

Voluntary Planning Agreement

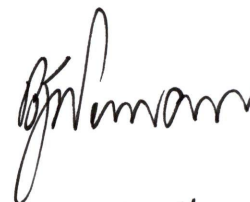
For execution

City of Parramatta Council

ABN 49 907 174 773

**Jimstam Holdings Pty Ltd ATF The J & S
Klapsogiannis Family Trust**

ACN 002 435 207

A handwritten signature in black ink, appearing to read 'J. Klapsogiannis', is written over the signature line.

27th day of June 2022

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Agreement

Date

2022

Parties

Council

Name City of Parramatta Council (**Council**)
ABN 49 907 174 773
Address 126 Church Street, Parramatta
Contact Michael Rodgers
Telephone (02) 9806 5050

Applicant

Name Jimstam Holdings Pty Ltd ATF The J & S
Klapsogiannis Family Trust (**Developer** and
Landowner)
ACN 002 435 207
Address Unit 1, 1A Anderson Road, Northmead NSW 2152
Contact Michael Klapsogiannis
Telephone

Background

- A. The Applicant is the Developer and Landowner of the Land.
- B. The Land is zoned R2 Low Density Residential pursuant to the *Parramatta Local Environmental Plan 2012* and has an area of 908m².
- C. On 13 June 2019, the Developer submitted the Planning Proposal with Council seeking the rezoning of the Land to R4 High Density Residential.
- D. In October 2019, Council endorsed the following changes to the LEP in relation to the Land:
 - a. the rezoning of the Land from R2 Low Density Residential to R4 High Density Residential, and amending the Land Zoning Map (Sheet LZN_010) to reflect this change;
 - b. the increase of the maximum height of building control from RL14m to 17m, and amending the Height of Building Map (Sheet HOB_010) to reflect this change;
and

- c. the amendment to a maximum FSR control of 1.5:1, and amending the Floor Space Ratio Map (Sheet FSR_10) to reflect this change.

The changes are sought for the purpose of making Development Applications to the Council for Development Consent to carry out the Development on the Land.

- E. On 5 December 2019, the Department of Planning issued a Gateway Determination.
- F. The Developer and Landowner have offered to enter into this agreement to make contributions for public purposes in connection with the Planning Proposal and the Development.

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;

Associated Entity has the same meaning as in section 50AAA of the *Corporations Act 2001* (Cth);

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 provided by an insurer licensed by the Australian Prudential Regulatory Authority (APRA) to operate in Australia or has an investment grade rating from an industry recognised rating agency such as Moody's, Standard & Poors or Bests, or a cash bond;

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

Claim means any claim, loss, liability, damage, proceeding, order, judgment or expense arising out of the operation of this agreement;

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

Contribution and **Contribution Item** means the monetary contribution in the sum of \$225,000.00 payable by the Developer, as outlined at clause 7.1 of this Deed and being an item from the Contributions Table;

Contributions Plan has the same meaning as under the Act;

Contributions Table means the table at 0;

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

Damages means all liabilities, losses, damages, costs and expenses, including legal fees and disbursements and costs of investigation, litigation, settlement, judgment, interest and penalties;

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

Development means the development of the Land for a Residential Flat Building;

Development Application has the same meaning as in the Act;

Development Consent has the same meaning as in the Act;

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.

Land means the land comprised in Lot 1 in Deposited Plan 35895 and known as 22 Noller Parade, Parramatta, and includes any lot created by the consolidation or subdivision of the lot from time to time;

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);

LEP means the *Parramatta Local Environmental Plan 2011*;

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

Occupation Certificate means an occupation certificate as defined under section 6.4 of the Act and includes Occupation Certificate for a part of a building;

Planning Proposal means the document proposing amendments to the LEP, being the Amended Planning Proposal lodged by the Developer with Council on 13 June 2019, and which is included under Schedule 3 of this Deed

Public Purpose means the public purpose to which the Contribution will be applied, being the Public Domain works associated with, or new connections to, the Alfred Street Bridge.

Public Reserve has the same meaning as in the *Local Government Act 1993*;

Public Road has the same meaning as in the *Roads Act 1993*;

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

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

Related Body Corporate has the meaning given to that term in s 9 of the *Corporations Act 2001* (Cth);

Strata Certificate has the same meaning as in the *Strata Schemes Act*;

Strata Plan means a strata plan, a strata plan of subdivision or a strata plan of consolidation that is registered in accordance with the *Strata Schemes Act*; and

Strata Schemes Act means the *Strata Schemes Development Act 2015*;

Total Contribution Value means the total value of all Contributions to be provided under this agreement as specified in the Contributions Table, as adjusted, where necessary, for CPI;

Transferee has the meaning given in clause 13.2(a); and

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 2 of this agreement summarises the requirements for planning agreements under section 7.4 of the Act and the way this agreement addresses those requirements.
- (c) The parties acknowledge and agree that, in accordance with section 4.15 of the Act, the terms of this agreement must be considered by any consent authority when determining a Development Application for the Development, or any part of the Development.

4 Application of this agreement

This agreement applies to:

- (a) the Planning Proposal;
- (b) the Development; and
- (c) the Land.

5 Operation of this agreement

- (a) This agreement commences on and from the date it is executed by all parties.

- (b) For the avoidance of doubt, the obligations to deliver contributions under clause 7 do not take effect until the Planning Proposal is approved and the amendment to the LEP has been published on the NSW legislation website, and are payable in the manner as set in Contributions Schedule.

6 Staged provision of Contributions

- (a) Subject to 6 (b), below, each Contribution Item must be delivered by no later than the timeframe specified in the Contributions Table. However, the Developer may complete and deliver a Contribution Item earlier than the timeframe specified in the Contributions Table.
- (b) Council may, at its sole discretion, agree to the delayed delivery of a Contribution Item, provided security is provided by the Developer to the Council's satisfaction. Council's decision regarding the delayed delivery of a Contribution Item may not be the subject of a dispute under this agreement.

