

Voluntary Planning Agreement — Draft for exhibition

August 2021

City of Parramatta Council

ABN 49 907 174 773

The Owners—Strata Plan No 47006

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Agreement

Date

Parties

First party

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ACN 49 907 174 773
Contact Manager, Land Use Planning
Telephone (02) 9806 5050

Second party

Name The Owners—Strata Plan No 47006 (**Developer**)
Contact Anthony Maroon, Strata Manager, Stratawide Management Pty Ltd
Telephone (02) 9395 8888

Background

- A. In September 2016, the Developer made an initial application to the Council for a change to *The Hills Local Environmental Plan 2012*. This application sought an increase to the maximum floor space ratio and maximum height of buildings controls for the Land for the purpose of making a Development Application to the Council for Development Consent to carry out the Development on the Land.
- B. The Instrument Change was endorsed by Council on 9 September 2019. *The Hills Local Environmental Plan 2012* was amended on 6 December 2019, including by renaming the instrument as the *Parramatta (former The Hills) Local Environmental Plan 2012*.
- C. In connection with the Instrument Change application, on 3 December 2020 the Developer made a written offer to enter into this agreement to make contributions for public purposes associated with the Instrument Change and the Development. On 10 May 2021, Council resolved to place this agreement (when drafted) on public exhibition concurrently with a draft site-specific Development Control Plan and updated planning proposal endorsed by Council in relation to the Instrument Change.

Operative part

1 Definitions

In this agreement, unless the context indicates a contrary intention:

Act means the *Environmental Planning and Assessment Act 1979* (NSW);

Address means a party's address set out in the Notices clause of this agreement;

Approval means any certificate, licence, consent, permit, approval or other requirement of any Authority having jurisdiction in connection with the activities contemplated by this agreement;

Authority means any government, semi-governmental, statutory, administrative, fiscal or judicial body, department, commission, authority, tribunal, public or other person;

Bank Guarantee means an irrevocable and unconditional undertaking that is not limited in time and does not expire by one of the following trading banks:

- (a) Australia and New Zealand Banking Group Limited,
- (b) Commonwealth Bank of Australia,
- (c) Macquarie Bank,
- (d) National Australia Bank,
- (e) St George Bank Limited,
- (f) Westpac Banking Corporation, or
- (g) Other financial institution approved by the Council,

to pay an amount or amounts of money to the Council on demand and containing terms and conditions reasonably acceptable to the Council;

Bond means an insurance bond from an AAA credit rated party, or a party with a credit rating otherwise acceptable to Council;

Business Day means a day on which banks are open for general banking business in Sydney, excluding Saturdays and Sundays;

Construction Certificate means a construction certificate as defined under section 6.4 of the Act;

CPI means the All Groups Consumer Price Index applicable to Sydney published by the Australian Bureau of Statistics;

Dealing, in relation to the Land, means, without limitation, selling, transferring, assigning, mortgaging, charging, encumbering or otherwise dealing with the Land;

Development means future redevelopment of the Land for high density residential use in accordance with the Instrument and, if made, the Instrument Change and the Development Control Plan;

Development Application has the same meaning as in the Act;

Development Consent has the same meaning as in the Act;

Development Control Plan means the draft site-specific Development Control Plan endorsed by Council on 10 May 2021 for public exhibition in relation to the Land;

Easement Terms means the terms of a public access easement for the Shared Pathways as set out in Schedule 2;

Fax Number means a party's facsimile number set out in the Notices clause of this agreement;

GST has the same meaning as in the GST Law;

GST Law has the meaning given to that term in *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and any other Act or regulation relating to the imposition of or administration of the GST;

Insolvent means, in relation to a party:

- (a) that party makes an arrangement, compromise or composition with, or assignment for, the benefit of its creditors or a class of them;
- (b) a receiver, receiver and manager, administrator, provisional liquidator, trustee, controller, inspector or analogous person is appointed in relation to, or over, all or any part of that party's business, assets or securities;
- (c) a presumption of insolvency has arisen under legislation because of the party's failure to comply with a statutory demand or analogous process;
- (d) an application for the winding up of, or for the appointment of a receiver to, that party, other than winding up for the purpose of solvent reconstruction or re amalgamation, is presented and not withdrawn or dismissed within 21 days (or such longer period agreed to by the parties), or an order is made or an effective resolution is passed for the winding up of, or for the appointment of a receiver to, that party, or any analogous application is made or proceedings initiated;
- (e) any shareholder or director of that party convenes a meeting for the purpose of considering or passing any resolution for the winding up or administration of that party;
- (f) that is an individual, a creditor's petition or a debtor's petition is presented to the Official Receiver or analogous authority in relation to that party;
- (g) an execution or analogous process is levied or enforced against the property of that party;
- (h) that party ceases or suspends, or threatens to cease or suspend, the conduct of all or a substantial part of its business;
- (i) that party disposes of, or threatens to dispose of, a substantial part of its assets;
- (j) that party stops or suspends, or threatens to stop or suspend, payment of all or a class of its debts; or
- (k) that party is unable to pay the party's debts as and when they become due and payable.

Instrument means the *Parramatta (former The Hills) Local Environmental Plan 2012*;

Instrument Change means an amendment to the Instrument which:

- (a) increases the height of buildings on the Land to a maximum of 30 metres; and
 - (b) provides for a maximum floor space ratio of 1.8:1 on the Land,
- subject to clause 4.6 of the Instrument.

ISDP means the Infrastructure Service Delivery Plan at Annexure C to this agreement.

Land means the land comprised in Strata Plan No 47006, known as 23-25 Windsor Road, Northmead at Annexure A;

Landowner means The Owners—Strata Plan No 47006;

Law means:

- (a) any law applicable including legislation, ordinances, regulations, by-laws and other subordinate legislation;
- (b) any Approval, including any condition or requirement under it; and
- (c) any fees and charges payable in connection with the things referred to in paragraphs (a) and (b);

Modification Application means any application to modify the Development Consent under section 4.55 of the Act;

Monetary Contribution means the monetary contribution payable by the Developer under clause 6 of this agreement;

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

Register means the Torrens title register maintained under the *Real Property Act 1900* (NSW);

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

Shared Pathways means the three (3) metre wide shared pathway from the south-eastern corner to the north-eastern corner of the Land and the other three (3) metre wide shared pathway as shown in the plan at Annexure B;

Transferee has the meaning given in clause 12.3; and

Works means the work set out in Schedule 1.

2 Interpretation

In this agreement, unless the context indicates a contrary intention:

- (a) **(documents)** a reference to this agreement or another document includes any document which varies, supplements, replaces, assigns or novates this agreement or that other document;
- (b) **(references)** a reference to a party, clause, paragraph, schedule or annexure is a reference to a party, clause, paragraph, schedule or annexure to or of this agreement;
- (c) **(headings)** clause headings and the table of contents are inserted for convenience only and do not affect interpretation of this agreement;
- (d) **(person)** a reference to a person includes a natural person, corporation, statutory corporation, partnership, the Crown and any other organisation or legal entity and their personal representatives, successors, substitutes (including persons taking by novation) and permitted assigns;
- (e) **(party)** a reference to a party to a document includes that party's personal representatives, executors, administrators, successors, substitutes (including persons taking by novation) and permitted assigns;

- (f) **(president, CEO, general manager or managing director)** the president, CEO, general manager or managing director of a body or Authority includes any person acting in that capacity;
- (g) **(requirements)** a requirement to do any thing includes a requirement to cause that thing to be done, and a requirement not to do any thing includes a requirement to prevent that thing being done;
- (h) **(including)** including and includes are not words of limitation, and a list of examples is not limited to those items or to items of a similar kind;
- (i) **(corresponding meanings)** a word that is derived from a defined word has a corresponding meaning;
- (j) **(singular)** the singular includes the plural and vice-versa;
- (k) **(gender)** words importing one gender include all other genders;
- (l) **(parts)** a reference to one or more things includes each part and all parts of that thing or group of things but nothing in this clause implies that part performance of an obligation constitutes performance of that obligation;
- (m) **(rules of construction)** neither this agreement nor any part of it is to be construed against a party on the basis that the party or its lawyers were responsible for its drafting;
- (n) **(legislation)** a reference to any legislation or provision of legislation includes all amendments, consolidations or replacements and all regulations or instruments issued under it;
- (o) **(time and date)** a reference to a time or date in connection with the performance of an obligation by a party is a reference to the time and date in Sydney, Australia, even if the obligation is to be performed elsewhere;
- (p) **(joint and several)** an agreement, representation, covenant, right or obligation:
 - (i) in favour of two or more persons is for the benefit of them jointly and severally; and
 - (ii) on the part of two or more persons binds them jointly and severally;
- (q) **(writing)** a reference to a notice, consent, request, approval or other communication under this agreement or an agreement between the parties means a written notice, request, consent, approval or agreement;
- (r) **(replacement bodies)** a reference to a body (including an institute, association or Authority) which ceases to exist or whose powers or functions are transferred to another body is a reference to the body which replaces it or which substantially succeeds to its power or functions;
- (s) **(Australian currency)** a reference to dollars or \$ is to Australian currency;
- (t) **(month)** a reference to a month is a reference to a calendar month; and
- (u) **(year)** a reference to a year is a reference to twelve consecutive calendar months.

