

# **Voluntary Planning Agreement**

**City of Parramatta Council**

**ABN 49 907 174 773**

**AND**

**FABCOT PTY LTD**

**ABN 55 002 960 983**

**AND**

**J.L. DUNROSE PTY LIMITED**

**ABN 62 000 038 059**

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**Date** 2021

## Parties

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**First Applicant** Fabcot Pty Ltd ABN 55 002 960 983  
Address 1 Woolworths Way  
Bella Vista NSW 2153  
Attention Company Secretary Woolworths Group Limited  
1 Woolworths Way Bella Vista NSW

**Second Applicant** J.L. Dunrose Pty Limited ABN 62 000 038 059  
Address '01' Suite 12 Level 12, 222 Pitt Street  
Sydney NSW 2000

First & Second Applicant Nathan Dundovic  
Contact Person Regional Development Manager, Corporate Property,  
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## Background

- A The First Applicant is the Developer of the Land.
- B The Second Applicant is the registered proprietor of the Land.
- C For the purpose of this Deed, the First Applicant and Second Applicant are collectively referred to as 'The Applicant'.
- D The Land is zoned B6 Enterprise Corridor and SP2 Infrastructure (Public Transport Corridor) pursuant to the *Parramatta (former The Hills) Local Environmental Plan 2012* and currently comprises an existing warehouse building with a gross floor area of 7,405m<sup>2</sup>.
- E The Land was previously used as a Bunnings Warehouse and is currently leased to the Developer.

- F On 28 October 2019, Planning Ingenuity Pty Ltd, on behalf of the Developer lodged the Planning Proposal with Council, which sought to amend Schedule 1 of the LEP by adding 'retail premises' as an additional permitted use (limited to a maximum of 3,800m<sup>2</sup>) to facilitate a supermarket.
- G On 1 July 2021, the Applicant made an offer to Council for the provision of a monetary contribution, Bridge Works, dedication of land and registration of an easement to facilitate the Planning Proposal and to be applied to a public purpose provided the Land is developed for use as a supermarket.

## Operative Provisions

### 1 Planning Agreement under the EPA Act

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#### 1.1 Status of this Deed

- (a) The parties agree that this Deed is a planning agreement within the meaning given to that term in section 7.4(1) of the Environmental Planning and Assessment Act 1979.
- (b) The planning agreement constituted by this Deed applies to the Land and the Planning Proposal.

### 2 Operation

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#### 2.1 Commencement

- (a) The Parties agree that this Deed takes effect on the execution of this Deed by all of the Parties to it.
- (b) The party who executes this Deed last is to insert, on page 1, the date on which they did so and provide a copy of the fully executed and dated Deed to all other Parties to this Deed.

### 3 Definitions and Interpretation

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#### 3.1 Definitions

In this Deed, the following definitions will apply:

**Applicant** means the First Applicant (Fabcot Pty Ltd) and the Second Applicant (J.L. Dunrose Pty Limited) collectively.

**Bridge Works** means the construction of a lightweight steel bridge structure 3m wide that is to provide future pedestrian access to the Land from North Rocks Road. The approximate location of the footbridge is shaded in blue with red hatching in the plan at Schedule 3 to this Deed.

**Business Day** means any day except a bank or public holiday throughout New South Wales or a Saturday or Sunday;

**Claim** includes a claim, demand, remedy, suit, injury, damage, loss, Cost, liability, action, proceeding or right of action.

**Construction Certificate** means a construction certificate as defined under section 6.4 of the EPA Act, or if the Former Building and Subdivision Provisions apply, section 109C of the EPA Act

**Contribution** means the monetary contribution in the sum of **\$500,000.00** payable by the Applicant, as outlined at clause 6 of this Deed.

**Council** means City of Parramatta Council ABN 80 690 785 443.

**Council Works** means the design, specification and construction of the future footbridge connection facilitated by the Contribution. The approximate location of the footbridge is shaded in blue in the plan at Schedule 3 to this Deed.

**Council Works Area** means the part of the Land over which the Council Works will be carried out.

**CPI** means the Consumer Price Index (All Groups – Sydney) published by the Australian Bureau of Statistics.

**Dedication Land** means that part of the Land to be dedicated to Council in accordance with this Deed, marked as “Land to facilitate James Ruse Drive widening” on the plan at Schedule 2 of this Deed.

**Deed** means this Deed and includes any schedules, annexures and appendices to this Deed.

**Development Consent** means the Development Consent with respect to the application for development approval to be lodged with Council regarding the future development of the Land for use as a Woolworths supermarket .

**Developer** means Fabcot Pty Ltd ABN 55 002 960 983

**Dispute** means a dispute or difference between the parties under or in relation to this Deed.

**Easement** means the public access easement to be registered on title, over the part of the Land shown in pink on the plan at Schedule 4 of this Deed.

**Easement Area** means the part of the Land included within the Easement.

**Easement Terms** means the terms of the Easement to be provided as set out in Schedule 6 of this Deed.

**EPA Act** means the *Environmental Planning and Assessment Act 1979*.

**Explanatory Note** means an explanatory note prepared under clause 25E(1) of the Regulation.

**First Applicants Development Notice** a notice from the First Applicants to the Second Applicant and Council, specifying the First Applicants intention to proceed with the development of the land in accordance with the terms of the Development Consent and Construction Certificate.

**Land** means the land comprised in Lot 61 in Deposited Plan 1264730 (formerly Lot 1 in Deposited Plan 112482 and Lot 6 in Deposited Plan 247452) and known as 1 Windsor Road, North Rocks, and includes any lot created by the consolidation or subdivision of those lots from time to time.

**Land Owner** means J.L.Dunrose Pty Limited ABN 62 000 038 059.

**LEP** means the *Parramatta (former The Hills) Local Environmental Plan 2012*.

**Occupation Certificate** means an occupation certificate as defined under section 6.4 of the EPA Act, or if the Former Building and Subdivision Provisions apply, section 109C of the EPA Act, and includes an interim Occupation Certificate, a final Occupation Certificate or a partial Occupation Certificate as the case may be.

**Offer** means the offer made on behalf of the Applicant (in the form of the letter from Woolworths Group dated 1 July 2021) to enter into this Deed for the Contribution, Bridge Works, dedication of the Dedication Land and registration of the Easement.

**Owners Development Notice** a notice from the Second Applicant to Council, issued in accordance with 6.1(i) with respect to the future development of the Land for the use of the land as a supermarket that is not operated by the First Applicant.