7 Contributions to be made under this agreement

7.1 Monetary Contribution

- (a) The Developer will pay to Council the monetary Contribution specified in the Contributions Table, being **\$225,000.00** increased but not decreased in accordance with the following formula:

$$\begin{array}{l} \text{Monetary} \\ \text{Contribution} \\ \text{payable} \end{array} = \$225,000.00 \times \frac{\text{The CPI at the time of payment}}{\text{The CPI at the date of this agreement}}$$

- (b) The Contribution must be paid in accordance with the timeframes specified in the Contributions Table, being:
 - (i) 75% prior to the issue of any Construction Certificate issued with respect to the Land; and
 - (ii) 25% prior to the issue of an Occupation Certificate or registration of a Strata Plan (the earlier of the two).
- (c) The 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.
- (d) The 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.
- (e) The parties agree and acknowledge that the Contribution will be used by the Council towards the Public Purpose

- (f) Despite clause 7.1(e), 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.
- (g) In the event the Council directs the Contribution to another public purpose, the Developer in paying the Contribution has fulfilled its obligations pursuant to this Deed.

7.2 *Contribution Values*

The parties acknowledge and agree that the contribution values set out in the Contributions Table are the values in complete, adjusted only according to the CPI formula provided in clause 7.1 only and:

- (a) the Developer assumes all cost and risk in relation to the provision and the making of the Contribution, and
- (b) All Parties acknowledge and agree that the costs outlined in the Contributions Table is the complete amount payable to the Council.

8 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.

9 Registration of this agreement

9.1 *Landowner Interest*

The Landowner, being the registered proprietor of the Land at the time of execution of this Deed, acknowledges that Council requires the registration of this Deed 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.

9.2 *Registration of this agreement*

- (a) The Landowner 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 Landowner, 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 Landowner must at its own expense 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 relevant 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 relevant 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 9.2.
- (d) The Landowner consents to the registration of the agreement in accordance with this clause 9.2.

9.3 *Removal from Register*

- (a) 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. This release and discharge is to take place within 30 days of the Developer receiving the Occupation Certificate.
- (b) For the avoidance of doubt, the Council will provide a release and discharge allowing removal of this agreement from the folios of the Register for any part of the Land to be subdivided into Residential Lots, provided that the Developer has fulfilled any obligations under this agreement that, in accordance with the Contributions Table, will be due at the time an Occupation Certificate is to be issued for those Residential Lots to be released.

10 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.

11 Dispute Resolution

11.1 *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.

11.2 *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.

11.3 *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 11.6 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.

11.4 *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 11.5 or by expert determination under clause 11.6.

11.5 *Mediation*

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

- (a) The parties must agree in good faith 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 11.5 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.

11.6 *Expert determination*

If the dispute is not resolved under clause 11.3 or clause 11.5, 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.

11.7 *Litigation*

If the dispute is not *finally* resolved in accordance with this clause 11, then either party is at liberty to litigate the dispute.

11.8 *No suspension of contractual obligations*

Subject to any interlocutory order obtained under clause 11.1, the referral to or undertaking of a dispute resolution process under this clause 111 does not suspend the parties' obligations under this agreement.

12 Enforcement

12.1 *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, imposes an undue delay on performance of this Agreement, or imposes upon the Developer additional financial burdens.

- (c) If a party disputes the Default Notice it may refer the dispute to dispute resolution under clause 11 of this agreement.

12.2 *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.

13 Assignment and Dealings

13.1 *Assignment*

- (a) A party must not assign or deal with any right under this agreement without the prior written consent of the other parties, which must not be unreasonably withheld.
- (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.

13.2 *Transfer of Land*

- (a) The 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 Applicant 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 Applicant (to be provided within 10 business days of an executed deed and evidence of financial capability being provided to Council) 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 Applicant 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.

13.3 *Right to transfer Strata Lots*

- (a) Notwithstanding clause 13.2, the Landowner may enter into a contract for sale with a Transferee for a Residential Lot on a proposed Strata Plan that has not yet been registered, without having to obtain consent from Council.
- (b) For the avoidance of doubt, the transfer of a Residential Lot is not permitted under clause 13.3(a) unless the Council has provided a written release and discharge of this agreement under clause 9.3.

13.4 *Exempt Transfers*

- (a) Clause 13.2 does not apply where the Landowner transfers:
 - (i) any part of the Land it owns to an Associated Entity of the Landowner or Developer or to Council in accordance with this agreement; or
 - (ii) a Super Lot where the Contribution for the Super Lot has already been provided or otherwise secured;and this agreement has been registered against the title to the relevant land, or Council has provided a written release and discharge of this agreement for the relevant land under clause 9.3.
- (b) The Landowner must notify the Council in writing:
 - (i) 20 Business Days prior to any transfer under clause 13.4(a) identifying the part of the Land that is to be transferred and the proposed transferee; and
 - (ii) 5 Business Days after the transfer has taken place, confirming any changes to representatives of the Landowner or Developer for the purposes of this agreement and clause 16.

14 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, provided that the withholding is reasonable, fair, and the issue attaching to it can be reasonably remedied by the parties, and

- (a) Where the parties can reasonably remedy the underlying issue(s), it is agreed among the parties that the matter is to be negotiated in good faith.

15 No fetter

15.1 *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**").

15.2 *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.

15.3 *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.

16 Notices

16.1 *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 at the address below, or at the address 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
Email: acrkovski@cityofparramatta.nsw.gov.au
Attention: Manager, Land Use Planning
 - (ii) to Jimstam Holdings Pty Ltd Unit 1, 1A Anderson Road, Northmead NSW 2152
ATF The J & S Email: Kristyh@hamptonspropertyservices.com.au
Klapsogiannis Family Trust: Attention: Kristy Hodgkinson
- (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 an email, when the sender receives an email acknowledgement from the recipient's information system showing the

(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.