3 Planning Agreement under the Act

- (a) The parties agree that this agreement is a planning agreement within the meaning of section 7.4 of the Act.
- (b) Schedule 3 of this agreement summarises the requirements for planning agreements under section 7.4 of the Act and the way this agreement addresses those requirements.

4 Application of this agreement

This agreement applies to:

- (a) the Instrument Change, and
- (b) the Development, and
- (c) the Land.

5 Operation of this agreement

This agreement commences on and from the date it is executed by all parties.

6 Contributions to be made under this agreement

6.1 Monetary Contribution

- (a) The Developer will pay to Council a monetary contribution of \$2,898,000 or an amount calculated in accordance with the following formula, whichever is the greater:

$$\begin{array}{rcl} \$2,898,000 & \times & \frac{\text{The CPI at the time of payment}}{\text{The CPI at the date of this agreement}} \end{array}$$

- (b) Subject to clause 6.1(c), the Monetary Contribution must be paid to Council in instalments as follows:
 - (i) 75% of the Monetary Contribution prior to the issue of the first Construction Certificate for the Development; and
 - (ii) 25% of the Monetary Contribution prior to the issue of any Occupation Certificate for the Development.
- (c) The Developer is not required to pay the instalment of the Monetary Contribution specified in clause 6.1(b)(i) if the Developer provides to the Council a Bank Guarantee in accordance with clause 11.2 as security for that payment, in which case the Developer must pay the full amount of the Monetary Contribution prior to the issue of any Occupation Certificate for the Development.
- (d) The Monetary Contribution must be paid by way of bank cheque in favour of Council or by deposit by means of electronic funds transfer into an account specified by Council.
- (e) The Monetary Contribution will be taken to have been made when the Council notifies the Developer in writing that the bank cheque has been received and cleared funds or electronic funds have been deposited in the Council's bank account.

- (f) The parties agree and acknowledge that the Monetary Contribution will be used by the Council towards:
 - (i) the construction and implementation of outdoor fitness equipment for the Speers Road Reserve (valued at approximately \$100,000);
 - (ii) the provision of affordable housing, in accordance with Council's Affordable Housing Policy, being \$579,600 (as calculated in accordance with the Council's Affordable Housing Policy); and
 - (iii) in the case of the balance of the Monetary Contribution, reduced by the amount referred to in clause 6.1(g) – providing such other public benefits as Council may from time to time determine to provide in accordance with the Act and Regulation.
- (g) The parties agree and acknowledge that the Monetary Contribution will be paid in accordance with Schedule 1 and reduced by the value by the Works accordingly. That is, after this reduction the Monetary Contribution to be paid is \$2,858,400, or the amount calculated in accordance with clause 6.1(a) minus \$39,600 (whichever is the greater).

6.2 Works

- (a) The Developer will carry out the Works in accordance with this agreement, including the ISDP and any Development Consent granted for the Works.
- (b) The Works or any part of the Works required under this agreement will be taken to have been completed for the purposes of this agreement when a Certificate of Practical Completion has been issued for those Works.
- (c) The Works must be completed prior to the issue of an Occupation Certificate for the Development or any part of the Development.
- (d) The parties agree and acknowledge that the Works serve the public purposes referred to in clause 6.3(d) of this agreement.

6.3 Public Access and Easements

- (a) Subject to clause 6.2, the Developer will, at no cost to Council, register against the title to the Land an easement in gross burdening that part of the Land on which the Shared Pathways are located limited in height to 3 metres in favour of the Council permitting public access at all times to the Shared Pathways and generally in accordance with the Easement Terms.
- (b) Any requirement to register an easement or other instrument against the title to the Land will be satisfied when the Developer provides to the Council a copy of the relevant title search showing the registration of the instrument.
- (c) Any easement required under clause (a) must be registered prior to the issue of an Occupation Certificate for any building on the Land forming part of the Development.
- (d) The parties agree that the proposed easement under this clause will serve the public purposes of improving pedestrian circulation and the amenity of the public domain in the vicinity of the Land.
- (e) The Developer agrees and acknowledges that the obligations under this clause 6.3 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 easement is to be constructed and maintained in accordance with the ISDP, including the specifications therein.

7 Application of s 7.11, s 7.12 and s 7.24 of the Act to the Development

- (a) This agreement does not exclude the application of section 7.11 of the Act to the Development.
- (b) This agreement does not exclude the application of section 7.12 of the Act to the Development.
- (c) This agreement does not exclude the application of section 7.24 of the Act to the Development.
- (d) The benefits under this agreement are not to be taken into consideration in determining a development contribution under section 7.11 of the Act.

8 Registration of this agreement

8.1 *Developer Interest*

The Developer represents and warrants to the Council that on the date of this agreement it is the registered proprietor of the Land.

8.2 *Registration of this agreement*

- (a) The Developer agrees to procure the registration of this agreement under the *Real Property Act 1900* (NSW) in the relevant folios of the Register of the Land in accordance with section 7.6 of the Act.
- (b) The Developer, at its own expense, must:
 - (i) procure the lodgement of this agreement with the Registrar-General as soon as reasonably practicable after this agreement comes into operation, but in any event, no later than 10 Business Days after that date;
 - (ii) procure the registration of this agreement by the Registrar-General in the relevant folios of the Register for the Land as soon as reasonably practicable after this agreement is lodged for registration; and
 - (iii) provide documentary evidence that the registration of this agreement has been completed to Council within 5 Business Days of receiving confirmation that the registration has occurred.
- (c) The Developer at its own expense will take all practical steps, and otherwise do anything that the Council reasonably requires to procure:
 - (i) The consent of each person who:
 - (A) has an estate or interest in the Land registered under the *Real Property Act 1900* (NSW); or
 - (B) is seized or possessed of an estate or interest in the Land,

- (ii) An acceptance of the terms of this agreement and an acknowledgement in writing from any existing mortgagee in relation to the Land that the mortgagee will adhere to the provisions of this agreement if it takes possession of the Land as mortgagee in possession,
 - (iii) The execution of any documents; and
 - (iv) The production of the relevant duplicate certificates of title, to enable the registration of this agreement in accordance with this clause 8.2.
- (d) The Landowner consents to the registration of the agreement in accordance with this clause 8.2.

8.3 *Removal from Register*

The Council will provide a release and discharge of this agreement so that it may be removed from the folios of the Register for the Land (or any part of it) provided the Council is satisfied the Developer has duly fulfilled its obligations under this agreement, and is not otherwise in default of any of the obligations under this agreement.

9 Review of this agreement

- (a) This agreement may be reviewed or modified. Any review or modification of this agreement will be conducted in the circumstances and in the manner determined by the parties.
- (b) No modification or review of this agreement will be of any force or effect unless it is in writing and signed by the parties to this agreement.
- (c) A party is not in breach of this agreement if it does not agree to an amendment to this agreement requested by a party in, or as a consequence of, a review.

10 Dispute Resolution

10.1 *Reference to Dispute*

If a dispute arises between the parties in relation to this agreement, the parties must not commence any court proceedings relating to the dispute unless the parties have complied with this clause, except where a party seeks urgent interlocutory relief.

10.2 *Notice of Dispute*

The party wishing to commence the dispute resolution process must give written notice (**Notice of Dispute**) to the other parties of:

- (a) The nature of the dispute,
- (b) The alleged basis of the dispute, and
- (c) The position which the party issuing the Notice of Dispute believes is correct.