**Parties** means the parties to this Deed.

**Planning Proposal** means the document proposing amendments to the LEP, lodged by Planning Ingenuity Pty Ltd on behalf of the Developer with Council on 28 October 2019 and which is included under Schedule 1 of this Deed.

**Public Purpose** means the public purpose to which the Contribution will be applied and the Bridge Works constructed, subject to clause 6 of this Deed, to provide public pedestrian access.

**Regulation** means the *Environmental Planning and Assessment Regulation 2000*.

### 3.2 Interpretation

In this Deed, unless the context otherwise requires:

- (a) words denoting any gender include all genders;
- (b) headings are for convenience only and do not affect interpretation;
- (c) the singular includes the plural and vice versa;
- (d) any schedule or annexure attached to this Deed forms part of it;
- (e) a reference to a party includes its legal personal representatives, successors and permitted assigns;

- (f) a reference to a person includes a corporation, trust, partnership, unincorporated body or other entity, whether or not it comprises a separate legal entity;
- (g) a reference to a statute or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (h) unless expressly stated to be otherwise, the meaning of general words is not limited by specific examples introduced by 'including', 'for example' or similar inclusive expressions; and
- (i) a reference to this Deed means this Deed and includes any variation or replacement of this Deed.

### **3.3 No fettering clause**

The Applicant acknowledges that Council cannot fetter in advance the exercise of any of its statutory discretions, whether by way of contract, estoppel or otherwise, in relation to any application relating to the Land to be lodged with the vendor in its capacity as a governmental authority nor pre-determine any decision in respect of any such application.

### **3.4 Warranties**

The Parties warrant to each other that they:

- (a) have full capacity to enter into this Deed, and
- (b) are able to fully comply with their obligations under this Deed.

### **3.5 Further agreements**

The Parties may, at any time and from time to time, enter into agreements relating to the subject-matter of this Deed that are not inconsistent with this Deed for the purpose of implementing this Deed.

### **3.6 Surrender of right of appeal**

The Applicant is not to commence or maintain, or to cause or procure the commencement or maintenance, of any proceedings in any court or tribunal or similar body appealing against, or questioning the validity of this Deed in so far as the subject-matter of the proceedings relates to this Deed, unless it is in exercising rights in accordance with clause 7.2(e) of this Deed.

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## **4 Section 7.11, 7.12 and 7.24 of the EPA Act**

### **4.1 Application of section 7.11, 7.12 and 7.24**

This Deed does not exclude the application of sections 7.11, 7.12 and 7.24 of the EPA Act in respect of any development applications for the future redevelopment of the Land.

#### **4.2 Benefits**

Benefits obtained by Council under this Deed are not to be taken into consideration in determining any development contribution under section 7.11 of the EPA Act in respect of any development applications for the future redevelopment of the Land.

#### **4.3 Offer by the Applicant**

The Applicant acknowledges that this Deed is in the terms of the Offer made by the Applicant in connection with the Planning Proposal.

### **5 Planning Proposal**

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#### **5.1 Lodgement of Planning Proposal**

- (a) The Developer has lodged the Planning Proposal with Council.
- (b) The Planning Proposal seeks the following changes to the LEP in relation to the Land:
  - (i) Amending Schedule 1 of the LEP by adding 'retail premises' as an additional permitted use (limited to a maximum of 3,800m<sup>2</sup>).
- (c) As part of the Planning Proposal, and pursuant to section 7.4(1)(a) of the EPA Act, the First Applicant has made an offer to enter into this Deed to facilitate the Planning Proposal and to make provision for dedication of the Dedication Land and registration of the Easement following the amendment of the LEP, the Bridge Works following the issue of a Construction Certificate for the development of the Land (regardless of use) and a Contribution following the issue of a Construction Certificate for the development of the Land as a supermarket.
- (d) The Planning Proposal envisages the future redevelopment of the Land being the utilisation of the existing warehouse building to accommodate a full-line supermarket of 3,800m<sup>2</sup>, the remainder of the existing warehouse building of 3,015m<sup>2</sup> to be developed for other uses permitted in accordance with the proposed changes to the LEP outlined under clause 5.1(b) of this Deed.
- (e) Nothing in this Deed relieves the Applicant of its statutory obligations under the EPA Act to obtain the necessary development consent/s for any such future redevelopment of the Land.
- (f) Nothing in this Deed fetters Council's discretion under the EPA Act in assessing and determining as it sees fit any future development applications for a future redevelopment of the Land, excluding clause 6.3(b) of this Deed and determining as it sees fit any future development applications for a future redevelopment of the Land.



- (g) The Parties acknowledge that the future redevelopment of Land for a supermarket is subject to and conditional on the LEP being amended as sought under the Planning Proposal. The registration of the Easement and Dedication of Land is conditional on the LEP being so amended, the Bridge Works are conditional on the issue of a Construction Certificate for the development of the Land (regardless of use) and the Contribution is subject to and conditional on the issue of a Construction Certificate for development of the Land as a supermarket.
- (h) Notwithstanding clause 5.1(g) the First Applicant may notify Council in writing at any time following issue of the Planning Proposal that it does not intend to proceed with the future development of the Land as proposed in clause 5.1(d).
- (i) If the First Applicants serves the notice provided in clause 5.1(h) the Second Applicant agrees to fulfill all of the First and Second Applicants obligations under this Deed, where applicable and the First Applicant is released by Council and the Second Applicant from all further obligations, claims or rights as provided in this Deed

## 6 Contribution

### 6.1 Monetary Contribution

- (a) Subject to clause 6.1(d), the First or Second Applicant is to pay the Contribution in the amount of **\$500,000.00** or an amount calculated in accordance with the following formula, whichever is the greater:

$$\begin{array}{r}
 \$500,000.00 \quad \times \quad \frac{\text{The CPI at the time of payment}}{\text{The CPI at the date of this agreement}}
 \end{array}$$

- (b) The parties agree and acknowledge that the Contribution will be used by the Council towards the Public Purpose by facilitating construction of the future footpath connection and or other future works within the North Rocks vicinity.
- (c) Despite clause 6.1(b), the Council may apply the Contribution towards any other public purpose which satisfies section 7.4(2) of the Act, other than the Public Purpose, if the Council reasonably considers that the public interest would be better served by applying the Contribution towards that other public purpose.
- (d) The Contribution is to be paid either:
  - (i) by the First Applicant to Council in one instalment of \$500,000.00 with payment to be made within 14 days of:
    - (A) the issue of a valid tax invoice for the Contribution in the name of the First Applicant; and

