

EXPLANATORY NOTE

DRAFT PLANNING AGREEMENT FOR 90-96 PHILLIP STREET, PARRAMATTA

Environmental Planning and Assessment Regulation 2021 (section 205)

1. Introduction

The purpose of this Explanatory Note is to provide a plain English summary to support the exhibition of a proposed draft planning agreement (the **Planning Agreement**) prepared under section 7.4(1) of the *Environmental Planning and Assessment Act* 1979 (the **Act**).

2. Parties

The parties to the Planning Agreement are:

- (a) City of Parramatta Council ABN 49 907 174 773 (the **Council**),
- and
- (b) BuildUp Phillip Pty Ltd ACN 603 156 958; and
- (c) Academy Parramatta Pty Limited ACN 602 108 672 (together **the Developer**)

This explanatory note has been prepared jointly by the parties.

3. Description of Subject Land

The Planning Agreement applies to the following lots:

Lot and DP No.:	Address:	Owner:
Lot 10 DP 773452	90-92 Phillip Street, Parramatta NSW	BuildUp Phillip Pty Ltd
Lot 2 DP 706033	94-96 Phillip Street, Parramatta NSW	Academy Parramatta Pty Limited

and includes any lot created by the consolidation or subdivision of those lots from time to time (the **Land**).

4. Description of the Proposed Development

The Developer proposes to develop the Land in the future for mixed use development.

In order to facilitate the future development, the Developer intends on making an application for a planning proposal to amend the *Parramatta Local Environmental Plan 2023* as follows:

- (a) Amendment to Clause 7.28A so that it no longer provides a site-specific FSR and height bonus for the Land.

- (b) Amendment to the maximum building height for the Land in the Height of Buildings Map from part 80 metres (105 metres when including all bonuses) and part 0 metres to part 133 metres (153 metres when including all bonuses) and part 0 metres;
- (c) Amendment to the maximum FSR in the Floor Space Ratio Map for the Land from 6:1 (9.7:1 when including all bonuses) to 13.8:1 (16.56:1 when including all bonuses).

(the Instrument Change)

The draft Planning Agreement does not permit any development to be carried out and the Developer will be required to seek and obtain the necessary development consent/s under the Act to do so.

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

The Developer has offered to enter into a Planning Agreement with the Council.

The objective of the draft Planning Agreement is, following the coming into effect of the Instrument Change and the issue of development consent(s), to provide the following:

- (a) Payment by the Developer of a monetary contribution in the amount of \$100,000.00, to be used by the Council principally towards the embellishment of existing public open space owned by Council on the river foreshore (the **Monetary Contribution**);
- (b) Construction by the Developer of five affordable housing units, comprised of 4x1 bedroom units and a 1x2 bedroom unit to be transferred to Council (the **Affordable Housing Units**);
- (c) Completion of the following public domain works by the developer:
 - (i) Upgrade the public domain within the Charles Street reserve to the existing Charles Street Square.
 - (ii) Incorporate and construct an upper-level promenade (4.5 metres wide) fronting the river foreshore.
 - (iii) Develop a 6m setback from the Charles Street Square to strengthen and activate the square.

(collectively, **the Works**)

- (d) Creation by the Developer of a public access easement over:
 - (i) that part of Land being the area located between the building and the existing Charles Street reserve (**Setback Area**), and
 - (ii) on the 4.5m wide Upper Level Promenade fronting the foreshore (**Upper Level Promenade**), in favour of Council

(collectively, the **Easement**).

- (e) The dedication of land by the Developer to Council to facilitate the widening of Phillip Street and of land zoned RE1 to Council for open space (the **Dedication Land**).

The Monetary Contribution will be paid prior to the issue of an Occupation Certificate for any building containing an Affordable Housing Unit, or any part of such a building. The Monetary Contribution is in addition to any development contributions that may be applicable under sections 7.11, 7.12 and 7.24 of the Act.

The Affordable Housing Units are to be constructed prior to the issue of an Occupation Certificate for any building containing an Affordable Housing Unit, or any part of such a building and are to be transferred to Council within 10 business days after either the issue of an Occupation Certificate for the Council Strata Lot, or the registration of a Strata Plan for any part of the Development, whichever occurs later.

The Works must be delivered to the Council prior to the issue of an Occupation Certificate for the Development or any part of the Development.

The Easement is to be registered prior to the issue of an Occupation Certificate for the Development or any part of the Development.

The Dedication Land is to be dedicated to Council within 10 business days of registration of a subdivision plan creating the Dedication Land and, in any event, prior to the issue of an Occupation Certificate for the Development or any part of the Development.

The Developer is required to register the Planning Agreement on the title of the Land respectively, in accordance with section 7.6(1) of the Act, no later than 10 business days after the Planning Agreement has been executed.

6. Assessment of Merits of Planning Agreement

The Planning Purpose of the Planning Agreement

The Planning Agreement will benefit the public by providing:

- (a) affordable housing;
- (b) pedestrian access across the Setback Area and Upper Promenade Level.
- (c) public roads; and
- (d) public open space (and funding for public open space).

How the Planning Agreement Promotes the Public Interest

The Planning Agreement promotes the public interest by committing the Developer to:

- (a) provide the Monetary Contribution;
- (b) construct the Works for pedestrian access and the registration an Easement for the purposes of providing the public pedestrian access;
- (c) transfer land for Affordable Housing; and
- (d) dedicate land for public open space and for public roads.

How the Planning Agreement Promotes the Objects of the Act

The Planning Agreement promotes the following objects of the Act:

- (a) *to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- (b) *to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) *to promote the orderly and economic use and development of land*
- (d) *to promote the delivery and maintenance of affordable housing*

In addition to the above, the Planning Agreement will not be inconsistent with any of the other objects of the Act.

How the Planning Agreement Promotes Elements of the Local Government Act 1993 and the Guiding Principles for Councils

The Planning Agreement promotes the guiding principles for councils under section 8A of the *Local Government Act 1993* by assisting Council to:

- (a) Carry out functions in a way that provides the best possible value for residents and ratepayers;
- (b) Manage lands and other assets so that current and future local community needs can be met in an affordable way;
- (c) Work with others to secure appropriate services for local community needs;
- (d) Recognise diverse local community needs and interests;
- (e) Consider the long term and cumulative effects of actions on future generations;
- (f) Apply the principles of ecologically sustainable development;
- (g) Invest in responsible and sustainable infrastructure for the benefit of the local community; and
- (h) Identify and prioritise key local community needs and aspirations and consider regional priorities.

How the Planning Agreement Promotes Council's Capital Works Program

Works forming part of the public purpose to which the Contribution may be applied are generally in addition to the Council's capital works program, although may conform with aspects of works identified as a priority by Council's Development Contribution Plans and other strategic plans.

Requirements relating to Construction and Occupation Certificates

The Planning Agreement requires that:

- (a) The Monetary Contribution will be paid prior to the issue of an Occupation Certificate for any building containing an Affordable Housing Unit;
- (b) The Affordable Housing Units are to be constructed Prior to the issue of an Occupation Certificate for any building containing an Affordable Housing Unit, or any part of such a building
- (c) The Works must be delivered to the Council prior to the issue of an Occupation Certificate for the Development or any part of the Development
- (d) The Easement is to be registered prior to the issue of an Occupation Certificate for the Development or any part of the Development.