10.3 *Representatives of Parties to Meet*

- (a) The representatives of the parties must promptly (and in any event within 20 Business Days of the Notice of Dispute) meet in good faith to attempt to resolve the notified dispute.
- (b) The parties may, without limitation:
 - (i) resolve the dispute during the course of that meeting,

- (ii) agree that further material or expert determination in accordance with clause 10.6 about a particular issue or consideration is needed to effectively resolve the dispute (in which event the parties will, in good faith, agree to a timetable for resolution); or
- (iii) agree that the parties are unlikely to resolve the dispute and, in good faith, agree to a form of alternative dispute resolution (including expert determination, arbitration or mediation) which is appropriate for the resolution of the relevant dispute.

10.4 *Further Notice if Not Settled*

If the dispute is not resolved within 10 Business Days after the nominated representatives have met, either party may give to the other a written notice calling for determination of the dispute (**Determination Notice**) by mediation under clause 10.5 or by expert determination under clause 10.6.

10.5 *Mediation*

If a party gives a Determination Notice calling for the dispute to be mediated:

- (a) The parties must agree to the terms of reference of the mediation within 15 Business Days of the receipt of the Determination Notice (the terms shall include a requirement that the mediation rules of the Institute of Arbitrators and Mediators Australia (NSW Chapter) apply);
- (b) The mediator will be agreed between the parties, or failing agreement within 15 Business Days of receipt of the Determination Notice, either Party may request the President of the Institute of Arbitrators and Mediators Australia (NSW Chapter) to appoint a mediator;
- (c) The mediator appointed pursuant to this clause 10.5 must:
 - (i) Have reasonable qualifications and practical experience in the area of the dispute; and
 - (ii) Have no interest or duty which conflicts or may conflict with his or her function as a mediator he or she being required to fully disclose any such interest or duty before his or her appointment;
- (d) The mediator shall be required to undertake to keep confidential all matters coming to his or her knowledge by reason of his or her appointment and performance of his or her duties;
- (e) The parties must within 15 Business Days of receipt of the Determination Notice notify each other of their representatives who will be involved in the mediation (except if a resolution of the Council is required to appoint a representative, the Council must advise of the representative within 5 Business Days of the resolution);
- (f) The parties agree to be bound by a mediation settlement and may only initiate judicial proceedings in respect of a dispute which is the subject of a mediation settlement for the purpose of enforcing that mediation settlement; and
- (g) In relation to costs and expenses:
 - (i) Each party will bear its own professional and expert costs incurred in connection with the mediation; and

- (ii) The costs of the mediator will be shared equally by the parties unless the mediator determines that a party has engaged in vexatious or unconscionable behaviour in which case the mediator may require the full costs of the mediation to be borne by that party.

10.6 *Expert determination*

If the dispute is not resolved under clause 10.3 or clause 10.5, or the parties otherwise agree that the dispute may be resolved by expert determination, the parties may refer the dispute to an expert, in which event:

- (a) The dispute must be determined by an independent expert in the relevant field:
 - (i) Agreed upon and appointed jointly by the parties; and
 - (ii) In the event that no agreement is reached or no appointment is made within 20 Business Days of the agreement to refer the dispute to an expert, appointed on application of a party by the then President of the Law Society of New South Wales;
- (b) The expert must be appointed in writing and the terms of the appointment must not be inconsistent with this clause;
- (c) The determination of the dispute by such an expert will be made as an expert and not as an arbitrator and will be in writing and contain the reasons for the determination;
- (d) The expert will determine the rules for the conduct of the process but must conduct the process in accordance with the rules of natural justice;
- (e) Each party will bear its own costs in connection with the process and the determination by the expert and will share equally the expert's fees and costs; and
- (f) Any determination made by an expert pursuant to this clause is final and binding upon the parties except unless:
 - (i) Within 20 Business Days of receiving the determination, a party gives written notice to the other party that it does not agree with the determination and commences litigation; or
 - (ii) The determination is in respect of, or relates to, termination or purported termination of this agreement by any party, in which event the expert is deemed to be giving a non-binding appraisal.

10.7 *Litigation*

If the dispute is not *finally* resolved in accordance with this clause 10, then either party is at liberty to litigate the dispute.

10.8 *No suspension of contractual obligations*

Subject to any interlocutory order obtained under clause 10.1, the referral to or undertaking of a dispute resolution process under this clause 10 does not suspend the parties' obligations under this agreement.

11 Enforcement

11.1 Default

- (a) In the event a party considers another party has failed to perform and fulfil an obligation under this agreement, it may give notice in writing to the other party (**Default Notice**) giving all particulars of the matters in respect of which it considers default has occurred and by such notice require the default to be remedied within a reasonable time not being less than 21 days.
- (b) In determining a reasonable time, regard must be had to both the nature of the default and the work or other action required to remedy it and whether or not the continuation of the default constitutes a public nuisance or raises other circumstances of urgency or emergency.
- (c) If a party disputes the Default Notice it may refer the dispute to dispute resolution under clause 10 of this agreement.

11.2 Bank Guarantee

- (a) If the Developer elects to provide a Bank Guarantee instead of paying the first instalment of the Monetary Contribution as set out in clause 6.1(b), the Developer must provide to the Council a Bank Guarantee in an amount equivalent to 75% of the Monetary Contribution prior to the issue of any Construction Certificate for the Development.
- (b) Prior to the issue of any Construction Certificate the Developer must provide to the Council a Bank Guarantee in the amount of \$39,600 to secure the completion of the Works.
- (c) The Council may reject any Bank Guarantee that contains errors, or if it has received the Bank Guarantee, require at any time the Developer to obtain a replacement Bank Guarantee that rectifies any such errors or otherwise obtain rectification of the errors. The Developer must provide the replacement Bank Guarantee, or otherwise obtain rectification of the errors, within 5 Business Days of receiving the Council's request.
- (d) The Council may call on a Bank Guarantee provided under this clause if:
 - (i) the Developer is in material or substantial breach of this agreement and has failed to rectify the breach within a reasonable period of time after having been given reasonable notice (which must not be less than 21 Business Days) in writing to do so in accordance with clause 11.1 of this agreement; or
 - (ii) the Developer becomes Insolvent.
- (e) Within 20 Business Days of each anniversary of a Bank Guarantee provided under clause (a), the Developer must provide Council with one or more replacement Bank Guarantees (**Replacement Bank Guarantee**) in an amount calculated in accordance with the following:

$$A = \frac{B \times D}{C}$$

Where:

A is the amount of the Replacement Bank Guarantee,

B is the amount of the Bank Guarantee to be replaced,

C is the CPI for the quarter ending immediately before the date of the Bank Guarantee to be replaced,

D is the CPI for the quarter ending immediately before the date of the Replacement Bank Guarantee,

provided A is greater than B.

- (f) On receipt of a Replacement Bank Guarantee provided under clause 11.2(e), the Council must release and return to the Developer, as directed, the Bank Guarantee that has been replaced as soon as reasonably practicable.
- (g) At any time following the provision of a Bank Guarantee under this clause, the Developer may provide the Council with one or more replacement Bank Guarantees totalling the amount of all Bank Guarantees required to be provided under this clause for the time being. On receipt of such replacement Bank Guarantee, the Council must release and return to the Developer, as directed, the Bank Guarantee(s) which it holds that have been replaced as soon as reasonably practicable.
- (h) Subject to clause 11.2(d), the Council may apply the proceeds of a Bank Guarantee in satisfaction of:
 - (i) any obligation of the Developer under this agreement that is secured by the Bank Guarantee; or
 - (ii) any associated liability, loss, cost, charge or expense directly or indirectly incurred by the Council because of the failure by the Developer to comply with this agreement.
- (i) The Council must promptly return a Bank Guarantee provided under this clause to secure the provision of any Works if requested by the Developer and:
 - (i) A Certificate of Practical Completion has been issued for the item of Works to which the Bank Guarantee relates; and
 - (ii) If the Bank Guarantee relates to other items of Works for which a Certificate of Practical Completion has not been issued, a replacement Bank Guarantee is provided by the Developer in an amount determined by the Council acting reasonably, that is equivalent to the costs of constructing those other items of Works.
- (j) Nothing in this clause 11.2 prevents or restricts the Council from taking any enforcement action in relation to:
 - (i) any obligation of the Developer under this agreement; or
 - (ii) any associated liability, loss, cost, charge or expense directly or indirectly incurred by the Council because of the failure by the Developer to comply with this agreement,

that is not or cannot be satisfied by calling on a Bank Guarantee.

11.3 Restriction on the issue of Certificates

- (a) In accordance with section 6.8 of the Act and any associated regulations, any obligations to:

- (i) provide a Bank Guarantee under clause 11.2; and
 - (ii) pay the Monetary Contribution under clause 6.1,
- must be satisfied prior to the issue of a Construction Certificate for the Development or any part of the Development.
- (b) In accordance with section 6.10 of the Act and any associated regulations, the obligations to:
- (i) carry out the Works; and
 - (ii) provide a Bank Guarantee for any item of the Works,
- must be satisfied prior to the issue of an Occupation Certificate for the Development or any part of the Development.