- (B) receipt by the First Applicant of the Construction Certificate for the Development Consent; and
  - (C) issue of the First Applicants Development Notice,
- or the Contribution is to be paid:
- (ii) by the Second Applicant to Council in one instalment of \$500,000.00 with payment to be made within 14 days of:
    - (A) the issue of a valid tax invoice for the Contribution in the name of the Second Applicant; and
    - (B) receipt by the Second Applicant of the Construction Certificate for the development of the Land for a supermarket that is not to be operated by the First Applicant; and
    - (C) issue of the Owners Development Notice.
  - (e) The Contribution is taken to have been made upon the receipt by Council of the full amount required under this Deed in cash or by unendorsed bank cheque or by the deposit via electronic funds transfer, and clearance of the full amount, into a bank account nominated by Council.
  - (f) The Contribution is to be paid by either the First Applicant or the Second Applicant, whichever is first in time to satisfy the requirements of 6.1(d) (i) or (ii).

## 6.2 Bridge Works

- (a) Subject to issue of the First Applicant's Development Notice or the Owners Development Notice, and the issue of a Construction Certificate with respect to development of the Land, the relevant Applicant will carry out the Bridge Works in accordance with this agreement and the Construction Terms in Schedule 5 and any future development consent granted for the Bridge Works.
- (b) The Bridge Works will be taken to have been completed for the purposes of this agreement when a Certificate of Practical Completion has been issued for the Bridge Works.
- (c) The Second Applicant is responsible for the ongoing maintenance of the Bridge Works, including all costs associated with maintenance
- (d) Practical Completion of the Bridge Works is to occur prior to the issue of the final occupation certificate for the future development of the Land. The Bridge Works will be carried out following the coming into force of the new LEP under the Planning Proposal and following the granting of development consent for the future development of the Land.
- (e) Council and the Second Applicant agree and acknowledge that the Bridge Works serve the Public Purpose.

### 6.3 Dedication of Land

- (a) Upon the LEP being amended as sought in the Planning Proposal, the Second Applicant must dedicate or cause to be transferred to the Council, at no cost to the Council, the Dedication Land freed and discharged from all estates, interests, trusts, restrictions, dedications, reservations, easements, rights, charges, rates and contracts in, over or in connection with the land, including but not limited to, municipal rates and charges, water rates and land tax, except as permitted by Council.
- (b) The Dedication Land is to be dedicated by the Second Applicant on the understanding that:
  - (i) Council agrees and acknowledges that the Dedication Land will be deemed and included as unimproved land and part of the Land for the purpose of calculating Floor Space Ratio associated with any future development application associated with the Land notwithstanding its dedication or transfer for public use.
- (c) The Second Applicant is responsible for the ongoing maintenance of the Dedicated Land, including all costs associated with the maintenance.
- (d) The documents to give effect to the dedication of the Dedication Land are to be lodged with NSW Land Registry Services within 28 days of the LEP being amended as sought in the Planning Proposal.

### 6.4 Public Access and Easements

- (a) Upon the LEP being amended as sought in the Planning Proposal, the Second Applicant will, at no cost to Council, register against the title to the Land, the Easement, being:
  - (i) an easement in gross burdening the Easement Area, being that part of the Land on which the Bridge Works will be located and that part of the Land on which the future footbridge connection facilitated by the Contribution will be constructed, as shown in the plan at Schedule 4 of this Deed, in favour of the Council permitting public pedestrian access over the Bridge Works and the future footbridge connection and generally in accordance with the Easement Terms.
- (b) Any requirement to register an easement, covenant or other instrument against the title to the Land will be satisfied when the Applicant provides to the Council a copy of the relevant title search showing the registration of the instrument.
- (c) Any easement, required under clause 6.4(a) must be registered prior to the issue of any Occupation Certificate for the future development of the Land.
- (d) The parties agree that the proposed easement under this clause will serve the Public Purpose.
- (e) The Applicant agrees and acknowledges that the obligations under this clause 6.4 are relevant considerations for the Council or any other consent authority

when determining a development application or modification application relating to the Land and that a failure to comply with those obligations or any inconsistency with the requirements in those clauses may constitute a reason for refusal of such a development application or modification application.

- (f) The Applicant agrees to comply with and accept liabilities for the Council's obligations in clause 2 of Schedule 6 (Terms of Easement) until such time as the Council has commenced the Council Works.

## **6.5 Access to Applicant's Land**

- (a) The Applicant acknowledges and agrees that Council will carry out the Council Works.
- (b) The Applicant grants the Council a licence to enter, pass through or occupy the Council Works Area to enable the Council to carry out the Council Works. Nothing in this clause creates or gives the Council any estate or interest in any part of the Land.
- (c) The Council will carry out the Council Works at its own costs.

## **7 Dispute Resolution**

### **7.1 Dispute resolution – expert determination**

- (a) This clause applies to a Dispute between the Parties to this Deed concerning a matter arising in connection with this Deed that can be determined by an appropriately qualified expert if:
  - (i) the Parties to the Dispute agree that it can be so determined, and
  - (ii) the Chief Executive Officer of the professional body that represents persons who appear to have the relevant expertise to determine the Dispute gives a written opinion that the Dispute can be determined by a member of that body.
- (b) Such a Dispute is taken to arise if one party gives another party a notice in writing specifying particulars of the Dispute.
- (c) If a notice is given under clause 7.1(b), the Parties are to meet within 14 Business Days of the notice in an attempt to resolve the Dispute. At every such conference, each party must be represented by a person having authority to agree to a resolution. All aspects of every such conference, except the fact of the occurrence, will be privileged.
- (d) If, within 28 Business Days of a notice being given, the Parties have not resolved the Dispute, the Dispute must be referred to expert determination and be determined by an expert. If, within a further 10 Business Days, the Parties have not agreed upon an expert, the expert must be nominated by the Australian Commercial Disputes Centre.

- (e) The expert determination must be conducted in accordance with the Guidelines for Expert Determination of the Australian Commercial Disputes Centre. Except where the parties otherwise agree in writing or the Guidelines for Expert Determination of the Australian Commercial Disputes Centre otherwise provide:
  - (i) each party must bear its own costs and pay one half of the expert's fees and expenses;
  - (ii) the expert must not act as an arbitrator; and
  - (iii) the determination of the expert will be final and binding on the Parties.

