

## Explanatory Note

### 47-55 Grafton Street, Bondi Junction Development Application No. DA-155/2018/A

(Section 205 of the Environmental Planning and Assessment Regulation 2021)

#### Planning Agreement

The purpose of this explanatory note is to provide a summary to support the notification of a draft Planning Agreement under Section 7.4 of the *Environmental Planning and Assessment Act 1979 (the Act)*.

This explanatory note has been prepared in accordance with clause 205 of the *Environmental Planning and Assessment Regulation 2021*.

This explanatory note is not to be used to assist in construing the Planning Agreement.

#### 1 Parties

The parties to the Planning Agreement are Waverley Council (**Council**) and JQZ Sixteen Pty Ltd ACN 620 430 748 ATF the JQZ Sixteen Unit Trust ABN 72 677 525 400 (**Developer**).

#### 2 Description of subject land

The land to which the Planning Agreement applies is the whole of the land being Lot 2 in DP 1073908, known as 47-55 Grafton Street, Bondi Junction (**Land**).

The Developer is the registered proprietor of the Land.

#### 3 Description of Development

The proposed development comprises demolition of the existing building and construction of a new 19-20 storey mixed use building and basement parking as modified to reduce the number of apartments from 106 to 95, internal reconfiguration of units and increase of floor space (**Development**).

#### 4 Background

The Developer became the registered proprietor of the Land on 10 October 2023 having purchased the Land from the previous landowner with the benefit of the Development Consent. The Development Consent, DA-155/2018/A granted on 13

September 2022 by the Sydney Eastern City Planning Panel, is a modification to the Panel's earlier consent, DA-155/2018 granted on 19 December 2019.

Prior to the granting of the Development Consent, the previous landowner made an offer to Council to enter into a Planning Agreement and make a monetary contribution as the development application sought additional floor space which exceeds floor space controls permitted for such buildings under Council's Planning Controls. On 25 October 2023, the Developer made an offer to Council in connection with the Development Application on the same terms as the offer by the previous landowner. The Agreement is consistent with the Developer's offer.

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

The objective of the Planning Agreement is to secure a public benefit in connection with the Development Application so that the Development delivers a community benefit.

The Planning Agreement requires the Developer to pay to Council a monetary contribution in the amount of \$5,535,200.00 to be applied towards the Waverley Affordable Housing Program (25%) and the Oxford Street and Waverley Street Mall Renewal, Bondi Junction Complete Streets Program and Boot Factory and Mill Hill Community Centre Project (75%). The monetary contribution is payable to Council prior to the issue of any Occupation Certificate for the Development.

The Planning Agreement is a binding relationship between Council and the Developer. The Planning Agreement requires the Developer to comply with certain requirements including registration of the Planning Agreement, provision of a Bank Guarantee and registration of a Caveat. The Planning Agreement contains a number of machinery provisions including in relation to dispute resolution and enforcement.

The Agreement does not exclude the application of Sections 7.11, 7.12 or 7.24 of the Act to the Development and the monetary contribution is not to be taken into consideration in determining any development contribution under Section 7.11 of the Act.

The effect of the Planning Agreement is a monetary contribution towards the Waverley Affordable Housing Program and the Oxford Street and Waverley Street Mall Renewal, Bondi Junction Complete Streets Program and Boot Factory and Mill Hill Community Centre Project.

## **6 Assessment of the merits of the Planning Agreement**

### **(a) How the Planning Agreement promotes the public interest and the objects of the Act**

The Planning Agreement promotes the objects of the Act, in particular Section 1.3(a) of the Act, which is 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 and 1.3(d) of the Act, which is to promote the delivery and maintenance of affordable housing. The objects are satisfied as the Planning Agreement secures a monetary contribution towards the Waverley Affordable Housing Program and the Oxford Street and Waverley Street Mall Renewal, Bondi Junction Complete Streets Program and Boot Factory and Mill Hill Community Centre Project.

Public interest is promoted by virtue of the Planning Agreement because it assists Council in upgrading and improving infrastructure and open space nearby the Development, in particular the beautifying of road reserves and works towards safe pedestrian-friendly streets, providing good access to public transport and accommodating cyclists. The upgrades and improvements will encourage business and development within the precinct.

Further, public interest is promoted by virtue of the Planning Agreement because it assists Council in the provision of affordable housing and housing for low income and disadvantaged people within the community.

In addition, it assists in facilitating a socially diverse and inclusive community and enabling diverse social and economic groups to have similar opportunities for accommodation in the Waverley Local Government Area.

**(b) The impact of the Planning Agreement on the public or any relevant section of the public**

The Planning Agreement will benefit the public and local community including families, people of all ages and diverse communities as it secures funds to deliver infrastructure and open space upgrades and improvements which will positively affect the social and economic wellbeing of the precinct incorporating the Development and wider community. Both residents and visitors will benefit from the contribution under the Planning Agreement.

In addition, the Planning Agreement will benefit the public and local community as it seeks to improve and maintain access to affordable housing in the Waverley Local Government Area and facilitates a diverse social mix.

There is considered to be no negative impact on the public arising from the Planning Agreement.

**(c) The planning purpose(s) served by the Planning Agreement**

The Planning Agreement facilitates the provision of (or the recoupment of the cost of providing) affordable housing and public amenities and/or the funding of recurrent expenditure relating to the provision of affordable housing. In addition, the Planning Agreement facilitates the conservation or enhancement of the natural environment. The provision of affordable housing, public amenities and

conservation or enhancement of the natural environment are public purposes under Section 7.4(2) of the Act.

The Planning Agreement implements Council policy and legislative provisions around affordable housing, public amenities and conservation or enhancement of the natural environment.

The Planning Agreement provides a reasonable means of achieving the planning purpose purposes set out above.

**(d) How the Planning Agreement promotes the guiding principles for Councils (previously referred to as Council's Charter) under section 8A of the Local Government Act 1993**

The Planning Agreement provides a means by which the Council shows a regard for the long term and cumulative effects of its decisions. The Council's decisions impact public areas. The Council is conscious of a need for upgrading, improving and maintaining safe and accessible open space and road reserves as well as affordable housing within the public areas in its local government area and how its decisions and policies impact seeking to fulfil these needs.

The Planning Agreement provides a means by which Council shows it bears in mind that it is the custodian and trustee of public assets and seeks to effectively plan for and manage the assets for which it is responsible and facilitates its engaging in long term strategic planning on behalf of the local community.

In addition, as the Planning Agreement is a means by which the Council can implement its Affordable Housing Policy, in doing so, Council exercises community leadership in an area of concern to the wider community.

**(e) Whether the Planning Agreement conforms with the Council's Capital Works Program**

The Planning Agreement is not inconsistent with the Council's Capital Works Program.

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

The following requirements of the Planning Agreement must be complied with before:

- (i) A construction certificate:** registration of the Planning Agreement, provision of a Bank Guarantee and registration of a Caveat
- (ii) An occupation certificate is issued:** payment of the monetary contribution.

(iii) **A subdivision certificate is issued:** Not applicable.