11.4 *General Enforcement*

- (a) Without limiting any other remedies available to the parties, this agreement may be enforced by any party in any Court of competent jurisdiction.
- (b) Nothing in this agreement prevents:
- (i) a party from bringing proceedings in the Land and Environment Court to enforce any aspect of this agreement or any matter to which this agreement relates; and
 - (ii) the Council from exercising any function under the Act or any other Act or Law relating to the enforcement of any aspect of this agreement or any matter to which this agreement relates.

12 *Assignment and Dealings*

12.1 *Assignment*

- (a) A party must not assign or deal with any right under this agreement without the prior written consent of the other parties.
- (b) Any change of ownership or control (as defined in section 50AA of the *Commonwealth Corporations Act 2001*) of a party (excluding the Council) shall be deemed to be an assignment of this agreement for the purposes of this clause.
- (c) Any purported Dealing in breach of this clause is of no effect.

12.2 *Arrangements with Mortgagee*

- (a) The Developer agrees with the Council that if the Developer mortgages the Land after this agreement is entered into it must use all reasonable efforts at that time to arrange a multiple party deed of agreement between the Council, the Developer, and the mortgagee who will be providing finance for the Works so that the mortgagee accepts that the responsibilities set out in this agreement are binding upon the mortgagee in the event that the Developer defaults on the mortgage and the mortgagee takes possession of the Land.
- (b) The terms of the adoption of the obligations of the Developer by the mortgagee shall be as reasonably required by the Council. The agreement shall be prepared at the cost of the Developer.

12.3 *Transfer of Land*

- (a) The Developer may not transfer, assign or dispose of the whole or any part of its right, title or interest in the Land (present or future) or in the Development to another person (**Transferee**) unless before it sells, transfers or disposes of that right, title or interest:
 - (i) The Developer satisfies the Council that the proposed Transferee is financially capable of complying with the Developer obligations under this agreement;
 - (ii) The Developer satisfies the Council that the rights of the Council will not be diminished or fettered in any way;
 - (iii) The Transferee delivers to the Council a novation deed signed by the Transferee in a form and of such substance as is acceptable to the Council containing provisions under which the Transferee agrees to comply with all the outstanding obligations of the Developer under this agreement;
 - (iv) The Transferee delivers to the Council replacement Bonds or Bank Guarantees as required by this agreement;
 - (v) Any default under any provisions of this agreement has been remedied or waived by the Council, on such conditions as the Council may determine, and
 - (vi) The Developer and the Transferee pay the Council's reasonable costs in relation to the assignment.

13 Approvals and consents

Except as otherwise set out in this agreement, and subject to any statutory obligations, a party may give or withhold an approval or consent to be given under this agreement in that party's absolute discretion and subject to any conditions determined by the party. A party is not obligated to give its reasons for giving or withholding consent or for giving consent subject to conditions.

14 No fetter

14.1 *Discretion*

This agreement is not intended to operate to fetter, in any manner, the exercise of any statutory power or discretion of the Council, including, but not limited to, any statutory power or discretion of the Council relating to the Development Application or any other application for Development Consent (all referred to in this agreement as a "**Discretion**").

14.2 *No fetter*

No provision of this agreement is intended to constitute any fetter on the exercise of any Discretion. If, contrary to the operation of this clause, any provision of this agreement is held by a court of competent jurisdiction to constitute a fetter on any Discretion, the parties agree:

- (a) They will take all practical steps, including the execution of any further documents, to ensure the objective of this clause is substantially satisfied,

- (b) In the event that (a) cannot be achieved without giving rise to a fetter on the exercise of a Discretion, the relevant provision is to be severed and the remainder of this agreement has full force and effect, and
- (c) To endeavour to satisfy the common objectives of the parties in relation to the provision of this agreement which is to be held to be a fetter on the extent that is possible having regard to the relevant court judgment.

14.3 *Planning Certificates*

The Developer acknowledges that Council may, at its discretion, include advice on any planning certificate issued under section 10.7 of the Act that this agreement affects the Land.

15 Notices

15.1 *Notices*

Any notice given under or in connection with this agreement (**Notice**):

- (a) must be in writing and signed by a person duly authorised by the sender;
- (b) must be addressed as follows and delivered to the intended recipient by hand, by prepaid post or by email or fax at the Address or Fax Number below, or at the Address or Fax Number last notified by the intended recipient to the sender after the date of this agreement:
 - (i) to City of Parramatta Council: PO Box 32, Parramatta, NSW 2124
Fax: 02 9806 5917
Email: council@cityofparramatta.nsw.gov.au
Attention: Manager, Land Use Planning
 - (ii) to The Owners— Strata Plan No 47006: 23 – 25 Windsor Road, Northmead
Fax: 02 93958815
Email: anthony@stratawide.com.au
Attention: Anthony Maroon, Stratawide Management Pty Ltd
- (c) is taken to be given or made:
 - (i) in the case of hand delivery, when delivered;
 - (ii) in the case of delivery by post, three Business Days after the date of posting (if posted to an Address in the same country) or seven Business Days after the date of posting (if posted to an Address in another country); and
 - (iii) in the case of a fax, on production of a transmission report by the machine from which the fax was sent that indicates the fax was sent in its entirety to the recipient's Fax Number; and
- (d) if under clause (c) a Notice would be taken to be given or made on a day that is not a Business Day in the place to which the Notice is sent, or later than 4.00 pm (local time), it is taken to have been given or made at the start of business on the next Business Day in that place.

15.2 *Notices sent by email*

- (a) A party may serve a Notice by email if the Notice:
 - (i) includes a signature block specifying:
 - (A) the name of the person sending the Notice; and
 - (B) the sender's position within the relevant party;
 - (ii) states in the body of the message or the subject field that it is sent as a Notice under this agreement;
 - (iii) contains an express statement that the person sending the Notice has the authority to serve a Notice under this agreement;
 - (iv) is sent to the email address below or the email address last notified by the intended recipient to the sender:
 - (A) to City of Parramatta Attention: Manager, Land Use Planning
Council: council@cityofparramatta.nsw.gov.au
 - (B) to The Owners— Anthony Maroon, Strata Manager
Strata Plan No 47006: anthony@stratawide.com.au
- (b) The recipient of a Notice served under this clause 15.2 must:
 - (i) promptly acknowledge receipt of the Notice; and
 - (ii) keep an electronic copy of the Notice,
- (c) Failure to comply with clause 15.2 does not invalidate service of a Notice under this clause.

15.3 *Receipt of Notices sent by email*

- (a) A Notice sent under clause 15.2 is taken to be given or made:
 - (i) when the sender receives an email acknowledgement from the recipient's information system showing the Notice has been delivered to the email address stated above;
 - (ii) when the Notice enters an information system controlled by the recipient;
or
 - (iii) when the Notice is first opened or read by the recipient,whichever occurs first.
- (b) If under clause 15.3 a Notice would be taken to be given or made on a day that is not a Business Day in the place to which the Notice is sent, or later than 4.00 pm (local time), it will be taken to have been given or made at the start of business on the next Business Day in that place.

16 General

16.1 *Relationship between parties*

- (a) Nothing in this agreement:
 - (i) constitutes a partnership between the parties; or

- (ii) except as expressly provided, makes a party an agent of another party for any purpose.
- (b) A party cannot in any way or for any purpose:
 - (i) bind another party; or
 - (ii) contract in the name of another party.
- (c) If a party must fulfil an obligation and that party is dependent on another party, then that other party must do each thing reasonably within its power to assist the other in the performance of that obligation.

16.2 *Time for doing acts*

- (a) If the time for doing any act or thing required to be done or a notice period specified in this agreement expires on a day other than a Business Day, the time for doing that act or thing or the expiration of that notice period is extended until the following Business Day.
- (b) If any act or thing required to be done is done after 5.00 pm on the specified day, it is taken to have been done on the following Business Day.

16.3 *Further assurances*

Each party must promptly execute all documents and do all other things reasonably necessary or desirable to give effect to the arrangements recorded in this agreement.

16.4 *Joint and individual liability and benefits*

Except as otherwise set out in this agreement, any agreement, covenant, representation or warranty under this agreement by two or more persons binds them jointly and each of them individually, and any benefit in favour of two or more persons is for the benefit of them jointly and each of them individually.

