

PLANNING AGREEMENT - Explanatory Note

Environmental Planning and Assessment Regulation 2000 (NSW) (EP&A Regulation)

Planning Agreement for the provision of monetary contribution for public benefit at 127-133 Burwood Road BURWOOD NSW

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) Blairgrove Pty Ltd (**Owner/Developer**)

2. Description of Subject Land

The land to which the Planning Agreement relates is as follows:

Folio Identifiers: Lot 100 of Deposited Plan 703387

Location: 127-133 Burwood Road BURWOOD NSW

3. Description of Proposed Development

The Owner/Developer has lodged a development application for the land which proposes the change of use of its car parking area of fourteen (14) cars from car parking to alfresco dining for its patrons. The application includes a voluntary planning agreement for financial contribution to Council as a public benefit as part of the application seeking approval for removal of ten (10) on-site visitor car parking spaces.

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

[Clause 25E(1)(a) of the EP&A Regulation 2000]

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 the Owner/Developer to provide a monetary contribution for an amount of \$432,960 being \$432,960 for Council to provide 10 car public parking spaces, payable after development consent is granted and before issue of a Construction Certificate or deletion of the car parking spaces, as a public benefit.

5. Assessment of the Merits of the Planning Agreement and Impact on the Public

[Clause 25E(1)(b) of the EP&A Regulation 2000]

5.1 The planning purposes served by the Planning Agreement

[Clause 25E(2) of the EP&A Regulation 2000]

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 prepared a Development Control Plan. This plan is applicable to the development application. The policy provides for the possibility of Council granting consent to development where required car parking is not to be provided on site where there is a public benefit.
- (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, including improving public car parking, 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 25E(2) of the EP&A Regulation 2000]

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 is unable to provide onsite car parking.

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 25E(2) of the EP&A Regulation 2000]

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 as a direct result of development. 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 when and where sufficient funds are available.

5.4 Identification as to whether the Planning Agreement specifies that certain requirements must be complied with before a construction certificate is issued

[Clause 25E(2) of the EP&A Regulation 2000]

The Planning Agreement provides that the monetary contribution must be paid on the date of execution of the Planning Agreement, and prior to the change in use of the Land to which the DA relates for the proposed development.

5.5 Timing of Delivery

[Clause 25E(2) of the EP&A Regulation 2000]

The expected timing of delivery is September 2022.