## **7.2 Dispute Resolution – Mediation**

- (a) This clause applies to any Dispute arising in connection with this Deed other than a Dispute to which clause 7.1 applies.
- (b) Such a Dispute is taken to arise if one party gives another party a notice in writing specifying particulars of the Dispute.
- (c) If a notice is given under clause 7.2(b), the Parties are to meet within 14 Business Days of the notice in an attempt to resolve the Dispute.
- (d) If, within 28 Business Days of a notice being given, the Parties have not resolved the Dispute, the Parties are to mediate the dispute in accordance with the Mediation Rules of the Law Society of New South Wales published from time to time and are to request the President of the Law Society to select a mediator.
- (e) If the Dispute is not resolved by mediation within a further 28 Business Days, or such longer period as may be necessary to allow any mediation process which has been commenced to be completed, then the parties may exercise their legal rights in relation to the Dispute, including by the commencement of legal proceedings in a court of competent jurisdiction in New South Wales.
- (f) Each party is to bear its own costs arising from or in connection with the appointment of a mediator and the mediation.
- (g) The Parties are to share equally the costs of the President, the mediator, and the mediation.

**7.3** Nothing in this clause 7 will prejudice the right of a party to institute proceedings to enforce payment due under this Deed or to seek injunctive or urgent declaratory relief.

**7.4** Notwithstanding the existence of a Dispute, the parties must continue to perform their respective obligations under this Deed unless excused from performance by another provision of this Deed.

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## **8 Enforcement**

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### **8.1 Breach of Deed**

- (a) This clause applies to a breach of the Applicant's obligations under this Deed.
- (b) Council may give the Applicant written notice specifying the particulars of the breach, the means for rectifying the breach (if such exist), the reasonable timeframe for rectification of the breach or compensation Council will accept in a reasonable timeframe in lieu of the rectification of the breach.
- (c) Nothing in this clause prevents the Council from exercising any rights it may have at law or in equity in relation to a breach of this Deed by the Applicant, including but not limited to seeking relief in an appropriate court.

### **8.2 Compulsory Acquisition**

- (a) If the Applicant does not dedicate the Dedication Land to Council as required by clause 6.3 of this Deed, the Council may compulsorily acquire the relevant land, in which case the Applicant consents to the Council compulsorily acquiring that land for compensation in the amount of \$1.00 without having to follow the pre-acquisition procedures in the Land Acquisition (Just Terms Compensation) Act 1991.
- (b) Clause 8.2(a) constitutes an agreement for the purposes of section 30 of the Land Acquisition (Just Terms Compensation) Act 1991.
- (c) Except as otherwise agreed between the Applicant and Council, the Applicant must ensure the Dedication Land is freed and discharged from all estates, interests, trusts, restrictions, dedications, reservations, rights, charges, rates, strata levies and contracts, except as may be permitted by this agreement on the date that the Council will acquire the land in accordance with clause 8.2(a).
- (d) The Applicant indemnifies and keeps indemnified the Council against all Claims made against the Council as a result of any acquisition by the Council of the whole or any part of the relevant land under clause 8.2(a).
- (e) The Applicant must pay the Council, promptly on demand, an amount equivalent to all costs, including legal costs, incurred by the Council acquiring the whole or any part of the relevant land under clause 8.2(a).

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## **9 Risk**

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### **9.1 Risk**

The Applicant performs this Deed at its own risk and its own cost.

### **9.2 Release**

The Applicant releases Council from any Claim it may have against Council arising in connection with the performance of the Applicant's obligations under this Deed except if, and to the extent that, the Claim arises because of Council's negligence or default.

### **9.3 Indemnity**

The Applicant indemnifies Council from and against all Claims that may be sustained, suffered, recovered or made against Council arising in connection with the performance of the Applicant's obligations under this Deed except if, and to the extent that, the Claim arises because of Council's negligence or default.

## **10 Registration and Caveat**

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### **10.1 Acknowledgment**

The Land Owner (Second Applicant), being the registered proprietor at the time of execution of this Deed, acknowledges that Council requires the registration of this Deed (including any Variations pursuant to clause 12.9) on the folio of the Land under section 7.6 of the EPA Act and that, on registration by the Registrar-General, this Deed will be binding on and enforceable against the registered proprietor of the Land from time to time as if each registered proprietor for the time being had entered into this Deed.

### **10.2 Consents to registration**

Not later than 10 Business Days after this Deed has been executed by the Parties, the Second Applicant must, at its cost, obtain the consents to the registration of this Deed from each and every person who has an estate or interest in the Land.

### **10.3 Developer and Landowner's obligations**

The Land Owner (Second Applicant) (being the registered proprietor at the time of execution of this Deed) must:

- (a) not later than 10 Business Days after this Deed has been executed by the Parties:
  - (i) deliver to the Council in registrable form required by NSW Land Registry Services an instrument to procure the registration of this Deed on the title to the Land duly executed by the Land Owner (being the registered proprietor at the time of execution of this Deed) and any other person required by NSW Land Registry Services to execute such instrument; and,
  - (ii) provide all relevant consents to the registration (including the consents required under clause 10.2) to NSW Land Registry Services.
- (b) immediately upon receiving the registrable form instrument executed by the Council, lodge the instrument and all other necessary documents with the NSW Land Registry Services to enable this Deed to be registered, and

- (c) do all other things reasonably necessary to enable this Deed to be registered pursuant to section 7.6 of the EPA Act

#### **10.4 Release**

Council must execute and give to the Applicant any forms required by NSW Land Registry Services to remove the registration of this Deed from the folio/s for the Land after the Applicant has complied with all its obligations under this Deed to Council's satisfaction.

#### **10.5 Registration expenses**

The Applicant must pay Council's expenses including registration fees, legal costs and disbursements in relation to the registration of this Deed and its subsequent removal from the title to the Land.

#### **10.6 Caveatable interest**

The Applicant acknowledges that the rights under this Deed give Council a caveatable interest in the Land and consents to the Council registering such a caveat.

#### **10.7 Restriction on dealings**

- (a) The Land Owner (Second Applicant) (being the registered proprietor at the time of execution of this Deed) must not:
  - (i) sell or transfer the Land or any part of it, or
  - (ii) assign the Applicant's rights or obligations under this Deed, or novate this Deed,  
to any person unless:
    - (iii) the Developer or the Land Owner (as the case may be) has, at no cost to the Council, first procured the execution by the person to whom the Land, or part thereof, is to be sold or transferred or the Applicant's rights or obligations under this Deed are to be assigned or novated, of a deed in favour of the Council on terms reasonably satisfactory to the Council, and
    - (iv) the Council has given written notice to the Developer or the Landowner (as the case may be) stating that it reasonably considers that the purchaser, transferee, assignee or novatee, is reasonably capable of performing its obligations under this Deed, and
    - (v) the Developer or the Landowner (as the case may be) is not in breach of this Deed, and
    - (vi) the Council otherwise consents to the transfer, assignment or novation, such consent not to be unreasonably withheld.
- (b) Subject to clause 10.7(c), the Developer and the Landowner (as the case may be) acknowledges and agrees that it remains liable to fully perform its



obligations under this Deed unless and until it has complied with its obligations under clause 10.7(a).