16.5 *Variations and Amendments*

A provision of this agreement can only be varied by a later written document executed by or on behalf of all parties and in accordance with the provisions of the Act.

16.6 *Counterparts*

This agreement may be executed in any number of counterparts. All counterparts taken together constitute one instrument.

16.7 *Legal expenses and stamp duty*

- (a) The Developer must pay the Council's legal costs and disbursements in connection with the negotiation, preparation, execution, carrying into effect, enforcement and release and discharge of this agreement, including the reasonable costs of obtaining any legal advice in connection with this agreement, no later than 10 Business Days after receiving a demand from the Council to pay such costs.
- (b) The Developer agrees to pay or reimburse the costs and expenses incurred by Council in connection with the advertising and exhibition of this agreement in accordance with the Act.

- (c) The Developer agrees to pay Council any administrative fees as required by Council, acting reasonably, in connection with the administration of this agreement.

16.8 *Entire agreement*

The contents of this agreement constitute the entire agreement between the parties and supersede any prior negotiations, representations, understandings or arrangements made between the parties regarding the subject matter of this agreement, whether orally or in writing.

16.9 *Representations and warranties*

The parties represent and warrant that they have the power and authority to enter into this agreement and comply with their obligations under the agreement and that entry into this agreement will not result in the breach of any law.

16.10 *Severability*

If a clause or part of a clause of this agreement can be read in a way that makes it illegal, unenforceable or invalid, but can also be read in a way that makes it legal, enforceable and valid, it must be read in the latter way. If any clause or part of a clause is illegal, unenforceable or invalid, that clause or part is to be treated as removed from this agreement, but the rest of this agreement is not affected.

16.11 *Invalidity*

- (a) A word or provision must be read down if:
 - (i) this agreement is void, voidable, or unenforceable if it is not read down;
 - (ii) this agreement will not be void, voidable or unenforceable if it is read down; and
 - (iii) the provision is capable of being read down.
- (b) A word or provision must be severed if:
 - (i) despite the operation of clause (a), the provision is void, voidable or unenforceable if it is not severed; and
 - (ii) this agreement will be void, voidable or unenforceable if it is not severed.
- (c) The remainder of this agreement has full effect even if clause 16.11(b) applies.

16.12 *Waiver*

- (a) A right or remedy created by this agreement cannot be waived except in writing signed by the party entitled to that right. Delay by a party in exercising a right or remedy does not constitute a waiver of that right or remedy, nor does a waiver (either wholly or in part) by a party of a right operate as a subsequent waiver of the same right or of any other right of that party.
- (b) The fact that a party fails to do, or delays in doing, something the party is entitled to do under this agreement, does not amount to a waiver of any obligation of, or breach of obligation by, another party. A waiver by a party is only effective if it is in writing. A written waiver by a party is only effective in relation to the particular obligation or breach in respect of which it is given. It is not to be taken as an implied waiver of any other obligation or breach or as an implied waiver of that obligation or breach in relation to any other occasion.

16.13 GST

- (a) Words and expressions which are not defined in this agreement but which have a defined meaning in GST Law have the same meaning as in the GST Law.
- (b) Unless otherwise expressly stated, all prices or other sums payable or consideration to be provided under this agreement are exclusive of GST.
- (c) If GST is imposed on any supply made under or in accordance with this agreement, the Developer must pay the GST or pay to the Council an amount equal to the GST payable on or for the taxable supply, whichever is appropriate in the circumstances.
- (d) If the Council is obliged to pay any GST on any supply made under or in accordance with this agreement, the Developer indemnifies the Council for the amount of any such payment is required to make.

16.14 *Governing Law and jurisdiction*

- (a) The Laws applicable in New South Wales govern this agreement.
- (b) The parties submit to the non-exclusive jurisdiction of the courts of New South Wales and any courts competent to hear appeals from those courts.

Schedule 1

Monetary Contribution, and cost of Works to be deducted from Monetary Contribution

Contribution	<p>The Monetary Contribution will be reflecting infrastructure need, between the existing floor space ratio and the proposed floor space ratio. Based on the valuation advice supplied to the Council and subsequently peer-reviewed, the total contribution amount is valued at \$2,898,000.</p>
Works	<p>The following works will be undertaken, the estimated value of which is to be discounted from the total contribution:</p> <ol style="list-style-type: none"> <p>1. Works to establish a three (3) metre wide shared pathway for pedestrians and cyclists from the south-eastern corner to the north-eastern corner of the Land, noting that this will provide access for residents of the Land, as well as the general public to access the pedestrian and cycling network exterior to the Land, through the adjoining land and on to Campbell Street. The value of these works is determined at \$120 per sqm.</p> <p>The estimated area of this pathway is 210 sqm. Therefore, the value of these works is \$25,200.</p> <p>The whole costs of these works would be applied against the Monetary Contribution referred to in clause 6.1 of this agreement, as provided in clause 6.1(g).</p> <p>2. Works to establish a three (3) metre wide shared pathway for pedestrians and cyclists from the north-eastern corner of the Land to the north-western corner, at the Windsor Road interface noting that this will provide access for residents of the site, as well as the general public, to access the pedestrian and cycling network exterior to the Land, from Windsor Road, through to the adjoining school and on to Campbell Street to the north-east and Darling Mills Creek to the south- east.</p> <p>The value of these works is estimated at \$120 per sqm. The estimated area of this pathway is 600 sqm. Therefore, the value of these works is \$72,000.</p> <p>This cost of these works would be applied at a rate of 20%, being \$14,400, against the Monetary Contribution referred to in clause 6.1 of this agreement, as provided in clause 6.1(g).</p>

Schedule 2 Easement Terms for public access to Shared Pathways

- 1 The owner of the Shared Pathways grants to the Council and members of the public full and free right to go, pass and repass over the Shared Pathways at all times:
 - (a) with or without companion animals (as defined in the Companion Animals Act 1998) or other small pet animals;
 - (b) on bicycles and scooters; and
 - (c) on foot without vehicles (other than 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 owner of the Shared Pathways must, to the satisfaction of Council, acting reasonably:
 - (a) keep the Shared Pathways (including any services in, on or under the Shared Pathways) in good repair and condition;
 - (b) maintain and repair the Shared Pathways and all improvements on the Shared Pathways;
 - (c) keep the Shared Pathways clean and free from rubbish; and
 - (d) maintain sufficient public liability insurance covering the use of the Shared Pathways in accordance with the terms of this Easement.
- 3 The owner of the Shared Pathways must ensure that any rules made by an Owner's Corporation relating to the Shared Pathways have been approved by the Council, acting reasonably.
- 4 If any member or members of the public loiter or congregate, for any purpose which the owner of the Shared Pathways, 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.
- 5 The owner of the Shared Pathways may erect safety signage and any other appropriate signage and may erect CCTV cameras in the Shared Pathways.
- 6 The owner of the Shared Pathways 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) and the like in accordance with any rules made by an Owner's Corporation relating to the Shared Pathways.
- 7 The owner of the Shared Pathways 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 Shared Pathways 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 Shared Pathways or any improvements in, on or under the Shared Pathways; or

- (b) security, public safety or evacuation of the Shared Pathways and adjoining buildings.
- 8 Subject to ensuring the provision of access in accordance with above clause 1 of this Schedule, the owner of the Shared Pathways may, provided any necessary planning approvals are obtained:
 - (a) Carry out works in the Shared Pathways for the purposes of enhancing the Shared Pathways;
 - (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 Shared Pathways; and
 - (c) Use the Shared Pathways,
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.
- 9 The Council is solely empowered to release this Easement.
- 10 This Easement may only be varied by written agreement between the Council and the owner of the Shared Pathways.

