken under this **clause 13** and may then commence court proceedings in relation to the dispute.

### 13.6 Not use information

The Parties acknowledge the purpose of any exchange of information or documents or the making of any offer of settlement under this **clause 13** is to attempt to settle the dispute. No Party may use information or documents

obtained through any dispute resolution process undertaken under this **clause 13** for any purpose other than in an attempt to settle the dispute.

### **13.7 No prejudice**

This **clause 13** does not prejudice the right of a Party to institute court proceedings for urgent injunctive or declaratory relief in relation to any matter arising out of or relating to this Agreement.

## **14 Notices**

### **14.1 Delivery**

Any notice, consent, information, application or request that must or may be given or made to a Party under this Agreement is only given or made if it is in writing and sent in one of the following ways:

- (a) delivered or posted to that Party at its address set out below; or
- (b) emailed to that Party at its email address set out below.

#### **Council**

Attention: [please advise]  
Address: Canterbury-Bankstown Council  
[please advise]  
Phone Number: [please advise]  
Email Address: [please advise]

#### **Developer**

Attention: Theo Zotos  
Address: Level 28, 200 George Street, Sydney NSW  
2000  
Phone Number: (02) 9080 8062  
Email Address: theo.zotos@mirvac.com

#### **Landowner**

Attention: [please advise]  
Address: [please advise]  
Phone Number: [please advise]  
Email Address: [please advise]

### **14.2 Change of Details**

If a Party gives the other Party 10 Business Days' notice of a change of its address or email address, any notice, consent, information, application or request is only given or made by that other Party if it is delivered, posted or electronically sent to the latest address or email address.

### **14.3 Giving of Notice**

Subject to **clause 14.4**, any notice, consent, invoice, information, application or request is to be treated as given or made at the following time:

- (a) if it is delivered by process server, when it is served at the relevant address; or
- (b) if it is sent by registered post, seven Business Days after it is posted; or
- (c) if it is sent by email, as soon as the email has been sent to the correct email address and the recipient has received the email without error.

### **14.4 Delivery outside of business hours**

If any notice, consent, information, application or request is delivered on a day that is not a Business Day, or if on a Business Day, after 5.00 pm on that day in the place of the Party to whom it is sent, it is to be treated as having been given or made at the beginning of the next Business Day.

## **15 Approvals and consent**

Except as otherwise set out in this Agreement, and subject to any statutory obligations, a Party may give or withhold an approval or consent to be given under this Agreement in that Party's absolute discretion and subject to any conditions determined by the Party. A Party is not obliged to give its reasons for giving or withholding consent or for giving consent subject to conditions.

## **16 Assignment and dealings**

The Landowner or Developer may not sell, transfer, assign or novate or similarly deal with its right, title or interest in the Land (if any) or rights or obligations under the terms of this Agreement, or allow any interest in them to arise or be varied, in each case, without Council's consent and unless, prior to any such sale, transfer, assignment, charge, encumbrance or novation, the Landowner or Developer (as applicable):

- (a) at no cost to Council, first procures the execution by that person of a deed of novation or assignment by which that person agrees to be bound by the Agreement as if they were a party to the original Agreement; and
- (b) satisfies Council that it is not in material breach of this Agreement.

## **17 Termination of this Agreement**

This Agreement terminates when all obligations under the Agreement have been satisfied.

## **18 General**

### **18.1 Legal Costs**

The Developer agrees to pay Council's costs associated with reviewing, preparing, negotiating, amending, executing and stamping this Agreement and any document related to this Agreement, capped at \$10,000 (excluding GST).

### **18.2 Entire Agreement**

This Agreement constitutes the entire agreement of the Parties about its subject matter and supersedes all previous agreements, understandings and negotiations on that subject matter.

### **18.3 Further Acts**

Each Party must promptly execute all documents and do all things that another Party from time to time reasonably requests to affect, perfect or complete this Agreement and all transactions incidental to it.