- (c) Clause 10.7(a) does not apply in relation to any sale or transfer of the Land if this Deed is registered on the title to the Land at the time of the sale.

## **11 Notices**

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### **11.1 Notices given under this Deed:**

- (a) must be in writing and clearly readable in the English language;
- (b) must be signed by the party giving or making it (or signed on behalf of that party by its authorised representative); and
- (c) may be delivered to a party by hand or by prepaid post to that party's address shown in page 1 of this Deed or to such other address or person as a party may specify by notice given in accordance with this clause.

### **11.2 A notice is taken to be duly given and received:**

- (a) if delivered by hand, when delivered; or
- (b) if delivered by prepaid post, three Business Days after being deposited in the mail with postage prepaid.

**11.3** Despite clause 11.2, notices received after 5.00pm in the place of receipt or on a non-Business Day are taken to be received at 9.00am on the next Business Day.

## **12 General**

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### **12.1 Relationship between the Parties**

Except as expressly provided to the contrary in this Deed, nothing in this Deed will constitute the Parties as principal and agent, employer and employee, partners or otherwise liable for the acts or omissions of any other party.

### **12.2 Entire agreement**

This Deed records the entire agreement between the Parties in relation to its subject matter. It supersedes all prior contracts, arrangements, understandings or negotiations by, or between, the Parties in relation to the subject matter of this Deed.

### **12.3 Further assurance**

Each party must (at its own expense) do all things that any other party reasonably requires of it to give the other party the full benefit of any obligations owed to the other party and expressed in this Deed.

### **12.4 Counterparts**

This Deed and any variation of this Deed may be executed and take effect in two or more counterparts, each of which when taken together, will constitute one and the same instrument.

#### **12.5 Survival**

All warranties, releases, exclusions and limitations of liability, indemnities, terms with respect to intellectual property and confidential information in this Deed will remain valid and binding following expiry or termination of this Deed. Any other provision by its nature intended to survive expiry or termination of this Deed survives expiry or termination of this Deed.

#### **12.6 No waiver**

The failure, delay or omission by a party to exercise, or to partially exercise, a right, power or remedy under this Deed does not operate as a waiver of that right, power or remedy. A party which exercises, or partially exercises, a right, power or remedy maintains its right to further exercise the same right, power or remedy or to exercise another right, power or remedy. A party waives a right, power or remedy only by explicitly doing so in a written notice to the other party and the waiver is strictly limited to the matters specified in the notice.

#### **12.7 Cumulative rights**

The rights, powers, authorities, discretions and remedies of a party under this Deed do not exclude any other right, power, authority, discretion or remedy.

#### **12.8 Severability**

If any provision of this Deed is determined by a court or other competent tribunal or authority to be illegal, invalid or unenforceable then:

- (a) where the offending provision can be read down so as to give it a legal, valid and enforceable operation of a partial nature it must be read down to the extent necessary to achieve that result;
- (b) where the offending provision cannot be read down then that provision must be severed from the Deed in which event, the remaining provisions of this Deed operate as if the severed provision had not been included; and
- (c) the legality, validity or enforceability of that provision in any other jurisdiction or of the remaining provisions in that or any other jurisdiction is not affected,

but only to the extent that is consistent with giving substantial effect to the intentions of the parties under this Deed.

#### **12.9 Variation**

This Deed can only be amended, supplemented or replaced by another document publicly notified and signed by the Parties in accordance with the Regulation.

#### **12.10 Governing law and jurisdiction**

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This Deed is governed by the law of New South Wales. Each party submits to the jurisdiction of the courts in New South Wales in connection with matters concerning this Deed.

#### **12.11 Explanatory Note**

Pursuant to clause 25E(7) of the Regulation, the Parties agree that the Explanatory Note is not to be used to assist in construing this Deed.

### **13 Costs**

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- 13.1** The First Applicant agrees to pay Council's legal costs incurred to give effect to this Deed including but not limited to, the costs of preparing, negotiating and executing this Deed and any other related document within 28 Business Days of a written demand by Council for such payment.

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**Schedule 1 – Planning Proposal**

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**Schedule 2 – Plan of Dedication Land**

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**Schedule 3 – Plan of Bridge Works and Council Works**

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**Schedule 4 – Plan of Easement Area**

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## Schedule 5 – Construction Terms

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### 1 Interpretation

For the purposes of this Schedule 5, the definitions and Interpretation principles in clause 3 of this Deed will apply and, unless context indicates a contrary intention:

**Applicant means** the First Applicant if a Woolworths supermarket is to be constructed on the Land, otherwise it means the Second Applicant.

**Builder means** any entity contracted under the Construction Contract to carry out the Works.

**Construction Contract means** the contract to carry out the Works (whether or not that is a contract for the Works only or forms part of a contract for the building of other components of the Development).

**Defects Liability Period means** in respect of each item of building works which together comprise the Works the period of 12 months from the date on which the Certificate of Practical Completion is issued for the Works.

**Detailed Design means** the final specifications and finishes for the Works prepared in accordance with clause 5.2 of this Schedule 5 **Error! Reference source not found.** and will include the design of the Works, the location for the Works, installation specifications and estimated costs of construction and/or installation.

**Services means** all water, gas, electricity, television, drainage, sewerage, cable TV, data communications, telecommunications and other services which are required under a development consent within the meaning of the Act or an Approval and which are necessary or desirable for the construction or operation of the Development.

**Superintendent means** the Superintendent appointed under any Construction Contract.

**Works means the Bridge Works.**

### 2 Requirements of Authorities and Approvals

2.1 These Construction Terms must be read and construed subject to:

- (a) any requirements or conditions of any Development Consent;
- (b) the requirements of and conditions imposed by all relevant Authorities and all Laws relating to the Development and the construction of the Development.

2.2 If the Applicant requires any Approvals in order to carry out the obligations under this agreement, then the Applicant will acquire all Approvals necessary to carry out the Works at its own cost.