16.4 *Notices sent by email generally*

- a) Parties agree that Notices served under sections 16.2 and 16.3 have effect only as related to the communication between the Parties listed on the cover page; and
- b) For the avoidance of doubt, clauses 16.2 and 16.3 do not exclude the requirements of Service as stipulated in New South Wales, and where applicable, Commonwealth law.

17 Release and Discharge

The Council will promptly notify the Developer and the Landowner in writing that they are released and discharged from their obligations under this agreement if any of the following occur:

- (a) The amendment to the LEP is declared void or invalid by a Court of competent jurisdiction and all opportunities for appeal have been exhausted.
- (b) The Developer and Landowner have fulfilled all of their obligations under this agreement to the Council's reasonable satisfaction.
- (c) The parties agree in writing to terminate the agreement on the basis that the performance of the agreement has been frustrated by an event outside the control of the parties to this agreement.
- (d) A decision is made by the NSW Government to not make the amendment to the LEP and communicated to the parties in writing, and Council (acting reasonably) is satisfied that the amendment to the LEP will not be made.

18 General

18.1 *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.

18.2 *Landowner Obligations*

Any clause of this agreement that requires the Developer to do any thing or imposes an obligation on the Developer, constitutes a requirement for the Landowner to procure that thing to be done or that obligation to be met, either by the Landowner, the

Developer or another entity as requested by the Developer, so far as the requirement or obligation applies to that part of the Land owned by the Landowner.

18.3 *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.

18.4 *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.

18.5 *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.

18.6 *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.

18.7 *Counterparts*

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

18.8 *Legal expenses and stamp duty*

- (a) The Developer must pay the Council's reasonable 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.

18.9 *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,

- (a) A sole exception to clause 18.9 is the Voluntary Planning Agreement Letter of Intent Version 5 dated 2 June 2021.

18.10 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.

18.11 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;

- (a) Unless the severed clause was a material incentive for a party to enter into this Agreement. If so, clause 17(c) may be applicable at the first instance.

18.12 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 18.12(b) applies.

18.13 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.

18.14 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.

18.15 *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 - Contributions Table

No.	Item	Public Purpose	Type of Contribution	Scope	Timing of Provision	Timing for provision of Bank Guarantee	Estimated Amount / Value of Item
1	Monetary Contribution.	Public Domain works associated with, or new connections to, the Alfred Street Bridge.	Cheque or Electronic Bank Transfer.	For the Council to undertake Public Domain works associated with, or new connections to, the Alfred Street Bridge.	<ol style="list-style-type: none"> 1. 75% of the Monetary Contribution payable prior to the issue of a Construction Certificate, 2. 25% of the Monetary Contribution payable prior to the issue of any Occupation Certificate or registration of a Strata Plan (the earlier of the two). 	Bank Guarantee is not applicable to this Agreement.	\$225,000.00 exclusive of GST.
TOTAL OF ALL CONTRIBUTION ITEMS (excluding Maintenance)							\$225,000.00 plus GST

Schedule 2 Summary of requirements (section 7.4)

Subject and subsection of the Act	Planning Agreement
<p>Planning instrument and/or Development Application – Section 7.4(1)</p> <p>The Developer has:</p> <p>(a) Sought a change to an environmental planning instrument</p> <p>(b) Made, or propose to make a Development Application</p> <p>(c) Entered into an agreement with, or are otherwise associated with, a person to whom paragraph (a) or (b) applies</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>Description of the land to which the planning Agreement applies – Section 7.4(3)(a)</p>	<p>22 Noller Parade, Parramatta NSW 2150. Lot 1 DP 35895.</p>
<p>Description of the application – Section 7.4(3)(b)</p>	<p>Post Gateway – Planning Proposal, with Draft Voluntary Planning Agreement attached.</p>
<p>The scope, timing and manner of delivery of contribution required by the Planning Agreement – Section 7.4(3)(c)</p>	<p>Contribution made via Cheque or Electronic Bank Transfer.</p> <p>Timing as follows:</p> <p>3. 75% of the Monetary Contribution prior to the issue of a Construction Certificate, and</p> <p>4. 25% of the Monetary Contribution prior to the earlier of, issuance of any Occupation Certificate, or, the registration of a Strata Plan.</p>
<p>Applicability of section 7.11 of the Act – Section 7.4(3)(d)</p>	<p>See clause 8.</p>
<p>Applicability of section 7.12 of the Act – Section 7.4(3)(d)</p>	<p>See clause 8.</p>
<p>Applicability of section 7.24 of the Act – Section 7.4(3)(d)</p>	<p>See clause 8.</p>
<p>Mechanism for dispute resolution – Section 7.4(3)(f)</p>	<p>See clause 11.</p>
<p>Enforcement of the Planning Agreement – Section 7.4(3)(g)</p>	<p>See clause 12.</p>
<p>Registration of the Planning Agreement – Section 7.4(3)(g) and section 7.6</p>	<p>See cl 9.</p>

No obligation to grant consent or exercise functions – Section 7.4(9)	See cl 14.
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Schedule 3 – Planning Proposal



13 June 2019

Reference: 2017225

The General Manager
Parramatta City Council
PO Box 32
PARRAMATTA NSW 2150

Attention: Mr. Kevin Kuo

Dear Sir,

AMENDED PLANNING PROPOSAL: 22 NOLLER PARADE, PARRAMATTA (RZ15/2018)

Hamptons Property Services Pty Ltd (Hamptons) acts on behalf of the owner of the subject site being JimStam Pty Ltd. A Planning Proposal (PP) was lodged for the site known as 22 Noller Parade, Parramatta (the site) in 2018. Subsequent upon initial consideration of the PP, the owner and the project team met with Parramatta City Council (PCC) staff on 12 April 2019.