### **18.4 Governing law and jurisdiction**

This Agreement is governed by the law of New South Wales. The Parties submit to the non-exclusive jurisdiction of its Courts and Courts of appeal. The Parties will not object to the exercise of jurisdiction by those Courts on any basis.

### **18.5 No Fetter**

Nothing in this Agreement shall be construed as requiring Council to do anything that would cause it to be in breach of any of its obligations at law, and without limitation, nothing shall be construed as limiting or fettering in any way the exercise of any statutory discretion or duty.

### **18.6 Representations and warranties**

The Parties represent and warrant that they have power to enter into this Agreement and comply with their obligations under the Agreement and that entry into this Agreement will not result in the breach of any law.

### **18.7 Severability**

- (a) The Parties acknowledge that under and by virtue of Section 7.4(4) of the Act, any provision of this Agreement is not invalid by reason only that there is no connection between the Development and the object of the expenditure of any money required to be paid by that provision.
- (b) The Parties agree that to the extent permitted by law, this Agreement prevails to the extent of its inconsistency with any law.
- (c) If a clause or part of a clause of this Agreement can be read in a way that makes it illegal, unenforceable or invalid, but can also be read in a way that makes it legal, enforceable and valid, it must be read in the latter way.
- (d) If any clause or part of a clause is illegal, unenforceable or invalid, that clause or part is to be treated as removed from this Agreement, but the rest of this Agreement is not affected.

## **18.8 Modification**

No modification of this Agreement will be of any force or effect unless it is in writing and signed by the Parties to this Agreement and is in accordance with the provisions of the Act.

## **18.9 Waiver**

- (a) The fact that a Party fails to do, or delays in doing, something the Party is entitled to do under this Agreement, does not amount to a waiver of any obligation or exercise of a right of, or breach of obligation by, another Party.
- (b) A waiver by a Party is only effective if it is in writing.
- (c) A written waiver by a Party is only effective in relation to the particular obligation, right or breach in respect of which it is given. It is not to be taken as an implied waiver of any other obligation, right or breach or as an implied waiver of that obligation, right or breach in relation to any other occasion.
- (d) A single or partial exercise or waiver by a Party of a right relating to this Agreement does not prevent any other exercise of that right or the exercise of any other right.
- (e) A Party is not liable for any loss, cost or expense of any other Party caused or contributed to by the waiver, exercise, attempted exercise, failure to exercise or delay in the exercise of a right.

## **18.10 Relationship of Parties**

This Agreement is not intended to create a partnership, joint venture or agency relationship between Council and the Developer.

## **18.11 Further Steps**

Each Party must promptly do whatever any other Party reasonably requires of it to give effect to this Agreement and to perform its obligations under it.

## **18.12 Explanatory Note**

Pursuant to section 205(5) of the Regulation, the Parties agree that the Explanatory Note is not to be used to interpret this Agreement.

## **18.13 Counterparts**

This Agreement may be executed in any number of counterparts. All counterparts taken together constitute one instrument.

## **18.14 Rights cumulative**

Except as expressly stated otherwise in this Agreement, the rights of a Party under this Agreement are cumulative and are in addition to any other rights of that Party.

# Schedule 1

## Section 7.4 Requirements

The parties acknowledge and agree that the table set out below provides for certain terms, conditions and procedures for the purpose of this Agreement complying with the Act.

