

## Liverpool City Council

### Explanatory Note

Voluntary Planning Agreement – 5 Melito Court Prestons, Preston Industrial Estate - DA 1060/2020 (VPA-44)

#### **Draft Planning Agreement**

The purpose of this Explanatory Note is to provide a plain English summary to support the notification of a draft Voluntary Planning Agreement (**Planning Agreement**) under section 7.4 of the *Environmental Planning and Assessment Act 1979 (Act)*.

The draft Planning Agreement includes an element of work, that is not captured in a Contribution Plan works schedule. The draft Planning Agreement is the result of a modification to delete condition 138 seeking the replacement of monetary contribution in lieu of the intersection upgrades at Bernera Road, Yarunga Street and Yato Road.

This Explanatory Note has been prepared jointly between the parties in accordance with clause 205 of the *Environmental Planning and Assessment Regulation 2021 (Regulation)*.

This Explanatory Note is not to be used to assist in construing the Planning Agreement.

#### **Parties**

Liverpool City Council ABN 84 181 182 471, Ground Floor, 33 Moore Street, Liverpool 2170 (**Council**)

TAP III Prestons Pty Ltd ATF the TAP III Prestons Trust, Level 12, 89 York Street, Sydney NSW 2000 (**Developer**)

#### **Description of Land to which this draft Planning Agreement applies**

Lot 1 DP 405571 otherwise known as 5 Melito Court, Prestons NSW 2170 (**Land**)

#### **Description of the Proposed Development to which the draft Planning Agreement Applies**

The Planning Agreement applies to the development on the Land in accordance development application: DA-1060/2020 and as modified, and includes:

- a. Demolition of existing structure
- b. Construction and use of six (6) warehousing and distribution centres; and
- c. Associated site works

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

##### ***Objectives of the draft Planning Agreement***

The objective of the draft planning agreement is to require a monetary development contribution towards the provision of intersection upgrades at Bernera Road, Yarunga Street and Yato Road intersection including rehabilitation works along Bernera Road and Yato Road, to accommodate the expected additional traffic movement generated by the proposed development and the industrial precinct

The draft Planning Agreement will secure the provision of monetary contributions to deliver the infrastructure connected with the Development and the purpose of how and when those contributions are payable.

The draft Planning Agreement does not exclude the payment of s7.11 contribution payable, in accordance with Contributions Plan 2009 and development consent DA-1060/2020.

### ***Nature of the Draft Planning Agreement***

The draft Planning Agreement is a planning agreement under section 7.4 of the *Environmental Planning and Assessment Act 1979 (Act)*. The draft Planning Agreement is an agreement under which Development Contributions are made by the Developer for a public purpose (as define in section 7.4(3) of the Act).

### ***Effect of the Draft Planning Agreement***

The draft Planning Agreement:

- a. Relates to the carrying out by the Developer of approved development on the Land
- b. Includes the application of s7.11 of the Act to the development
- c. Does not exclude the effect of s7.24 of the act to the development
- d. Requires monetary development contributions towards the delivery of an intersection upgrade prior to the issuing of the an Occupation Certificate
- e. Is to be registered on the title to the land, if monetary contribution is not received within 14 days of an executed document
- f. Provides dispute resolution for a dispute under the agreement

### ***Assessments of the Merits of the Draft Planning Agreement***

#### ***The Planning Purposes served by the draft Planning Agreement***

The draft Planning Agreement:

- a. Promotes and coordinates of the orderly and economic use and development of land;
- b. Provides and coordinates the provision of public infrastructure and facilities in connection with the Development;
- c. Provides increased opportunity for public involvement and participation in environmental planning and assessment of the Development
- d. Promote good design and amenity of the built environment
- e. Provides opportunity for public involvement and participation in environmental planning and assessment of local development

#### ***How the draft Planning Agreement Promote Public Interest***

The draft Planning Agreement promotes the public interest by addressing the objects of the Act as set out in section 1.3 (b) (c)

#### ***Development Corporations – How the draft Planning Agreement Promotes its Statutory Responsibilities***

Not Applicable

#### ***Other Public Authorities – How the Draft Planning Agreement Promotes the objects (if any) of the Act under which is its constituted***

Not Applicable

#### ***Councils – How the draft Planning Agreement Promotes the Elements of the Council's Charter***

The Draft Planning Agreement is consistent with the following purposes of the Local Government Act 1993L

- To give councils the ability to provide goods, services and facilities and to carry out activities, appropriate to the current and future needs of local communities and the wider public; and
- To give councils a role in the management, improvement and development of the resources of their areas

By enabling Council to provide public utilities and infrastructure, the draft Planning Agreement is consistent with the guiding principles for councils, set out in section 8A of the *Local Government Act 1993* (replacing the Council's Charter).

***Whether the draft Planning Agreement Conforms with the Authority's Capital Works Program***

Monetary Contributions will be used in the Council's Capital Works Program. As such, the draft Planning Agreement conforms to the Council's Capital works program.

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

The draft Planning Agreement specifies that monetary contributions must be paid prior to the issuing of an occupation certificate. Monetary contributions calculated under s7.11 must be paid in accordance with the Liverpool Contributions Plan 2009 and in accordance with the conditions of consent. The contribution plan and the agreement require the indexation of all monetary contributions until such time as paid in full.