Initial consideration of the PP by PCC indicated that the proposed built form, to the height proposed at six storeys, and a proposed floor space ratio of 1.9:1 could not be supported. As such, the PP has been amended to reduce both aspects of the proposal, as set out in the table below. It is relevant to note that while discussions with PCC reflected a building composition of four storeys, during our recent meeting in April 2019, it was agreed that an additional form could be provided as a fifth storey, on the basis that it is recessed from the principal building form. This is reflected in the amended reference design.

Table 1: Amended Development Data for Planning Proposal

Control/ Development Standard	Existing LEP 2011	PP	Amended PP	Change
Zoning	R2 Low Density Residential	R4 High Density Residential	R4 High Density Residential	-
Height	RL14	RL25.42	RL 21.42 RL 22.42 (max. height including architectural roof feature and lift overrun)	-3 m
Floor Space Ratio	N/A	1.9:1	1.5:1	-0.4:1

The Amended PP has resulted in the following changes:

Head Office: Suite 404 | 205 - 293 New South Head Road | Edgecliff 2027

Parramatta Office: Suite 4108 | 11 Hassall Street | Parramatta 2150

Postal Address: PO Box 954 | Edgecliff 2027

☎ 02 2386 7000 🌐 www.hamptonsproperty.com

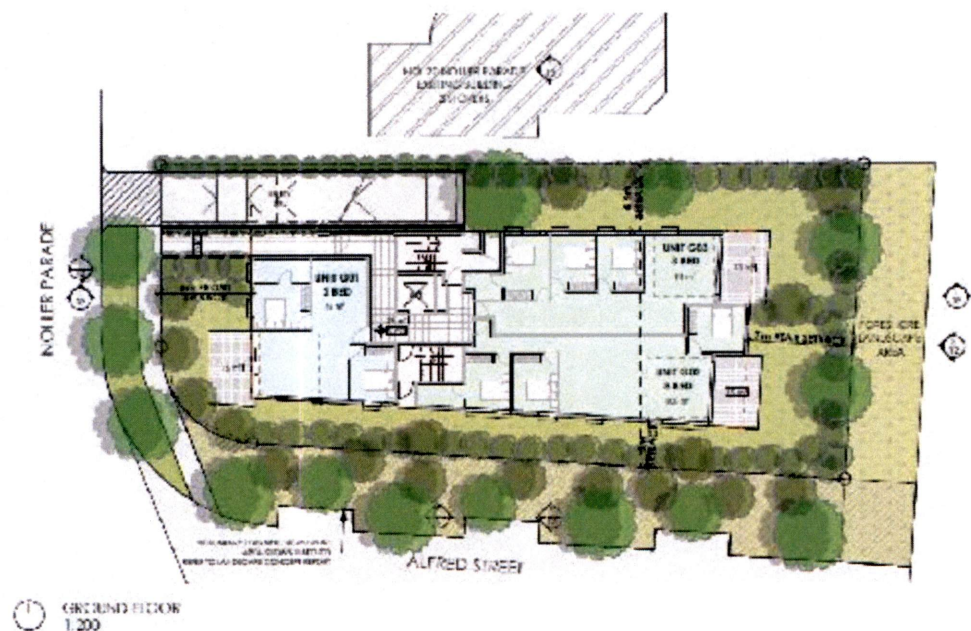
Hamptons Property Services Pty Ltd | ABN 66 141 822 433



- o Reduction by 4 apartments (20 ~ 16)
- o Increased number of car parking spaces over two basement levels, as requested by Council (10 ~ 20 spaces)
- o An increased amount of soft landscaped area, and the same proportion of deep soil area maintained
- o A relatively similar apartment mix to that as originally proposed to maintain the diversity in accommodation offering
- o Continuation of the proposed communal open space on the roof top area to ensure appropriate amenity is made available for residents of the development
- o Increased building setback to the Alfred Street frontage of the site, from the originally proposed minimum distance of 0 m to the required 3 m
- o Increased western setback of 4.5 m to the site boundary to the edge of the building
- o Increased rear (northern) setback from 6 m to 7 m.

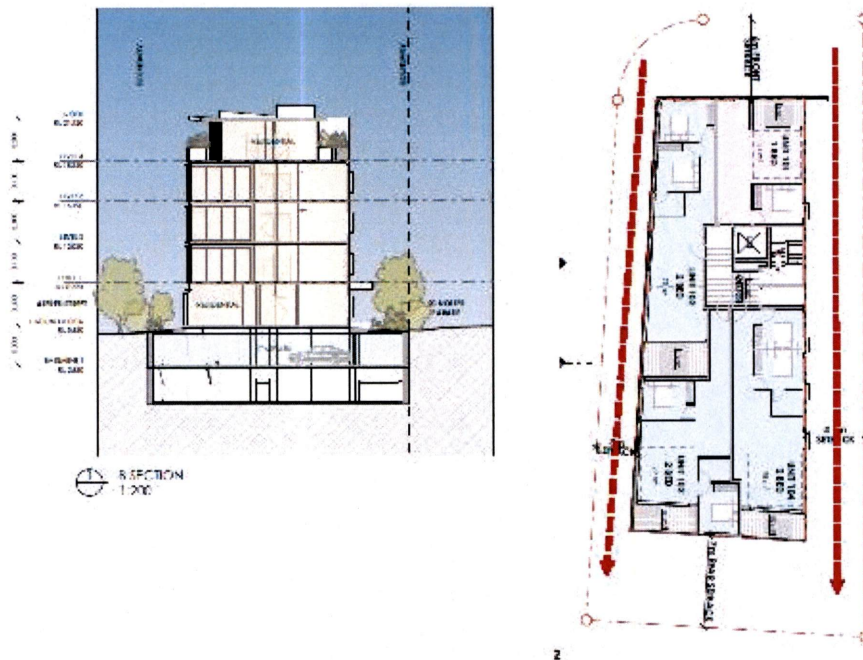
The design outcome represents a more regular form on the allotment that is consistent with the built form to the west of the site, in a generally rectangular manner.

