

PLANNING AGREEMENT - Explanatory Note

Environmental Planning and Assessment Regulation 2021 (NSW) (EP&A Regulation)

Planning Agreement for the provision of monetary contribution for public benefit at 17 Deane Street, Burwood

Under Section 7.4 of the *Environmental Planning and Assessment Act 1979 (NSW) (EP&A Act)*

1. Parties

The parties to the Planning Agreement are:

- (1) Burwood Council (**Council**)
- (2) HGA Capital Pty Ltd (**Developer**)

2. Description of Subject Land

Folio Identifier: 1/DP1215989
Location: 17 Deane Street, Burwood

3. Description of Proposed Development

The Developer has lodged a development application (being 2021.127) for the land which proposes a high quality mixed-use development including retail premises, commercial offices and 41 residential apartments. The application includes a voluntary planning agreement for material and financial contribution to Council as a public benefit as part of the application seeking approval for additional gross floor space of 690.6 m² of residential floor space above what the Burwood LEP would normally allow overall.

4. Summary of Objectives, Nature and Effect of the Planning Agreement

[Clause 205(1)(a) of the EP&A Regulation]

The intent of the Planning Agreement is to ensure that public benefits are provided in the form of provision, augmentation or improvement of open space, community facilities or other public facilities as proposed by the development application and determined by Council.

The Planning Agreement is proposed to require a monetary contribution for an amount of \$1,208,550.00 (excluding GST) representing a fair value for the additional gross floor space payable after development consent is granted and before issue of a Construction Certificate.

5. Assessment of the Merits of the Planning Agreement

[Clause 205(1)(b) of the EP&A Regulation]

5.1 The planning purposes served by the Planning Agreement

[Clause 205(1)(b) of the EP&A Regulation]

The Planning Agreement serves the following planning purpose:

- The monetary contributions paid by the **Developer** under this Planning Agreement will be used by **Council** to provide, augment, or improve open space, community facilities, or other public facilities as determined by Council.

Whether the Planning Agreement provides for a reasonable means of achieving that purpose:

- (i) Council has conducted an Urban Design Study which revealed that in parts of the Burwood Town Centre, including the area in which the subject land is located, there is some potential for a maximum increase of 10% in FSR. Council has also prepared a Burwood Open Space and Community Facilities Study, which identified public benefit requirements in the Burwood Local Government Area.
- (ii) The Planning Agreement will secure a considerable material benefit to the public as the Council is to use, or put the monetary contribution towards, the provision of material benefits such as civil infrastructure, public domain upgrades and facilities for the Burwood Town Centre, which will not only benefit the users and those in the immediate vicinity of the Burwood Town Centre but the wider Burwood population. This is considered to be a substantial public benefit and the Planning Agreement achieves this objective of delivering the benefit.

5.2 Promotion of the public interest

[Clause 205(2) of the EP&A Regulation]

The Planning Agreement promotes the public interest by:

- Ensuring the orderly use and development of land by ensuring that public benefits are provided where a development site achieves additional FSR.

The Planning Agreement promotes one or more of the objects of the EP&A Act as follows:

- (i) The proper management and development of land for the purpose of promoting the social and economic welfare of the community and a better environment;
- (ii) The provision and co-ordination of community services and facilities; and
- (iii) Opportunities for public involvement and participation in environmental planning and assessment.

5.3 Capital Works Program

[Clause 25(2) of the EP&A Regulation]

Whether Council has a capital works program, and if so, whether the Planning Agreement conforms with or promotes that capital works program:

- Council has in place a capital works program, but the program does not, to date, identify public benefits within the Burwood Town Centre.
- Council has prepared a Burwood Community Facilities and Open Space Study which identifies works and improvements to community facilities and open space to be carried out. These are known as public benefits. This study will inform the capital works program as it is reviewed annually where those public benefits will be included within the capital works program including when and where sufficient funds are available.

6. Timing for the delivery of the Developer's works or Public Benefit

The Planning Agreement provides that the Monetary Contribution be paid prior to the issue of a construction certificate for the proposed development.