

12 March 2019

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Dear Sir,

Planning Agreement (VPA) in connection with Planning Proposal for 3-5 Carrington Road and 3 Myrtle Street, Marrickville

We act for 3 Carrington Rd Pty Ltd, the developer in respect of the site at 3-5 Carrington Road and 3 Myrtle Street, Marrickville (**the Site**).

We are instructed that our client intends to lodge a planning proposal (**Planning Proposal**) seeking an Amendment to *Marrickville Local Environmental Plan 2011* for additional building height, increased floor space ratio, and an additional permitted use for Residential Accommodation

As a public benefit associated with the development of the site, we are instructed to make an offer on behalf of our client to enter into a Voluntary Planning Agreement (**VPA**) to provide and dedicate affordable housing and affordable industrial/warehouse space.

Our client wishes to offer to enter into a VPA, voluntarily, in order to provide a public benefit. In this regard, we are instructed by our client to make the following offer to enter into a VPA with Council on the terms set out below.

1. Offer to enter into a Planning Agreement

3 Carrington Rd Pty Ltd (**the Developer**) formally offers to enter into a Planning Agreement with Council pursuant to section 7.4 of the *Environmental Planning and Assessment Act 1979* (NSW) (**Act**), subject to the terms set out in this letter.

- 1 The Developer will allocate 10% of the residential component of any development of the Site for affordable housing. It is envisaged that this would be dedicated to Council and managed by a registered community housing provider (or alternate arrangement to be agreed upon in due course). The choice of which residential dwellings will be dedicated will be at the discretion of the Developer but must equate to not less than 10% of the residential floor space.
- 2 The Developer will allocate 10% of the total ground floor gross floor area as affordable industrial/warehouse space. It is envisaged that this would be required to be implemented by the owner of the remainder of the ground floor (whoever that may be, from time to time) and could be enforced by a positive covenant on the title. Alternatively this could be managed by Council. Details can be the subject of further discussions with Council in due course. In any case, the offer seeks to ensure that the relevant space is let at affordable rates in perpetuity.
- 3 The above contributions will be additional to any ordinary monetary contributions payable under section 7.11 (previously s94) .

- 4 The Planning Agreement will be lodged and registered on the title of the land under section 7.6 of the Act as soon as practicable after its execution.
- 5 In the event that the Council requires a bank guarantee or other security (**Security**), the Security will be provided upon Council granting development consent for the Development Application. That is not to say that the applicant agrees at this time that a bank guarantee is necessary or an appropriate form of security, but on any version of events the timing of any further security (beyond registration of the VPA) will be after the grant of development consent when funding is available.
- 6 The Planning Agreement will contain mechanisms for the resolution of disputes and the enforcement of the agreement by the parties.
- 7 This offer is made subject to the Planning Proposal being approved on terms acceptable to the Developer. If the Planning Proposal is not otherwise approved on terms satisfactory to our client, this offer may be withdrawn by notice in writing to Council, or may be replaced by a revised offer.

We look forward to receiving your earliest response.

If you have any questions or require further information, please do not hesitate to contact Anthony Whealy on +61 2 8035 7848 or awhealy@millsoakley.com.au.

Yours sincerely



Anthony Whealy
Partner
Accredited Specialist Local Government & Planning

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