Figure 1: Proposed Ground floor configuration, including setback distances from site boundaries and more regularised building form (Source: PTI Architecture & Interiors)



While the original PP did not impose upon the view corridors identified above, the reduced height and increased setbacks on the eastern and western side of the allotment, as shown in the amended PP, will further ensure that the view corridor through this precinct is retained and enhanced with the building envelope as shown.

Figure 4: Built form envelope demonstrating that the view corridors towards the north (river) are retained with the building envelope as presented



Objectives & Intended Outcomes of the Amended PP

As identified in the PP, the following objectives of the amended PP will be as follows:

The amended PP has the following intended outcomes:

- allow for an increased population density, over the existing situation, to create a modest residential community on the waterfront that complements newer developments, and enhances access to employment and public transport opportunities
- enhance local activation adjacent the site in accordance with the *Strategy for the Pedestrian and Cyclist Bridge at Alfred Street*, while being appropriately setback such that the built form does not intrude upon the pedestrian passage that is desired for Alfred Street, upon implementation of the bridge



- provide a scale of development that is respectful of its context, particularly that of the historical context, including historical views, while recognising the site's importance between the Parramatta CBD and the future redevelopment of Camelia, to the east of the site. This is reinforced through the generous setbacks that are provided to the eastern and western property boundaries
- provide a high-quality design outcome in this riverfront location that is generously set back from its northern site boundary, which forms part of a key entry to the Parramatta CBD by water
- implement a design which ensures that the frontages to the street and river provide passive opportunities to overlook and encourage pedestrian activity
- provides on-site parking in accordance with Council requirements
- assist to implement the public domain works at the conclusion of the future bridge, in Alfred Street, through a voluntary planning agreement (cash contribution).



Figure 5: View of proposed development, looking north, demonstrating the pedestrian desire line towards the Alfred Street bridge

Design Considerations

Maximising the Site Attributes

The following are the key design fundamentals that have been employed in preparing the amended reference design:

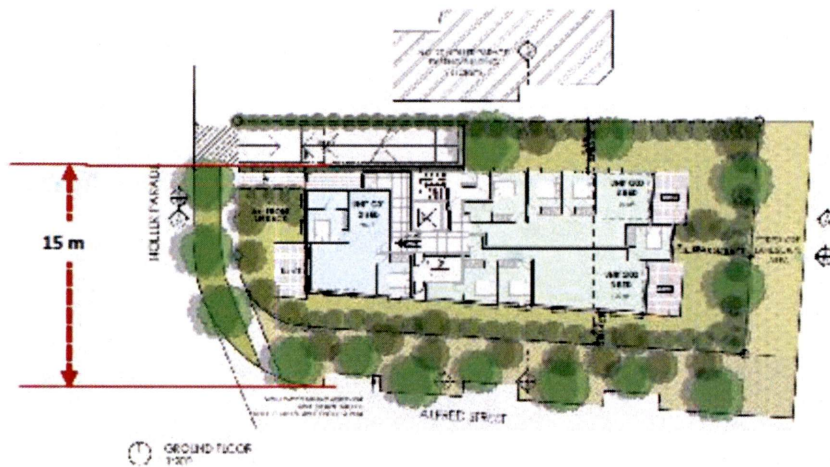
- maximising the northern orientation of the development and ensuring that the layout of individual apartments is oriented to benefit from natural light and ventilation and maximised amenity
- enable openings to the northern and eastern frontages of the development to maximise opportunities for natural surveillance and to benefit from the presentation of the public domain works along Alfred Street and the foreshore
- centre the building on the site to ensure that compliance with the Apartment Design Guide (ADG) is achieved and that the building is not overbearing on the future pedestrian spine along Alfred Street



- o ensuring that a diverse range of dwelling types and sizes may be accommodated to promote a mix of population, as well as promoting various affordable options within the development in a location that is outside of the CBD, where premium prices are sought
- o provide materials and finishes to the building that promote the natural elements surrounding the site to ensure harmony with planting and the waterfront.

Vehicular Access Opportunities

The planning proposal provides the opportunity to convert Alfred Street, at its northern end, to a pedestrian precinct, by relinquishing the sole access point into and out of the site. By relocating the access point to the Noller Parade frontage ensures that this may be achieved. The reference design prepared by PTI Architecture & Interiors demonstrates that a single point can be achieved into the basement levels from Noller Parade, distant from the intersection with Alfred Street, to ensure that vehicular movements into and out of the site are not compromised by its position.



Even with the increased number of car parking spaces proposed, it is considered that, based on the low traffic generation of a development of this nature, this will not adversely impact traffic flow or intersection arrangements within the immediate vicinity of the site.

Visual & Pedestrian Connectivity

Visual and pedestrian connectivity may be successfully implemented through the proposed changes to the Alfred Street cul-de-sac, which will include removing vehicular traffic from this, as a result of foregoing the existing site access point along Alfred Street. This will facilitate a wholly pedestrian approach to connecting the street level, with the future bridge.

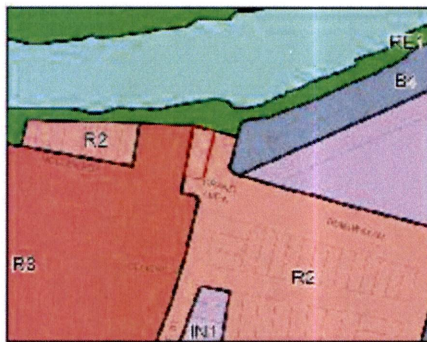


The works will also provide the opportunity for significant improvement to the visual presentation of the foreshore, aligning the northern boundary of the site, and thereby encouraging pedestrian access along this and back towards the CBD.