**Table 1 – Requirements under section 7.4 of the Act**

Requirement under the Act	This Agreement
<b>Planning instrument and/or development application – (section 7.4(1))</b> The Developer has: <ul style="list-style-type: none"> <li>(a) sought a change to an environmental planning instrument. (a) Yes</li> <li>(b) made, or proposes to make, a Development Application. (b) Yes</li> <li>(c) entered into an agreement with, or is otherwise associated with, a person, to whom paragraph (a) or (b) applies. (c) No</li> </ul>	
<b>Description of land to which this Agreement applies – (section 7.4(3)(a))</b>	The Land as defined in <b>clause 1.1</b> .
<b>Description of development to which this Agreement applies – (section 7.4(3)(b))</b>	The Development as defined in <b>clause 1.1</b> .
<b>The scope, timing and manner of delivery of contributions required by this Agreement – (section 7.4(3)(c))</b>	See <b>Schedule 2</b> .
<b>Applicability of sections 7.11 and 7.12 of the Act – (section 7.4(3)(d))</b>	The application of sections 7.11 and 7.12 of the Act are not excluded in respect of the Land and the Development.
<b>Applicability of section 7.24 of the Act – (section 7.4(3)(d))</b>	The application of section 7.24 of the Act is not excluded in respect of the Development.
<b>Consideration of benefits under this</b>	See <b>clause 10(b)</b> .



Requirement under the Act	This Agreement
<b>Agreement if section 7.11 applies –</b> (section 7.4(3)(e))	
<b>Mechanism for dispute resolution –</b> (section 7.4(3)(f))	See <b>clause 13.</b>
<b>Enforcement of this Agreement –</b> (section 7.4(3)(g))	See <b>clause 11.</b>
<b>No obligation to grant consent or exercise functions –</b> (section 7.4(10))	See <b>clauses 15 and 18.5.</b>

draft

## Schedule 2

### Development Contributions

#### Part A – Dedication of the Dedication Land

Column 1 Item No.	Column 2 Development Contribution	Column 3 Agreed Contribution Value	Column 4 Timing
1.	<b>Open Space</b> Dedication of approximately 14,441m <sup>2</sup> of the Land to Council for public open space, specifically: <ul style="list-style-type: none"> <li>i. circa 4,643m<sup>2</sup> of land marked 'Northern Open Space' on the plan at <b>Annexure A</b>;</li> <li>ii. circa 5,076m<sup>2</sup> of land marked 'Central Open Space' on the plan at <b>Annexure A</b>; and</li> <li>iii. circa 4,722m<sup>2</sup> of land marked 'Southern Open Space' on the plan at <b>Annexure A</b>.</li> </ul>	 \$3,700,000  \$4,570,000  \$3,300,000	 Prior to the release of a Subdivision Certificate for a plan that when registered would create the 301 <sup>st</sup> Residential Lot.  Prior to the release of a Subdivision Certificate for a plan that when registered would create the 201 <sup>st</sup> Residential Lot.  Prior to the release of a Subdivision Certificate for a plan that when registered would create the 401 <sup>st</sup> Residential Lot.
2.	<b>Local Roads</b> Dedication of approximately 14,088m <sup>2</sup> of the Land to Council, as shown on the plan and noted as "Local Road" at <b>Annexure A</b> .	Not applicable	Prior to the release of a Subdivision Certificate for a Residential Lot that directly

Column 1 Item No.	Column 2 Development Contribution	Column 3 Agreed Contribution Value	Column 4 Timing
	Dedication of approximately 33,110m <sup>2</sup> of the Land to Council, as shown on the plan and noted as "Local Road-Minor" at <b>Annexure A</b> .	Not applicable	fronts that road.  Prior to the release of a Subdivision Certificate for a Residential Lot that directly fronts that road.
3.	<b>SP2 Infrastructure (Drainage)</b> Dedication of approximately 668m <sup>2</sup> of SP2 Infrastructure (Drainage) land to Council	\$230,000	Prior to the release of the Subdivision Certificate for the final Residential Lot for the Development.

## Part B – Works in Kind

Column 1 Item No.	Column 2 Development Contribution	Column 3 Agreed Contribution Value	Column 4 Timing
4.	<b>Open Space Embellishment</b> Embellishment of the Open Space Land, comprising the following works: <ul style="list-style-type: none"> <li>(a) pathways (in all);</li> <li>(b) children's playground equipment, in the Central Open Space only;</li> <li>(c) outdoor fitness equipment, in the Central Open Space or Southern Open Space only;</li> <li>(d) sheltered picnic tables, in the Central Open Space only;</li> <li>(e) a BBQ facility, in the Central Open Space only;</li> </ul>	\$1,542,495	Practical Completion must be reached prior to the Dedication of the relevant portion of the Dedication Land.