2.3 The Applicant must ensure that the Works carried out under this agreement are carried out:

- (a) in accordance with the relevant Development Consent for the Works and all Approvals and the requirements of all Laws, including without limitation, work health and safety legislation; and



- (b) in a good and workmanlike manner and so that they are diligently progressed until completion;

AND it is acknowledged that to the extent that there is any inconsistency between this agreement and any Approval the terms of the Approval shall take precedence.

### **3 Costs of Works**

All costs of the Works must be borne by the Applicant.

### **4 Project Management and Contractor Engagement**

4.1 The Applicant will be responsible for managing the Works.

4.2 The Applicant will ensure that any contractor it engages to carry out the Works agrees to:

- (a) carry out the Applicant's obligations in these Construction Terms as part of any Construction Contract; and
- (b) request a Council representative to be present at each on-site meeting attended by the Superintendent and to ensure the Council representative is present at the meeting.

### **5 Design Development and Approvals**

#### **5.1 Concept Design**

Council and the Applicant will work in consultation with each other to prepare and agree the concept plans for the Works.

#### **5.2 Detailed Design**

- (a) Prior to Works commencing the Applicant must provide a copy of the draft Detailed Design to the Council for approval.
- (b) Within 28 Business Days of receiving the Detailed Design, Council will respond to the Applicant with any suggested amendments to the Detailed Design.
- (c) Council and the Applicant must work in consultation with each other to prepare and agree the Detailed Design and must both act reasonably and with due expedition in their consultations with each other.
- (d) If the Detailed Design is not completed and agreed within 28 Business Days of Council providing its suggested amendments in accordance with clause 5.2(b) of this Schedule 5 to avoid possible delays to the issue of a Certificate of Practical Completion, the Council will, in its sole discretion, be entitled to decide on any outstanding or undecided matter or item relating to areas that are to be accessible to the public, provided that any decision made by Council under this clause:
  - (i) is consistent with the obligation to carry out the Works under this Deed; and
  - (ii) is consistent with the Development Consent; and
  - (iii) does not materially and adversely affect the Development; and

(iv) is not unreasonable.

5.3 Any acceptance by the Council of the Detailed Design under this clause 5 of Schedule 5 is not to be taken as approval of or to any Construction Certificate for the Works.

5.4 **Good faith**

The parties must act promptly and in good faith to consult in relation to the Detailed Design.

**6 Carrying out of Works**

6.1 **Communication**

The Applicant must keep Council reasonably informed of progress of the Works and provide to Council such information about the Works as Council reasonably requests.

6.2 **Standard of Works**

- (a) Unless otherwise provided, the Applicant shall, and must cause the Builder to, use suitable new materials and proper and tradesmanlike workmanship when carrying out the Works.
- (b) The qualitative standard of the design and finishes for the Works must be no less than those described in the following documents:
  - (i) Any relevant Australian Standard;
  - (ii) Any relevant design standards or guidelines and any other requirements or policies applied by the Council from time to time in assessing the adequacy of any works or improvements proposed for the public domain or to be accessible to the public in accordance with this agreement.
- (c) The Applicant will obtain any relevant standards (including design standards), specifications, or guidelines and any other requirements or policies referred to in clause 6.2(b)(ii) of this Schedule 5 from Council if the Council fails to deliver them to the Applicant.
- (d) The Applicant may but is not obliged to reinstate any Works where damage or destruction is as a result of:
  - (i) Any act or omission of the Council or its employees, consultants or agents relating to any part of the Works under this agreement; or
  - (ii) The use or occupation by the Council or its employees, consultants or agents, Council's representatives or other contractor of the Council of any part of the Works.

6.3 **Damage to people, property & utilities**

- (a) The Applicant is to ensure to the fullest extent reasonably practicable that, in performing its obligations under this agreement:
  - (i) all necessary measures are taken to protect people and property;

- (ii) unnecessary interference with the passage of people and vehicles is avoided; and
  - (iii) nuisances and unreasonable noise and disturbances are prevented.
- (b) Without limiting clause 6.3(a) of this Schedule, the Applicant is not to obstruct, interfere with, impair or damage any public road, public footpath, public cycleway or other public thoroughfare, or any pipe, conduit, drain, watercourse or other public utility or service on any land except as authorised in writing by the Council or any relevant Authority.

## 7 Inspection

- (a) On completion of the Detailed Design, the Council will provide a schedule of inspections to be undertaken by Council (**Inspection Schedule**) to occur at specified stages of the construction of the Works (**Inspection Stage**). If the Council does not provide the Inspection Schedule, the Applicant must request the Inspection Schedule from the Council prior to the Works commencing.
- (b) Five Business Days prior to reaching an Inspection Stage as set out in the Inspection Schedule, the Applicant must notify the Council of the proposed inspection date (**Inspection Date**).
- (c) On the Inspection Date, or other agreed date, the Applicant must ensure that any employees, contractors, agents or representatives of Council have access to and may enter the Land to inspect the Works.
- (d) In addition to carrying out inspections in accordance with the Inspection Schedule, the Council may enter the Land or any part of the Land on which the Works are located to inspect the progress of the Works, subject to:
- (i) the terms of the Construction Contract (save for any clause of the Construction Contract which prevents the Council from accessing the Land);
  - (ii) giving reasonable notice to the Applicant;
  - (iii) complying with all reasonable directions of the Applicant; and
  - (iv) being accompanied by the Applicant or a nominee, or as otherwise agreed.
- (e) The Council may, acting reasonably, within 5 Business Days of carrying out an inspection (either under clause 7(c) or 7(d) of this Schedule 5), notify the Applicant of any defect or non-compliance in the Works and direct the Applicant to carry out work to rectify that defect or non-compliance within a reasonable period of time. Such work may include, but is not limited to:
- (i) removal of defective or non-complying material;
  - (ii) demolishing defective or non-complying work;
  - (iii) reconstructing, replacing or correcting any defective or non-complying work; and

- (iv) not delivering any defective or non-complying material to the site of the Works.
- (f) If the Applicant is issued a direction to carry out further work under clause 7(e) of this Schedule 5, the Applicant must, at its cost, rectify the defect or non-compliance specified in the Notice within the time period specified in the Notice, provided that it is reasonable having regard to the nature of the works.
- (g) If the Applicant fails to comply with a direction to carry out work given under 7(e) of this Schedule 5, the Council will be entitled to refuse to accept that the Works (or the relevant part of the Works) meet the Council's standards and specifications and may refuse to issue a Certificate of Practical Completion, until the required Works have been completed to the Council's satisfaction, acting reasonably.
- (h) For the avoidance of doubt, any acceptance by the Council that the Applicant has rectified a defect or non-compliance identified in a notice issued under 7(e) of this Schedule 5 does not constitute:
  - (i) acceptance by the Council that the Works comply with all Approvals and Laws; or
  - (ii) an Approval by the Council in respect of the Works; or
  - (iii) an agreement or acknowledgment by the Council that the Works or the relevant part of the Works are complete and may be delivered to the Council in accordance with this agreement.