Explanation of Provisions

As set out in the initial planning proposal report, it is open to the PCC to amend the PLEP through the relevant maps, or otherwise through Schedule 1. The Applicant remains open to either path forward.

However, it is likely that it is more appropriate that Schedule 1 of the LEP be amended to permit the use. This will then provide the PCC with sufficient time and opportunity to consider the broader zoning implications, particularly given the broader strategic studies that are being undertaken by PCC.



Map Extract 1: Existing Zoning Map - PLEP 2011



Height

It is proposed that the height of buildings on this site is amended to RL 22.42. This would require an amendment to either the Map, or Schedule 1. Schedule 1 is considered the more appropriate option, for the reasons set out above.

Map Extract 2: Proposed Height of Buildings Map



Floor Space Ratio

The subject site does not benefit from a floor space ratio development standard. However, given the importance of the site in the Area of National Heritage Significance, and to ensure that the change in zoning of the land does not promote an undue proportion of development, it is proposed that an FSR be applied to the site of 1.5: 1.

Again, this could be administered either through the Floor Space Ratio Map, or Schedule 1. For the reasons set out above, Schedule 1 is considered the more appropriate option.

What Would These Changes Allow For?

The amended reference design prepared by PTI Architects & Interiors demonstrates that the following could be achieved on the site:

- Two basement building levels, containing 20 car parking spaces and associated service and storage areas. This would be set under the building form, towards the front of the site to avoid any interference with the foreshore
- 16 apartments, comprising 19% x 1-bed; 63% x 2-bed and 19% x 3-Bed
- communal open space located on the roof top of the southern side of the building, stretching from the eastern to the western façade to maximise access to sunlight
- the building form set back 4.5 m from the western boundary with 20 Noller Parade, exceeding the Apartment Design Guide (ADG) requirements
- a 3 m setback to the eastern boundary to ensure that the built form is not overbearing towards Alfred Street, particularly once converted for pedestrian purposes only.
- 100% cross ventilation to the apartments
- 75% of apartments achieving sunlight to living space at mid-winter and
- 81% of apartments achieving sunlight to private open spaces at mid-winter.

These aspects would be further refined at the development application stage but demonstrate that the site is capable of redevelopment within the confines of relevant policy, particularly that of State Environmental Planning Policy No. 65 and the ADG, as well as within the further limitations set by PCC after lodgement of the PP.

Compliance with Environmental Planning Instruments

As assessed in the initial planning proposal report, this PP remains consistent with the relevant environmental planning instruments, strategies, studies and ministerial directions. The reduction of the built form over that originally presented provides a responsive outcome to these, having regard to the capacity of adjoining land.



Voluntary Planning Agreement (VPA)

A VPA has been drafted in accordance with the PCC template and accompanies this correspondence.

Conclusion

The amended reference design which forms part of this correspondence addresses the concerns that were raised by PCC as part of its initial consideration of this PP. The outcome is that a reduced building form is proposed that aligns with the relevant controls, including State Environmental Planning Policy No. 65 and the accompanying ADG to ensure that the form is capable of approval as part of any future development application process.

Despite the site's proximity to public transport, the provision of on-site car parking has been increased to ensure that the development is self-sufficient in this regard.

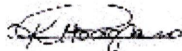
Natural hazards have been considered at a preliminary level, again ensuring that the development is capable of the intended form. This will be refined as part of a future DA, subject to obtaining an amendment to the LEP.

The VPA has also been prepared on a cash basis to enable PCC to enact the works at a time that is commensurate with the introduction of the pedestrian bridge.

As such, the amended PP should be supported by PCC and forward to the Department of Planning & Environment for a gateway determination to progress the matter.

Should you have any further queries, please do not hesitate to contact the undersigned.

Yours sincerely,



Kristy Hodgkinson

Director





Schedule 4 – Council endorsed Planning Proposal



**CITY OF
PARRAMATTA**

[Title]