Column 1 Item No.	Column 2 Development Contribution	Column 3 Agreed Contribution Value	Column 4 Timing
	(f) seating (in all); (g) landscaping and turf (in all); and (h) kick around play, in the Southern Open Space only.		
5.	<b>Local Roads</b> Construction of all proposed "Local Roads" (collector roads) as shown on the plan at <b>Annexure A</b> , in accordance with all relevant council and road engineering standards (unless otherwise agreed between Council and the Developer).	\$1,963,100	Practical Completion must be reached prior to the Dedication of the relevant portion of the Dedication Land.
6.	<b>Shared Cycleway</b> Construction of a shared cycleway along the roads marked "Local Roads" on the plan at <b>Annexure A</b> .	\$235,350	Practical Completion must be reached prior to the release of an Occupation Certificate for any dwelling fronting cycleway.
7.	<b>Milperra Reserve Embellishment</b> Upgrades to Milperra Reserve of a standard that is consistent with the 'Neighbourhood Sportsground' category as outlined in Council's <i>Generic Plan of Management for Community Land and Crown Land</i> , specifically consisting of the following: (a) new lawn/turf and irrigation to expand the footprint of the existing playing area to allow for more sporting codes soccer/rugby etc (currently set up for hockey); (b) basic seating around the periphery of the playing area; (c) rubbish bins;	\$1,041,921	Prior to the release of a Subdivision Certificate for a plan that when registered would create the 401 <sup>st</sup> Residential Lot.

Column 1 Item No.	Column 2 Development Contribution	Column 3 Agreed Contribution Value	Column 4 Timing
	(d) lighting; (e) shaded seating (under trees); (f) upgrade to amenities (toilets etc); (g) drinking fountains; (h) some areas of shade trees on the periphery of the playing fields; and (i) landscaping treatments, including paths to better integrate Milperra Reserve with the Land. <b>[Note: Parties to enter into appropriate arrangements with respect to access and the process for carrying out works on Council-owned land when the time comes to carry out these works.]</b>		
8.	Not used	Not applicable	Not applicable
9.	<b>Milperra Community Centre</b> Repair and renovation to the Milperra Community Centre (128 Ashford Ave, Milperra) consisting of: (a) repairs and cleaning of the existing building façade; (b) alterations to internal layout to ensure an active frontage is provided to Ashford Street; (c) upgrade to existing building to current standards such as disabled access and egress; (d) smart building elements such as access control, energy, water	\$392,400	Prior to the release of a Subdivision Certificate for a plan that when registered would create the 401 <sup>st</sup> Residential Lot.

Column 1 Item No.	Column 2 Development Contribution	Column 3 Agreed Contribution Value	Column 4 Timing
	<p>saving improvements;</p> <p>(e) upgraded security measures;</p> <p>(f) alterations to current car parking arrangements to improve vehicular entry and exit from the site; and</p> <p>(g) landscaping improvements.</p>		
10.	<p><b>SP2 Infrastructure (Drainage)</b></p> <p>Embellishment of approximately 668m<sup>2</sup> of SP2 Infrastructure (Drainage) land to Council – applied to the drainage reserve along the southern boundary of development adjacent to Ashford Avenue.</p>	\$154,000	Practical Completion must be reached prior to the Dedication of the relevant portion of the Dedication Land.
11.	<p><b>Local Roads – Footpaths</b></p> <p>Provide new footpaths along bus routes, on one side of road.</p>	\$94,140	Practical Completion must be reached prior to the release of an Occupation Certificate for any dwelling fronting the relevant footpath.
12.	Contribution towards the undergrounding of powerlines along Ashford Avenue, subject to any relevant Ausgrid approvals being reasonably obtained.	\$373,750	Practical Completion must be reached prior to the release of an Occupation Certificate for the final dwelling along Ashford Avenue.
13.	Construction of a 1.2m footpath and landscaping along the eastern side of Ashford Avenue.	\$98,100	Practical Completion must be reached prior to the release of an Occupation Certificate for any dwelling

