

Appendix

## Explanatory Note

***Environmental Planning and Assessment Regulation 2000***

**(Clause 25E)**

### **Planning Agreement**

#### **Under s7.4 of the Environmental Planning and Assessment Act 1979 (NSW) (the Act)**

##### **1. Parties**

Burwood Council. ABN 84 362 114 428. Suite 1, Level 2, 1-17 Elsie Street, Burwood NSW 2134  
(**Council**).

and

**Builtcom Developments 8 Pty Ltd** (ACN 637 532 471) of 60 Burwood Rd, Burwood, in the State of New South Wales (**Developer**)

and

**Builtcom Properties 8 Pty Ltd** (ACN 613 815 473) of 60 Burwood Rd, Burwood, in the State of New South Wales (**Owner**)

##### **2. Description of the Land to which the Planning Agreement Applies**

The Land comprises Lots A, B, C and D in DP415890.

##### **3. Description of Proposed Development**

The proposed development is documented in the Development Application submitted to Council in July 2016. DA 98/2016 proposes the demolition and construction of a 19 storey mixed use development comprising 3 levels of commercial suites, 16 levels of residential containing 58 apartments above basement parking on the Land.

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

###### **4.1 Summary of Objectives**

The objective of the Planning Agreement is to provide a Monetary Contribution to Council for the purposes of the provision of public facilities.

###### **4.2 Nature of Planning Agreement**

The Planning Agreement is a planning Agreement under s7.4 of the *Environmental Planning and Assessment Act 1979* (**Act**). The Planning Agreement is a voluntary Agreement under which Development Contributions (as defined in clause 1.1 of the Planning Agreement) are made by the Developer for various public purposes (as defined in s7.4(2) of the Act).

###### **4.3 Effect of the Planning Agreement**

The Planning Agreement:

- (a) relates to the carrying out of the Development on the Land;
- (b) does not exclude the application of sections 7.11, 7.12 and 7.24;

- (c) requires the Developer to make certain Development Contributions in anticipation of the need for the provision of public facilities created by the Development comprising Monetary Contributions to improve public benefit; and
- (d) in summary, makes provision for the Developer to make tailored Development Contributions by way of Monetary Contributions, that meet the anticipated demands for public infrastructure created by the Development.

## **5. Assessment of the Merits of the Planning Agreement**

### **5.1 The Planning Purposes Served by the Planning Agreement**

The Planning Agreement promotes the following public purposes:

- (a) the provision of (or the recoupment of the cost of providing) public amenities or public services;
- (b) the monitoring of the planning impacts of development; and
- (c) the conservation or enhancement of the public domain.

### **5.2 How the Planning Agreement Promotes the Objects of the Environmental Planning and Assessment Act 1979 (NSW)**

The Planning Agreement promotes the following objects of the Act:

- (a) the promotion of the social and economic welfare of the community and a better environment;
- (b) the promotion and co-ordination of the orderly and economic use and development of the land;
- (c) the provision and co-ordination of community services and facilities.

The Planning Agreement provides for a reasonable means of achieving those purposes as set out in section 5.1 above.

## **6. How the Planning Agreement Promotes the Public Interest**

### **6.1 How the Planning Agreement Promotes the Elements of the Council's Charter**

The Planning Agreement promotes one or more of the elements of Council's charter under section 8 of the *Local Government Act 1993* (NSW) as follows [italicised sections come directly from the Charter]:

- (i) Council undertakes to provide *adequate, equitable and appropriate services for the community*. The Planning Agreement provides the monetary resources to assist Council in the provision of Public Facilities and ensures that those *facilities* are managed *efficiently and effectively*. Council is the custodian and trustee of public assets and has a responsibility to *effectively plan for, account for, and manage the assets*.
- (ii) Council undertakes to invoice *councillors, members of the public, users of facilities and services, and council staff* in its activities. The Planning Agreement process provides an opportunity for the community and stakeholders to be involved and interested people are invited to make comment during the exhibition period. The public exhibition and the consideration of this matter at Council meetings are intended to keep the *local community informed*.

### **6.2 Whether the Planning Agreement Conforms with the Council's Capital Works Program**

The Planning Agreement conforms with Council's Capital Works Program to the extent that it will supplement the Program by providing a monetary contribution and s7.12 Development Contributions to provide public facilities.

Council has in place a capital works program. Council has also 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 an Urban Design Study. These are known as public benefits. This study will inform the capital works program as it is reviewed annually.

**6.3 Whether the Planning Agreement specifies that certain requirements must be complied with before a construction certificate, occupation certificate or subdivision certificate is issued**

The Planning Agreement contains requirements that must be complied with following the issue of the first Construction Certificate for the Development.

**7. The Impact of the Planning Agreement on the Public or Any Section of the Public**

The Planning Agreement impacts on the Public by promoting the Public's interest as outlined above.

**8. Other Matters**

None.