22 Noller Parade, Parramatta

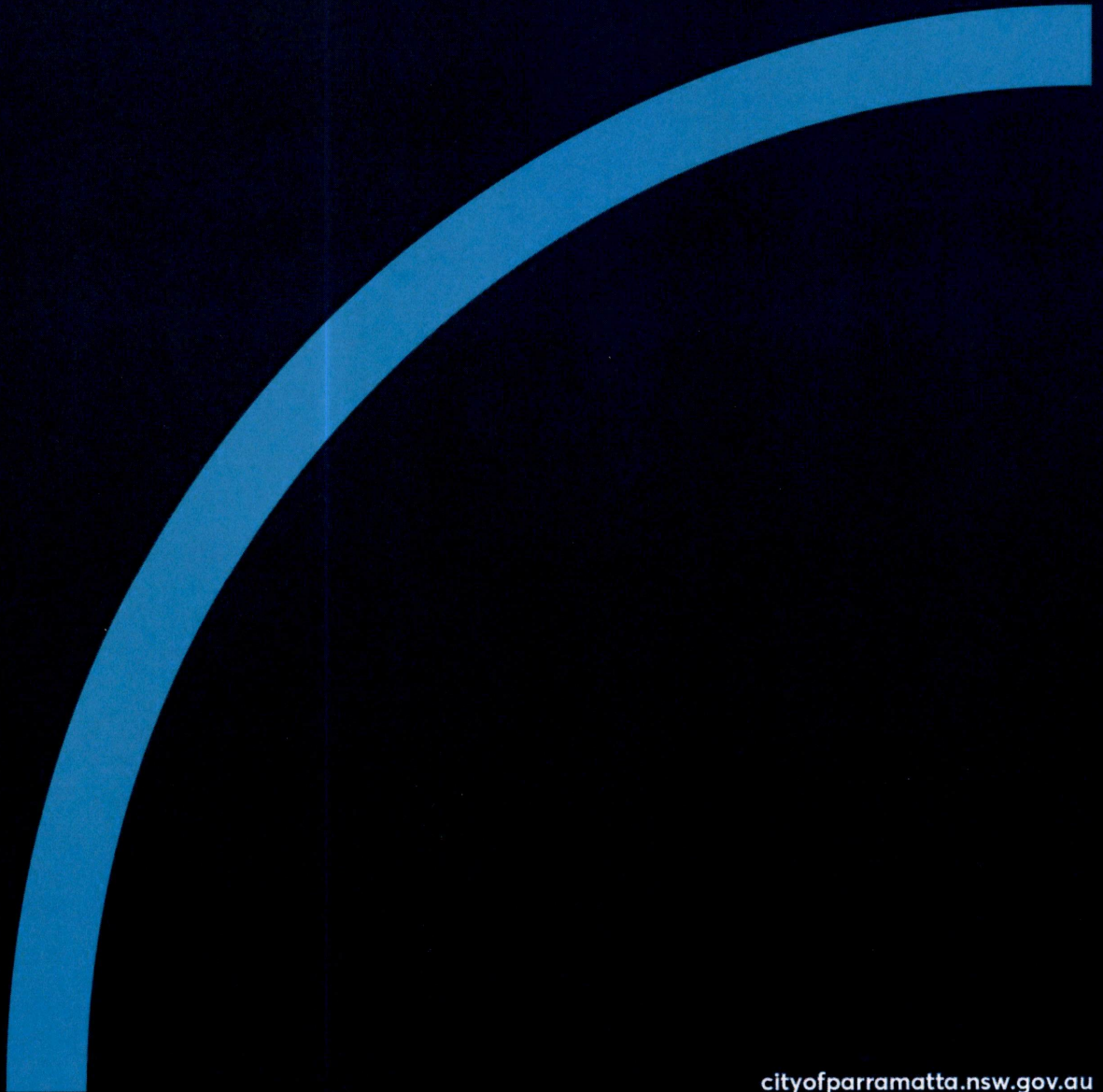


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INTRODUCTION

This Planning Proposal explains the intended effect of, and justification for, the proposed amendment to *Parramatta Local Environmental Plan 2011* (PLEP 2011) to allow for a residential flat building on the subject site. It has been prepared in accordance with Section 55 of the *Environmental Planning and Assessment Act 1979* and the Department of Planning and Environment (DP&E) guides, 'A Guide to Preparing Local Environment Plans' (August 2016) and 'A Guide to Preparing Planning Proposals' (August 2016) and 'Guidance for merged councils on planning functions' (May 2016).

Background and context

In November 2018 Council received a Planning Proposal from Hamptons Property Services Pty Ltd on behalf of Jimstam Holdings Pty Ltd relating to the land at 22 Noller Parade, Parramatta. The subject site is legally defined as Lot 1 DP 35895 and has a site area of approximately 908 sqm.

The site is bound by Noller Parade to the south, Alfred Street to the east and Parramatta River to the north. The site is shown in **Figure 1**, below.



Figure 1 – Site at 22 Noller Parade, Parramatta subject to the planning proposal

A single storey dwelling and detached garage exist on the site. The land surrounding the subject site comprise a mixture of low density residential to the south east, medium density residential to the west and south, and high density residential to the east.

The medium density residential properties to the west and south have existing 3 and 4-storey residential flat buildings (RFBs) and are located in the R3 medium density residential zone. RFBs are not permissible in this zone, however, these buildings have existed prior to the implementation of the *Standard Instrument – Principal Local*

Environmental Plan and the *PLEP 2011* and are therefore subject to existing use rights under Division 4.11 of the *Environmental Planning and Assessment Act 1979* (EP&A Act). The property to the east contains a 13-storey mixed use development in the B4 Mixed Use zone.

The subject site's location on a corner as well as the adjoining and surrounding development has resulted in it becoming isolated.

Under the *PLEP 2011* the site:

- is zoned R2 Low Density Residential;
- has a maximum building height of RL 14 metres;
- does not have a maximum floor space ratio (FSR).

An extract of each the above maps is provided in Part 4 – Mapping; specifically, Section 4.1 Existing controls.

- PART 1 – OBJECTIVES OR INTENDED OUTCOMES

The objective of this planning proposal is to seek the rezoning of the land at 22 Noller Parade, Parramatta from R2 Low Density Residential to R4 High Density Residential, increase the maximum height of building control from RL14m to 17m, and include a maximum FSR control of 1.5:1. The proposed amendments to the PLEP 2011 is to facilitate a 5-storey RFB comprising 16 dwellings.

- PART 2 – EXPLANATION OF PROVISIONS

This Planning Proposal seeks to amend the *Parramatta LEP 2011* in relation to the zoning, height and floor space ratio controls.

In order to achieve the desired objectives the following amendments to the *PLEP 2011* would need to be made:

1. Amend the zone in the **Land Zoning Map** (Sheet LZN_010] from R2 Low Density Residential to R4 High Density Residential. Refer to Figure 13 in Part 4 of this Planning Proposal.
2. Amend the maximum building height in the **Height of Buildings Map** (Sheet HOB_010]) from RL 14 metres to 17 metres which equates to 5 storeys. Refer Figure 14 in Part 4 of this Planning Proposal.
3. Amend the maximum FSR in the **Floor Space Ratio Map** (Sheet FSR_010) from nil to 1.5:1. Refer Figure 15 in Part 4 of this Planning Proposal.