Schedule 3

Summary of requirements (section 7.4)

Subject and subsection of the Act	Planning Agreement
Planning instrument and/or Development Application – Section 7.4(1) The Developer has: <ul style="list-style-type: none"> (a) Sought a change to an environmental planning instrument (b) Made, or propose to make a Development Application (c) Entered into an agreement with, or are otherwise associated with, a person to whom paragraph (a) or (b) applies 	Yes No No
Description of the land to which the planning Agreement applies – Section 7.4(3)(a)	The Land as defined in clause 1 of this agreement
Description of the application – Section 7.4(3)(b)	The application for the Instrument Change as defined in clause 1 of this agreement
The scope, timing and manner of delivery of contribution required by the Planning Agreement – Section 7.4(3)(c)	See clause 6 of this agreement
Applicability of section 7.11 of the Act – Section 7.4(3)(d)	See clause 7(a) of this agreement
Applicability of section 7.12 of the Act – Section 7.4(3)(d)	See clause 7(b) of this agreement
Applicability of section 7.24 of the Act – Section 7.4(3)(d)	See clause 7(c) of this agreement
Mechanism for dispute resolution – Section 7.4(3)(f)	See clause 10 of this agreement
Enforcement of the Planning Agreement – Section 7.4(3)(g)	See clause 11 of this agreement
Registration of the Planning Agreement – Section 7.6	See clause 8 of this agreement
No obligation to grant consent or exercise functions – Section 7.4(9)	See clause 14 of this agreement

Executed as an agreement

Signed on behalf of **City of Parramatta Council** (ABN 49 907 174 773) by its authorised delegate pursuant to section 377 of the *Local Government Act 1993* in the presence of:

Signature of witness

Signature of authorised delegate

Name of witness

Name of authorised delegate

Address of witness

Position of authorised delegate

**THE COMMON SEAL OF
THE OWNERS—STRATA PLAN No 47006**
was affixed on

in the presence of:

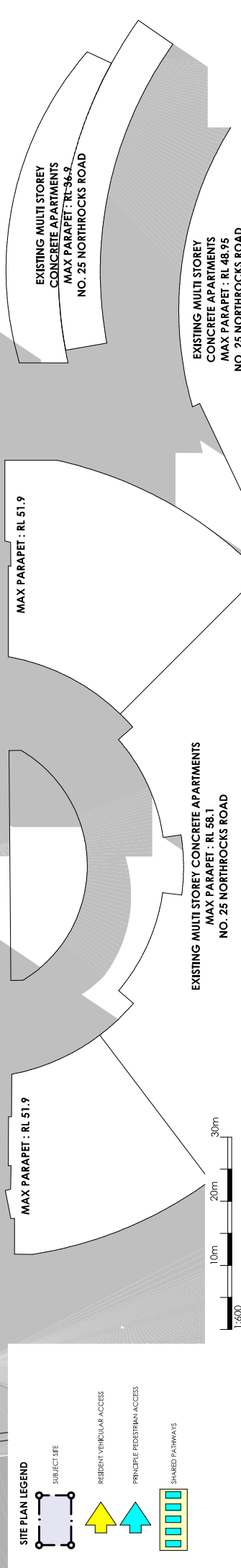
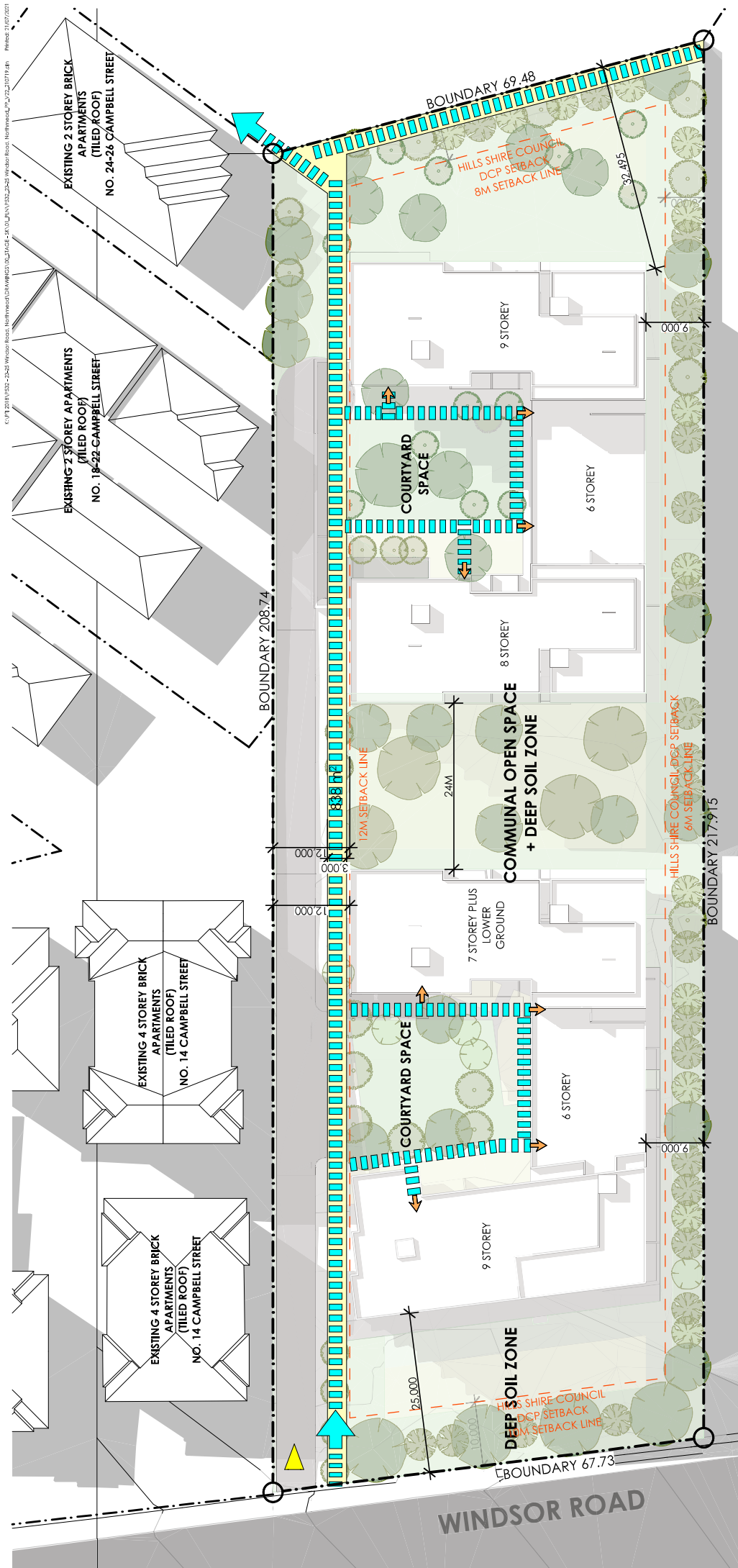
Signature

Print name

Director of Stratawide Management Pty Ltd
the Strata Managing Agent of The Owners—
Strata Plan No 47006 being the person(s)
authorised by section 273 of the *Strata
Schemes Management Act 2015* to attest the
affixing of the seal.

Annexure A

Plan showing Land



ARCHITECTURE + INTERIORS

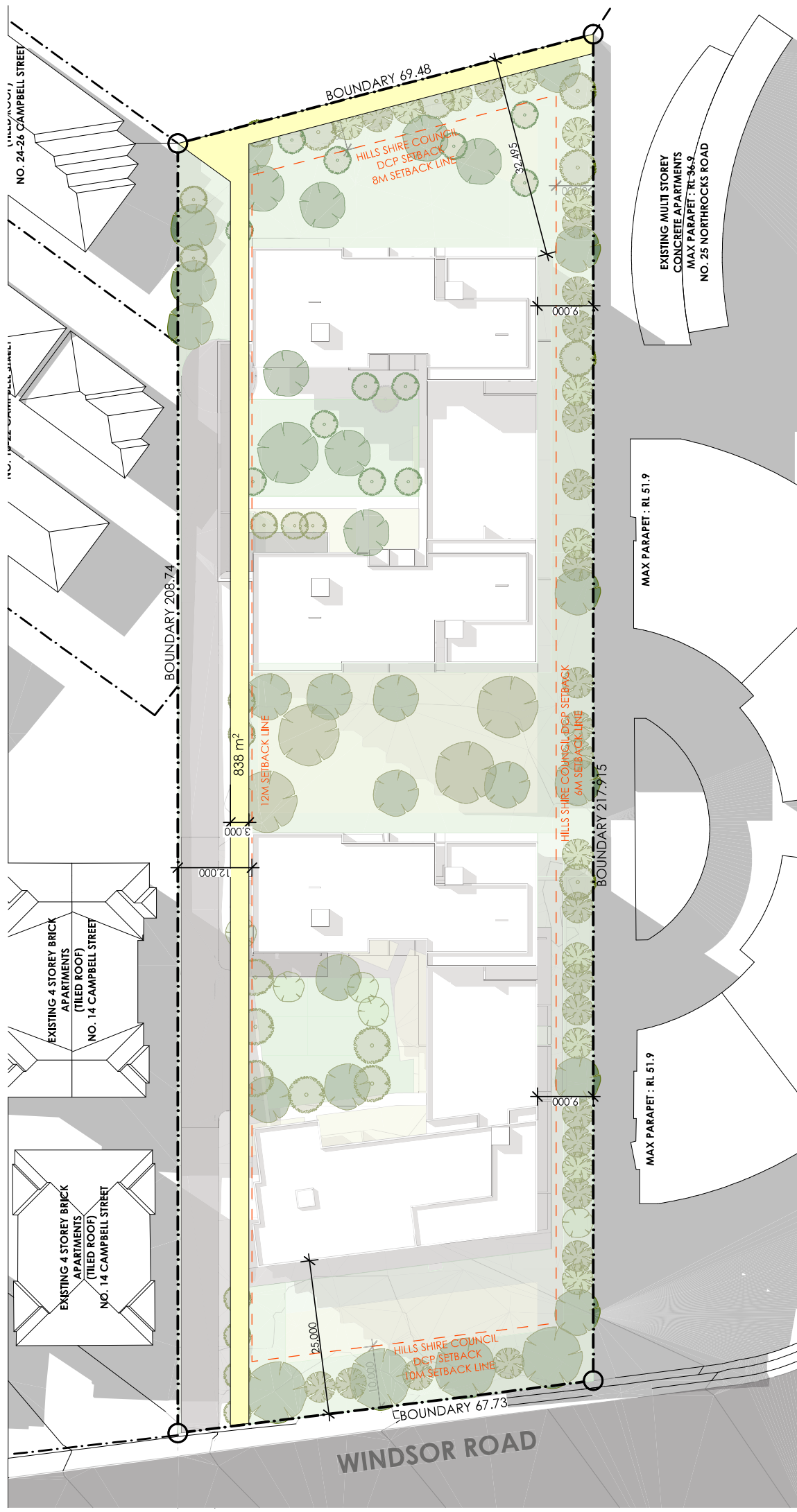
level 10, 265 Clarence Street, Sydney NSW 2000
 +61 2 9263 0867 | www.ptiarchitecture.com.au
 Incorporated Registered Architect: Peter Israel (reg no 5094)
 /BN 90 050 071 022