## **8 Completion**

### **8.1 Practical Completion**

- (a) When the Applicant considers that the Works, or any part of the Works, are complete, the Applicant must send a Notice to the Council accompanied by complete works as executed plans, any relevant certificates or consents of any public utility authority and a request for written certification from the Council that the Works are complete.
- (b) Within 10 Business Days of receipt of the notice under clause 8.1(a) of this Schedule 5, the Council will carry out an inspection of the Works and will, acting reasonably, either:
  - (i) provide written certification to the Applicant that the Works have been completed; or
  - (ii) notify the Applicant of any additional information required or matters which must be addressed by the Applicant prior to the certification being issued.
- (c) If Council does not attend to the inspection referred to in Clause 8.1(b) of this Deed within 10 Business Days, the Applicant may send a further Notice to the Council requesting an inspection.
- (d) If the Applicant is required to provide additional information or address any matters under clause 8.1(b)(ii) of this Schedule 5, the Applicant will provide that

information to Council or address those matters within 10 Business Days of receiving the notice or within a reasonable period of time and make a further request under clause 8.1(a) of this Schedule 5 for written certification that the Works have been completed.

- (e) Practical completion will be achieved in relation to the Works or any part of the Works when a Certificate of Practical Completion has been issued for those Works.

## 8.2 Delivery of documents

- (a) The Applicant must as soon as practicable, and no later than 20 Business Days after the date on which the Certificate of Practical Completion is issued in respect of the Works or any part of the Works deliver to the Council, complete and legible copies of:
  - (i) all “as built” full-sized drawings, specifications and relevant operation and service manuals;
  - (ii) all necessary certificates including the certificates of any consultants of the Applicant that the Council may reasonably require, and Approvals of any public utility authority (where relevant); and
  - (iii) copies of all Approvals required for use of the land subject to the Works.
- (b) The Applicant must as soon as practicable, and no later than 20 Business Days after the date on which the Certificate of Practical Completion is issued in respect of the Works or any part of the Works, provide the Council with a tour of the land subject to the Works and provide reasonable instructions on the operation and use of the Services on that land.

## 8.3 Assignment of Warranties and Causes of Action

- (a) The Applicant must assign (as beneficial owner) or cause to be assigned to Council the benefit of any warranties and guarantees obtained by the Applicant and the Builder (and capable of assignment) with respect to any material or goods incorporated in or forming part of the Works.
- (b) To the extent that any such warranties or guarantees cannot be assigned, the Applicant must at the request of Council do anything reasonably required by Council to enforce such warranties or guarantees for the benefit of Council.

## 8.4 Defects Liability Period

- (a) During the Defects Liability Period, the Council (acting reasonably) may give to the Applicant a notice (**Rectification Notice**) in writing that identifies a defect in the Works and specifies:
  - (i) action required to be undertaken by the Applicant to rectify that defect (**Rectification Works**); and
  - (ii) the date on which the defect must be rectified (**Rectification Date**).

- (b) The Applicant must comply with the Rectification Notice by:
  - (i) procuring the performance of the Rectification Works by the Rectification Date, or such other date as agreed between the parties;
  - (ii) keeping the Council reasonably informed of the action to be taken to rectify the defect; and
  - (iii) carrying out the Rectification Works.
- (c) The Council must give the Applicant and its contractors any access required to carry out the Rectification Works.
- (d) When the Applicant considers that the Rectification Works are complete, either the Applicant must notify the Council and provide documentation, plans or invoices which establish that the Rectification Works were carried out.
- (e) The Council may inspect the Rectification Works within 15 Business Days of receiving a Notice from the Applicant under clause 8.4(d) of Schedule 5 and, acting reasonably:
  - (i) issue a further Rectification Notice if it is not reasonably satisfied that the Rectification Works are complete; or
  - (ii) notify the Applicant in writing that it is satisfied the Rectification Works are complete.
- (f) The Applicant must meet all costs of and incidental to rectification of defects under this clause 8.4.
- (g) If the Applicant fails to comply with a Rectification Notice, then the Council may do such things or take such action as is necessary to carry out the Rectification Works, including accessing and occupying any part of the Land without further notice to the Applicant, and may:
  - (i) call upon any Bond or Bank Guarantee provided to the Council under clause 8.5 of this Schedule 5 to meet its costs of carrying out Rectification Works; and
  - (ii) recover as a debt due to the Council by the Applicant in a court of competent jurisdiction, any difference between the amount of the security deposit and the costs incurred by the Council in carrying out Rectification Works.
- (h) The Applicant must request that Council inspect the Works 28 days prior to the end of the Defects Liability Period. The Council must inspect the Works at any time after receiving the request from the Applicant and before to the end of the Defects Liability Period.
- (i) If, prior to the end of the Defects Liability Period:
  - (i) the Applicant fails to request the inspection, or
  - (ii) the Council does not carry out the inspection,

the Council may extend the Defects Liability Period so that the inspection may be carried out.

#### **8.5 Security for Defects Liability**

- (a) Prior to the issue of a Certificate of Practical Completion for each item of the Works the Applicant must deliver to the Council Bonds or Bank Guarantees in an amount equivalent to 2.5% of the construction costs for the particular item of Works.
- (b) The Applicant advises and the Council acknowledges its awareness that the Bonds or Bank Guarantees may be supplied by the Builder and form a part of the security held by the Applicant from the Builder under the terms of the Construction Contract, provided that:
  - (i) any Bond or Bank Guarantee provided by the Builder benefits the Council and satisfies the requirements of this agreement; and
  - (ii) the Applicant procure an agreement from the Builder that the Council will be entitled to call on any Bond or Bank Guarantee provided by the Builder, in accordance with the terms of this agreement and the terms of any Construction Contract.
- (c) Within 10 Business Days after the Defects Liability Period for a particular item of Works has expired Council must (if it has not called on it) return the Bond or Bank Guarantee referred to in clause 8.5(a) of this Schedule 5 for that item of Works (or any remaining balance of it) to the Applicant.
- (d) Notwithstanding clause 8.4(c) of this Schedule 5, if during the Defects Liability Period for a particular item of Works, the Council issues a Rectification Notice and the Rectification Notice is not complied with, then the Council need not deliver the balance of any Bonds or Bank Guarantees provided to it until that defect has been rectified.
- (e) The Council must deliver the balance of any Bond or Bank Guarantee for the Defects Liability Period to the Applicant within 14 days after the Defects Liability Period has ended.