Column 1 Item No.	Column 2 Development Contribution	Column 3 Agreed Contribution Value	Column 4 Timing
			fronting the footpath.
14.	Contribution toward circa 110m of cycleway connections to Panania Station to promote the use active and public transport for future residents and the broader Milperra community.	\$59,400	Practical Completion must be reached prior to the release of the Subdivision Certificate for the final Residential Lot for the Development.

**Part C – Affordable Housing**

Column 1 Item No.	Column 2 Development Contribution	Column 3 Agreed Contribution Value	Column 4 Timing
15.	<b>Affordable Housing Contribution</b> Payment of a monetary contribution for the provision of affordable housing in appropriate locations within the Canterbury-Bankstown Local Government Area.	\$12,326 per dwelling	Prior to the release of a Subdivision Certificate for a plan that when registered would create the 401 <sup>st</sup> Residential Lot.

## Execution

**Executed** as an agreement.

**Executed by Canterbury-Bankstown** )  
**Council** by its duly appointed officer in )  
the presence of: )

.....  
Witness

.....  
Officer

.....  
Name of Witness (print)

.....  
Name of Officer (print)

**Executed by Mirvac Residential (NSW)** )  
**Developments Pty Ltd** pursuant to )  
section 127 of the *Corporations Act 2001*: )

.....  
Company Secretary/Director

.....  
Director

.....  
Name of Company Secretary/Director  
(print)

.....  
Name of Director (print)