REV.	DESCRIPTION	BY	DATE	CURT:	PROJECT REF:	DRAWING REF:	BROWN REF:	VW JW FW LL
1	ISSUE FOR PLANS	PW	21.01.2020	OWNERS	23-25 WINDSOR RD	NORTH MEAD	CHECKED BY:	PI
2	FOR CLIENT REVIEW	PW	21.05.2020	CORPORATION STRATA	NORTHMEAD		SCALE:	1:600 AT A3
3	FOR CLIENT REVIEW	LL	01.09.2020	PLAN 47006			PROJECT REF:	P532
4	FOR COUNCIL DCP	LL	21.07.2021				PP	04
5	FOR VFA						stage,	revision

Annexure B

Plan showing Shared Pathways with public access

To be constructed in accordance with council specifications for pedestrian paths attached.




ANNEXURE B - SHARED PATHWAYS WITH PUBLIC ACCESS

SHARED PATHWAYS



REV	DESCRIPTION	BY	DATE	CLIENT	PROJECT TITLE
1	ISSUE FOR PLANNER	FW	20.01.2020	OWNERS CORPORATION STRATA PLAN 47006	23-25 WINDSOR RD NORTHMEAD
2	FOR CLIENT REVIEW	FW	21.03.2020		
3	FOR CLIENT REVIEW	FW	21.03.2020		
4	FOR COUNCIL DCP	LL	01.09.2020		
5	FOR VFA	LL	21.07.2021		

NORTH POINT: 

Annexure C

Infrastructure Service Delivery Plan and
specification(s)

Infrastructure Services Delivery Plan

**23-25 Windsor Road,
Northmead**

July 2021

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Purpose

The 23-25 Windsor Road, Northmead Infrastructure Services Delivery Plan (ISDP) is a document which details the items of work to be delivered by way of a Planning Agreement between the Owners of Strata Plan No 47006 (the Developer) and the City of Parramatta (the Council).

The redevelopment of the area will be supported by the appropriate provisions of infrastructure necessary to support the existing and new community. The works set out in the ISDP has been designed consistent with the Concept Plan (refer to Annexures A and B).

The ISDP is a defined term in the Planning Agreement and is specifically referenced in that document as follows:-

1. In Schedule 1& 2 and Clause 6 of the Planning Agreement which lists the elements to be delivered as Development Contributions; and

To assist in the interpretation and implementation of the Planning Agreement, this ISDP includes:-

- A more detailed description of the scope of works showing the general location and configuration of works on the site.;
- A budget estimate (ex. GST) for the delivery of the item based on the scope of works and/or concept plans referenced; and
- A rationale for the staging of delivery of each item of works based on Development Area/Stage or lot threshold of works. Figure 1 identifies the development stages/areas for the works.

In reading this document, the following should be noted:-

- The Description of the Works outlines the scope of works proposed to be delivered.
- These cost estimates include allowances for contingency, professions fees, approvals, maintenance and defects liability period.
- All hard and soft landscaping works will be maintained by the Developer for a period of 5 years from the completion of works.
- Maintenance is to include repair works due to vandalism and provision for replacement of plants due to vandalism.
- The estimated budgets are outlined to give an understanding and context to the scope of works proposed. There is nothing to stop the same works being delivered at a reduced cost if efficiencies can be negotiated at tender or through the detailed design stage. Any cost savings achieved by the Developer do not need to be passed on to Council. Conversely any additional costs incurred shall be borne by the Developer.
- On a project of this size, there is provision for flexibility in time when the Developer and Council can negotiate refinements or changes to the details of the infrastructure provisions and delivery timing pursuant to Schedule 1 of the Planning Agreement. The flexibility is subject to the following limitations and assurances:
 - Conditions attached to the Planning Proposal and subsequent planning approvals for the redevelopment of the Planning Agreement Area; and
 - The Description of Works identified in the ISDP cannot be varied without an amendment.
 - Any changes are to have regard for Council's Public Domain Guidelines July 2017, The DPIE 'Everyone Can Play' Guideline and any other Council policy or plan as relevant.

The following schedules provided in Part A, Part B and Part C of the ISDP detail the scope, budget and staging of all items of works consistent with Schedule 1 and 2 of the Planning Agreement.

Proposed development

The Concept Plan proposal comprises:

High-density residential including:

- Approximately 308 dwellings,
- Proposed accessway for vehicles
- Proposed shared-paths to support pedestrian and cyclists in Northmead area

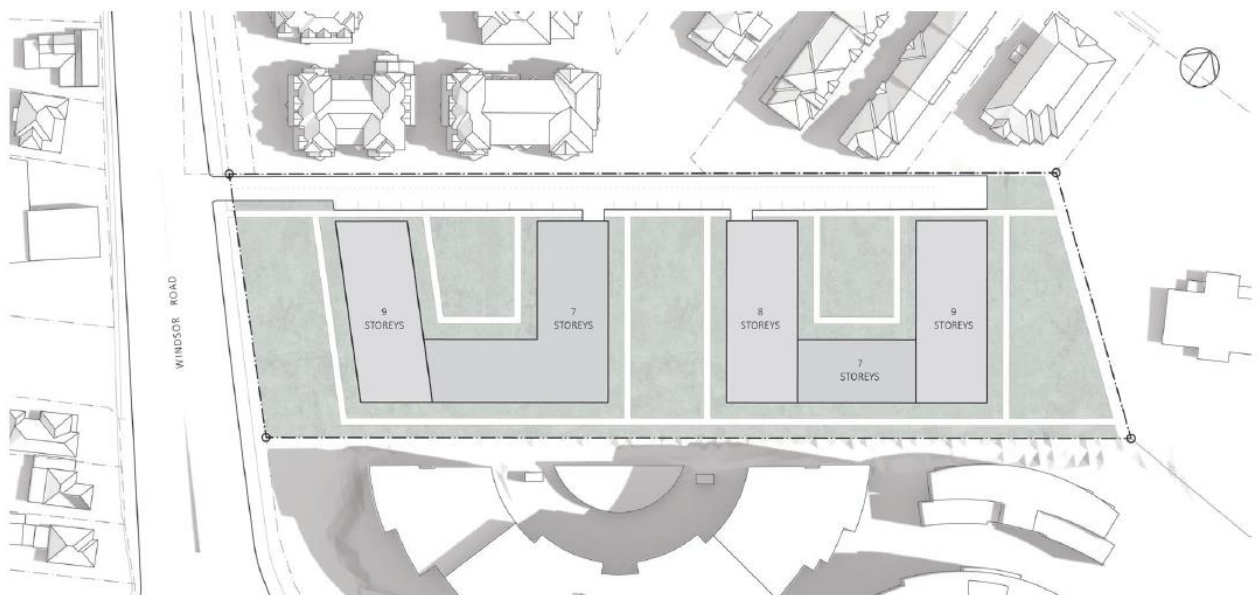
Delivery of new shared pathways with public access easements, including:

- Public access easements
- Two (2) 3 metre wide-shared pathways,

Timing

Timing and provision of items (works and land) of the development project will be generally in accordance with the indicative timing outlined in this ISDP. Items of material public benefit will be provided in conjunction with the relevant development area.