#### **9 Risk**

The Applicant undertakes the Works entirely at its own risk.

#### **10 Insurance**

- (a) Prior to the commencement of the construction of any of the Works, the Applicant must ensure the Builder effects and the Applicant must produce evidence to the Council of the following insurances issued by an insurer approved by the Council (acting reasonably) in a form approved by the Council (acting reasonably):
  - (i) construction works insurance for the value of the Works;
  - (ii) public risk insurance for at least \$20 million;
  - (iii) workers compensation insurance as required by Law.

- (b) The Applicant must provide evidence of currency of insurance required by clause 10(a) of this Schedule 5 upon request by the Council, acting reasonably, throughout the term of this agreement.

## **11 Indemnities**

The Applicant indemnifies the Council, its employees, officers, agents and contractors from and against all Claims in connection with the carrying out by the Applicant of the Works except to the extent such Claim arises either directly or indirectly as a result of the Council or its employees, officers, agents, contractors or workmen's negligence, default, act or omission.

## **12 Intellectual Property Rights**

The Council acknowledges that the Applicant or its contractors hold all rights to copyright and any intellectual property which may exist in the Works. To the extent the Applicant has or receives intellectual property rights for the Works, the Applicant shall assign those intellectual property rights to Council or permit use thereof.

## **13 Risk of contamination**

- (a) The Applicant acknowledges and agrees:
  - (i) that it is responsible for the management and remediation of any contamination present upon or under the land on which the Works are to be carried out;
  - (ii) it will attend to any necessary remediation at its own costs; and
  - (iii) to the fullest extent permitted by Law indemnify and release the Council from any Claim which might arise from any contamination with respect to the land on which the Works are to be carried out.

## **14 Plans**

The parties acknowledge and agree that further detail and refinement of plans and documents in connection with this agreement may be necessary having regard to the following matters:

- (a) matters affecting Works not capable of identification on or before the date of this agreement; or
- (b) by agreement between the parties.



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## Schedule 6 – Easement Terms

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- 1 The owner of the Easement Area grants to the Council and members of the public full and free right to go, pass and repass over the Easement Area at all times:
  - (a) with or without companion animals (as defined in the Companion Animals Act 1998) or other small pet animals; and
  - (b) on foot without vehicles (other than bicycles, wheelchairs or other disabled access aids), unless vehicles are being used to access the building on the Land via clearly identified entry and exit points;for all lawful purposes.
- 2 The Council must, to the satisfaction of the owner of the Easement Area, acting reasonably:
  - (a) keep the Easement Area (including any services in, on or under the Easement Area) in good repair and condition suitable as a safe public right of way;
  - (b) maintain and repair the Easement Area and all improvements on the Easement Area;
  - (c) keep the Easement Area clean and free from rubbish; and
  - (d) maintain sufficient public liability insurance covering the use of the Easement Area in accordance with the terms of this Easement.
- 3 Council acknowledges that it is solely responsible for all aspects of public safety in respect of the use of the Easement Area over which the Council Works are located notwithstanding that it is not the owner of the Easement Area
- 4 The owner of the Easement Area must ensure that any rules made by an Owner's Corporation relating to the Easement Area have been approved by the Council, not to be unreasonably withheld or delayed.
- 5 If any member or members of the public loiter or congregate, for any purpose which the owner of the Easement Area, acting reasonably, considers to be a nuisance or a safety risk, the owner may either remove those members of the public, or arrange for their removal by an appropriate authority.
- 6 The Council or the owner of the Easement Area may erect safety signage and any other appropriate signage and may erect CCTV cameras in the Easement Area.
- 7 The Council or the owner of the Easement Area may engage security personnel to monitor and control the behaviour of the public including but not limited to prohibiting smoking, consumption of alcohol (except within licensed areas), passage of animals, bicycles and skateboards and the like in accordance with any rules made by an Owner's Corporation relating to the Easement Area.

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- 8 The owner of the Easement Area may with the Council's prior written consent (except in the case of an emergency, in which case the Council's prior written consent is not required) temporarily close or temporarily restrict access through all or part of the Easement Area for the time and to the extent necessary but only on reasonable grounds for the purposes of:
- (a) construction, construction access, repairs, maintenance, replacement and alteration to the Easement Area or any improvements in, on or under the Easement Area; or
  - (b) security, public safety or evacuation of the Easement Area and adjoining buildings.
- 9 Subject to ensuring the provision of access in accordance with above clause 1 of this Schedule, Council, subject to the consent of the owner of the Easement Area which may not be unreasonably withheld, and the owner of the Easement area, provided any necessary planning approvals are obtained, may:
- (a) Carry out works in the Easement Area for the purposes of enhancing the Easement Area;
  - (b) Install or erect works of art, street furniture, awnings, tables and chairs associated with ground floor commercial premises, notice boards or any other similar improvements at ground level within the Easement Area; and
  - (c) Use the Easement Area,
- in a manner consistent with Parramatta City Council Outdoor Dining Policy adopted 9 July 2012 and amended 25 February 2013, or any such policy of the Council that replaces that policy.
- 10 The Council is solely empowered to release this Easement.
- 11 This Easement may only be varied by written agreement between the Council and the owner of the Easement Area.

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**Executed as a Deed**

**Executed by**  
**City of Parramatta Council ABN 49**  
**907 174 773** by its authorised officers:

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Signature of Authorised Officer

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Signature of Witness

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Name and Position of Authorised Officer

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Name of Witness

**Executed by**  
**Fabcot Pty Ltd**  
**ABN 55 002 960 983**  
pursuant to Power of Attorney dated 17  
July 2016:

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Signature of Witness

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Signature of Attorney

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Name of Witness

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Name of Attorney

**Executed by**  
**J.L. Dunrose Pty Limited**  
**ABN 62 000 038 059**  
in accordance with section 127(1) of the  
*Corporations Act 2001* (Cth):

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Signature of Director and Company Secretary

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Signature of Director

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Name of Director

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Name of witness