**Executed by Western Sydney** )  
**University** pursuant to section 127 of the )  
*Corporations Act 2001*: )

.....  
Company Secretary/Director

.....  
Director

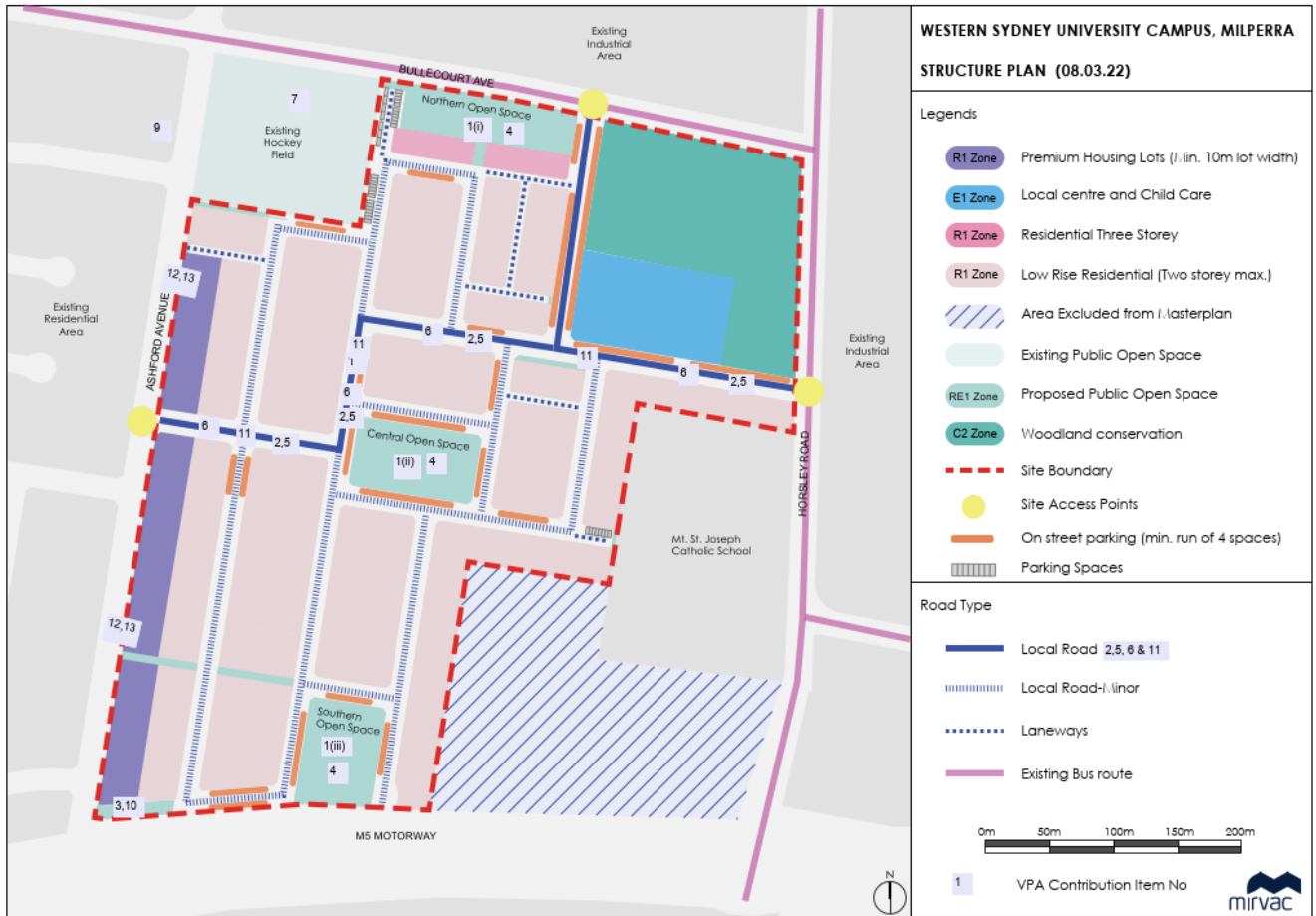
.....  
Name of Company Secretary/Director  
(print)

.....  
Name of Director (print)



# Annexure A

## Dedication Land



# Annexure B

## Explanatory Note

### 1 Description of the Land to which the Draft Planning Agreement Applies

Lot 105 DP1268911 and Lot 1 DP101147, situated at 2 and 2a Bullecourt Avenue, Milperra and currently known as the Western Sydney University Bankstown Campus.

### 2 Description of Proposed Development

The Draft Planning Agreement is in connection with a proposed amendment to the *Bankstown Local Environmental Plan 2015 (LEP)* relating to a Planning Proposal (PP-2021-5837) which seeks to amend the LEP to facilitate residential and retail/commercial uses on the Land by:

- a) rezoning the Land from SP2 Infrastructure (Educational Establishment) and SP2 (Electricity Transmission or Distribution Network) to R1 General Residential, B1 Neighbourhood Centre, RE1 Public Recreation, RE2 Private Recreation and SP2 Infrastructure (for stormwater drainage reserve); and
- b) making associated amendments to the LEP to facilitate the Development, including provisions relating to maximum building height, floor space ratio, minimum lot size and additional local provisions under Part 6 of the LEP.

The Draft Planning Agreement also applies to development on the Land as authorised by the future Development Consent granted as a result of the proposed LEP amendment.

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

#### Objectives of Draft Planning Agreement

The Draft Planning Agreement provides for the delivery of Development Contributions, being public benefits related to the Development of the Land and comprising the:

- (a) Dedication of the Dedication Land;
- (b) carrying out and delivery of the Works in Kind or the provision of an equivalent Monetary Contribution; and
- (c) provision of the Affordable Housing Contribution.

#### Nature of Draft Planning Agreement

The Draft Planning Agreement is a planning agreement under section 7.4(1) of the *Environmental Planning and Assessment Act 1979 (the Act)*. The Draft Planning Agreement is a voluntary agreement under which Development Contributions are made

by the Developer and Landowner for various public purposes (as defined in section 7.4(2) of the Act).