Figure 1: Site Plan – 23-25 Windsor Road, Northmead



Planning Agreement Summary Table

No	Item	Public Purpose	Scope	Contribution Value	Timing	Relevant Development Area
1	Works – Two shared pathways	Accessibility / Wayfinding	Carrying out of Work as described under the ISDP in accordance with the Annexure A and B	\$39,400	Prior to issue of any Occupation Certificate	SP47006
2	Registration – Two public access easements for shared pathways	Public Domain	Carrying out of Registration as described under the heading in Part A of the ISDP in accordance with the Annexure A & B. (subject to Land Registry Services Fees & Charges)	N/A	Prior to issue of any Occupation Certificate	SP47006
3	Monetary Contribution – Outdoor fitness equipment at Speers Road Reserve	Open Space	Monetary contribution towards exercise fitness equipment in Speers Road Reserve	\$100,000	Prior to issue of Construction Certificate	Lot 10 / DP 1148832
4	Monetary Contribution – Affordable Housing	Affordable Housing	Monetary contribution towards affordable housing in accordance with Council's Affordable Housing Policy.	\$579,000	Prior to issue of Construction Certificate	N/A
5	Monetary Contribution - \$2,179,400	Infrastructure Need	Remaining monetary contribution required under Council's Planning Agreements Policy, towards infrastructure need in the area.	\$2,179,400	75% total monetary contribution prior to issue of Construction Certificate, remaining 25% prior to issue of any Occupation Certificate	N/A

Part A:

Development Contributions – Carrying Out of Works

The following lists the items of works and a discussion on the scope, budget and staging in order as they appear in Schedule 1 of the Planning Agreement

1. Shared Pathways

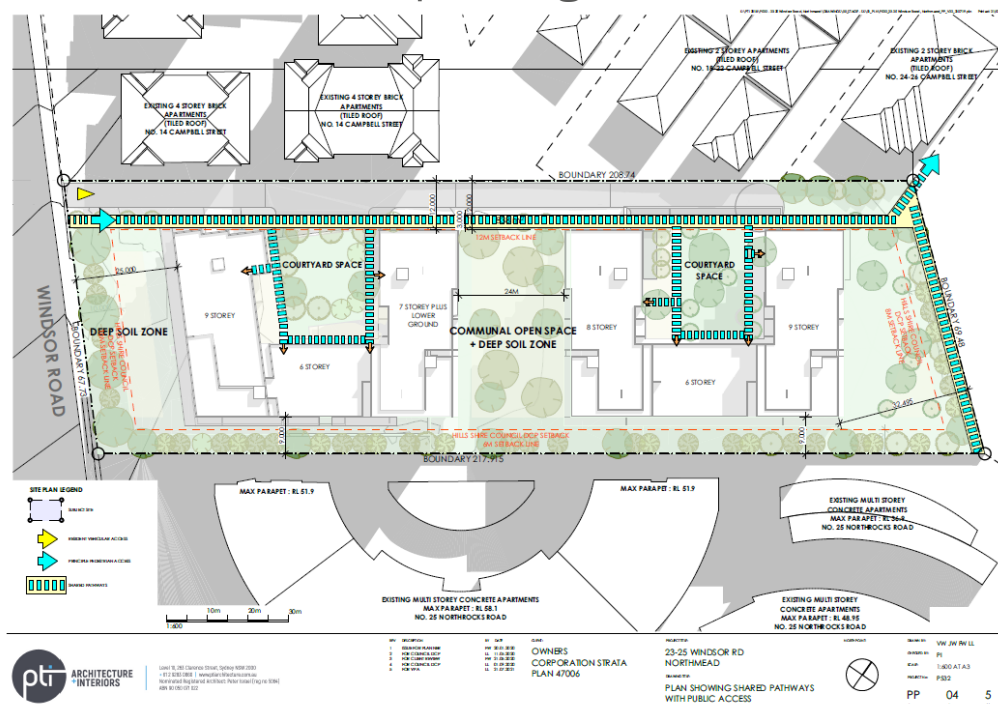
Public Purpose:	Accessibility and Wayfinding
Development Area/Staging Rationale:	Prior to issue of any Occupation Certificate for any building on the site.
Description of Works:	<p>Works to establish two (2) 3-metre wide shared pathway for pedestrians and cyclists on the site. These will be situated:</p> <ul style="list-style-type: none"> from the south-eastern corner to the north-eastern corner of the Land, noting that this will provide access for residents of the Land, as well as the general public to access the pedestrian and cycling network exterior to the Land, through the adjoining land and on to Campbell Street from the north-eastern corner of the Land to the north-western corner, at the Windsor Road interface noting that this will provide access for residents of the site, as well as the general public, to access the pedestrian and cycling network exterior to the Land, from Windsor Road, through to the adjoining school and on to Campbell Street to the north-east and Darling Mills Creek to the south- east
Core Elements:	Works to be delivered in accordance with Annexure B.
Estimated Works Value:	\$97,200 (public benefit valued at \$39,400)
Area:	810sqm

Part B

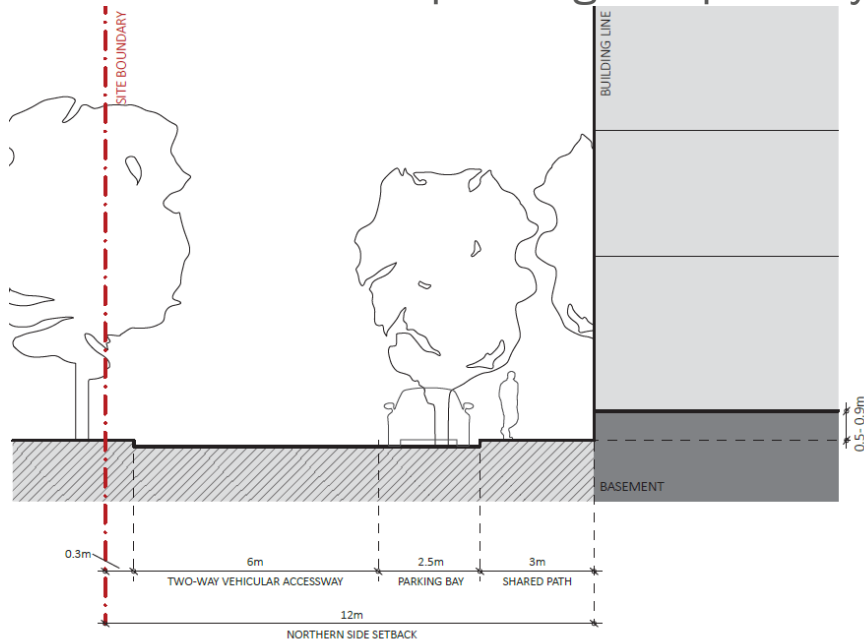
Monetary Contributions

Public Purpose:	Infrastructure Need / Open Space / Affordable Housing
Development Area/Staging Rationale:	<p>Monetary contributions towards:</p> <ul style="list-style-type: none"> • \$100,000 for Outdoor fitness equipment at Speers Road Reserve • \$579,000 for Affordable Housing • \$2,179,400 for Infrastructure need remaining
Description of Contribution:	<p>Monetary contributions (or alternative bank guarantees) will be subject to indexation to reflect increases in the Consumer Price Index between the execution of the agreement and timing payments as required by Part 5.11 of Council's Planning Agreements Policy. Monetary contributions towards Item 3 and 4 will be paid as part of the 75% payment required prior to the issue of a Construction Certificate, remaining 25% payment required prior to issue of any Occupation Certificate.</p>
Core Elements:	Monetary contribution or alternatively bank guarantees.
Estimated Works Value:	\$2,818,400
Area:	N/A

Annexure A: Concept Design for site



Annexure B: Concept Design for pathways



SETBACK SECTION - NORTHERN BOUNDARY CONDITION

