

PLANNING AGREEMENT – Explanatory Note

Environmental Planning and Assessment Regulation 2021
(EP&A Regulation 2021)(Clause205)

Planning Agreement for the provision of monetary contribution for public benefit at 3, 5 and 7 Lyons Street, Strathfield NSW 2135 and 18 Parnell Street, Strathfield NSW 2135.

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) John Georges (**Proprietor**)
- (3) Joseph Georges (**Proprietor**)
- (4) Milan Kalina (**Proprietor**)
- (5) MCA101 Properties Pty Ltd (ACN 621 279 810) ATF The Tannous Family Trust ABN 54 733 914 688 (**Proprietor**)
- (6) Parnell Developments Pty Ltd ACN 602 893 425 (**Developer**)

2. Description of Subject Land

Folio Identifiers: Lots 2, 3, 4, and 5 in Deposited Plan 17433

Location: 3, 5 and 7 Lyons Street Strathfield NSW 2135 and 18 Parnell Street, Strathfield NSW 2135

3. Description of Proposed Development

The Developer has lodged a development application (being DA.2023.45) for the land which proposes adding on two (2) additional levels to an approved residential flat building. An offer of a voluntary planning agreement for a material or financial contribution to Council as a public benefit is included in the application that seeks approval for additional gross floor space of 557m² of residential floor space above that normally allowed under the Burwood Local Environmental Plan.

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

[Clause 205(1)(a) of the EP&A Regulation 2021]

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 \$974,750.00 (excluding GST) being \$1,750/m²(excluding GST) per square metre (557m²) of GFA in excess of the permitted GFA limit for the development 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 2021]

5.1 The Planning Purposes Served by the Planning Agreement

[Clause 205(1)(b) of the EP&A Regulation 2021]

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 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 2021]

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 205(2) of the EP&A Regulation 2021]

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.

5.4 Timing of delivery of the Developer's works of Public Benefit

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