#### Effect of the Draft Planning Agreement

The Draft Planning Agreement:

- is in connection with an amendment to the LEP relating to the Planning Proposal (PP-2021-5837);
- relates to the carrying out of the Development on the Land by the Developer;
- does not exclude the application of sections 7.11, 7.12 or 7.24 of the Act to the Development, although benefits are to be taken into consideration under section 7.11(6) of the Act;
- is to be registered on the title to the Land;
- imposes restrictions on the transfer the Land or part of the Land or assigning, or novating an interest under the Draft Planning Agreement; and
- provides for the delivery of Development Contributions by the Developer and Landowner to Council which include:
  - Dedication of 3 land parcels totalling approximately 14,441m<sup>2</sup> of the Land to Council as public open space for public use
  - Dedication and delivery of approximately 14,088m<sup>2</sup> of the Land to Council, as Local Road for Public use
  - Dedication and delivery of approximately 33,110m<sup>2</sup> of the Land to Council, as Minor Local Road for Public use
  - Dedication of approximately 668m<sup>2</sup> of the Land to Council for Public Infrastructure/Drainage use
  - The provision and embellishment of public use local parks with children's playground equipment, outdoor fitness, walking/cycling tracks and sheltered picnic tables and BBQs within the subject site.
  - Provision of off-road shared cycleway along collector roads linking site to external road/cycle network.
  - Monetary contribution of \$1,041,921 to embellish the existing Milperra Reserve including amenity block, footpaths, picnic tables, bins, flood lighting and turf.
  - Monetary contribution of \$392,400 to repair and renovate Council's existing Milperra Community Centre
  - Monetary contribution towards the provision of affordable housing in the local area

#### **4 Assessment of the Merits of the Draft Planning Agreement**

##### The Planning Purposes Served by the Draft Planning Agreement

The Draft Planning Agreement:

- promotes and co-ordinates the orderly and economic use and development of the land to which it applies;
- provides increased opportunity for public involvement and participation in environmental planning and assessment of the Development; and
- provides for additional monetary contributions by a developer to the Council to be used for public purposes, in addition to other development contributions under sections 7.11 or 7.12 and 7.24 of the Act required for the proposed Development on the land to which it applies.

#### How the Draft Planning Agreement Promotes the Public Interest

The Draft Planning Agreement promotes the public interest by promoting the objects of the Act as set out in section 1.3 of the Act and through the provision of the public benefits outlined in paragraph 3 above, 'Effect of the Draft Planning Agreement'.

#### For Planning Authorities

##### ***Development Corporations - How the Draft Planning Agreement Promotes its Statutory Responsibilities***

N/A

##### ***Other Public Authorities – How the Draft Planning Agreement Promotes the Objects (if any) of the Act under which it is Constituted***

N/A

##### ***Councils – How the Draft Planning Agreement Promotes the Principles for Local Government Contained in Chapter 3 of the Local Government Act 1993***

The Draft Planning Agreement promotes the principles for local government by:

- strategically using the integrated planning and reporting framework for the provision of effective and efficient services and regulation to meet the diverse needs of the local community;
- working with others to secure appropriate services for local community needs;
- acting fairly, ethically and without bias in the interests of the local community;
- keeping the local and wider community informed about its activities; and
- providing adequate, equitable and appropriate services and facilities for the community and to ensure that those services and facilities are managed efficiently and effectively.

***All Planning Authorities – Whether the Draft Planning Agreement Conforms with the Authority's Capital Works Program***

Yes. The proposed contributions are consistent with the types of community infrastructure identified in the Canterbury-Bankstown Voluntary Planning Agreement Policy and aligns with Council's Capital Works Program.

***All Planning Authorities – 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. Certain Development Contributions are required to be delivered prior to the issuing of a subdivision certificate or an occupation certificate for a relevant stage of the Development.

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