○ Other relevant matters

Voluntary Planning Agreement

A draft Letter of Offer accompanies the Planning Proposal which indicates a monetary contribution to the value of 50% of the land value uplift, however, to the exclusion of Section 7.11 and 7.12 developer contributions. This is inconsistent with Council's adopted Planning Agreements Policy 2018. As per Clause 2.8 of Council's adopted Planning Agreements Policy 2018, section 7.11 and 7.12 developer contributions are not to be excluded.

Notwithstanding, negotiations will continue following the Planning Proposal being reported to Council and if it is endorsed to be forwarded to the Department of Planning, Industry & Environment (DPIE) for Gateway Determination.

PART 3 – JUSTIFICATION

This part describes the reasons for the proposed outcomes and development standards in the planning proposal.

3.1 Section A - Need for the planning proposal

This section establishes the need for a planning proposal in achieving the key outcome and objectives. The set questions address the strategic origins of the proposal and whether amending the LEP is the best mechanism to achieve the aims on the proposal.

Is the planning proposal a result of an endorsed local strategic planning statement, strategic study or report?

The Planning Proposal is not the result of any strategic study or report.

Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

A Planning Proposal seeking to amend the PLEP 2011 is the most effective way of providing certainty to Council, the local community and the landowner of achieving the intended outcomes.

An alternative option is to amend the PLEP 2011 to allow a 'residential flat building' as an additional permitted use at the subject site. However, this is considered inappropriate as RFBs are prohibited in the R2 Low Density Residential zone and would be inconsistent with the objectives of the R2 zone.

○ Section B – Relationship to strategic planning framework

This section assesses the relevance of the Planning Proposal to the directions outlined in key strategic planning policy documents. Questions in this section consider state and local government plans including the NSW Government's Plan for Growing Sydney and subregional strategy, State Environmental Planning Policies, local strategic and community plans and applicable Ministerial Directions.

Will the planning proposal give effect to the objectives and actions of the applicable regional, or district plan or strategy (including any exhibited draft plans or strategies)?

A Metropolis of Three Cities

In March 2018, the NSW Government released the *Greater Sydney Region Plan: A Metropolis of Three Cities* ("the GSRP") a 20 year plan which outlines a three-city vision for metropolitan Sydney for to the year 2036.

The GSRP is structured under four themes: Infrastructure and Collaboration, Liveability, Productivity and Sustainability. Within these themes are 10 directions that each contain Potential Indicators and, generally, a suite of objective/s supported by a Strategy or Strategies. Those objectives and or strategies relevant to this planning proposal are discussed below.

Infrastructure and Collaboration

An assessment of the planning proposal's consistency with the GSRP's relevant Infrastructure and Collaboration objectives is provided in Table 3a, below.

Table 3a – Consistency of planning proposal with relevant GSRP Actions – Infrastructure and Collaboration

Infrastructure and Collaboration Direction	Relevant Objective	Comment
4. A city supported by infrastructure	O4: Infrastructure use is optimised	<p>The subject site is located in close proximity to the Parramatta Light Rail (PLR) Stage 1 'Tramway Avenue' stop. The PLR will significantly improve accessibility to and from the site to the Parramatta CBD and other centres.</p> <p>The site is also adjacent to the future Alfred Street pedestrian-cycle bridge (PCB) which will provide a significant north-south connection over the Parramatta River at Rosehill and will unlock pedestrian and cycling movement in the area.</p>

Liveability

An assessment of the planning proposal's consistency with the GSRP's relevant Liveability objectives is provided in Table 3b, below.

Table 3b – Consistency of planning proposal with relevant GSRP Actions – Liveability

Liveability Direction	Relevant Objective	Comment
5. A city for people	O6: Services and infrastructure meet communities' changing needs	<p>The site is located adjacent to the future Alfred Street PCB. Whilst the site does not provide public infrastructure as such, a letter of intent to enter into a VPA accompanies the Planning Proposal. The VPA would include a monetary contribution to potentially be used for public domain works and the delivery of the PCB.</p>
	O7: Communities are healthy, resilient and socially connected	
	O9: Greater Sydney celebrates the arts and supports creative industries and innovation	<p>Further, the main access to the site is intended to be relocated from Alfred Street to Noller Parade in order to provide the opportunity to convert the Alfred Street cul-de-sac into a pedestrianised area at the southern landing of the PCB.</p>
6. Housing the city	O10: Greater housing supply	<p>The Central City, and City of Parramatta in particular, is expected to meet the housing targets identified under the Sydney Region Plan.</p>

		<p>The Planning Proposal is expected to deliver 16 dwellings.</p> <p>Whilst City of Parramatta is expected to meet, and even exceed these targets, the additional 16 dwellings are considered minor and can be accommodated to provide housing in this area.</p>
	<p>O11: Housing is more diverse and affordable</p>	<p>The Planning Proposal seeks to provide a mix of 1-bedroom, 2-bedroom and 3-bedroom apartments. Whilst this contributes to a mixture of apartments at the site, it does not contribute to housing diversity.</p> <p>The Planning Proposal does not indicate provision of affordable housing, however, as part of Council's Planning Agreements Policy, 10% of the 50% land value uplift is to be contributed towards Council's Affordable Housing Policy either in the form of a monetary contribution or dedication of a unit.</p>
A city of great places	<p>O12: Great places that bring people together</p>	<p>The site is adjacent to the southern landing of the Alfred Street PCB. With the relocation of the site's main access from Alfred Street to Noller Parade, there is an opportunity for the conversion of the southern landing of the PCB to a pedestrian area. This can contribute to a public space that is activated by pedestrian movement as well as the enhancement of the Parramatta foreshore area.</p>
	<p>O13: Environmental heritage is identified, conserved and enhanced</p>	<p>The site does not contain a heritage item, however it is close to a number of heritage items, including the State significant Elizabeth Farm. It is also located in the "Area of National Significance" as identified under the Parramatta Development Control Plan 2011 (PDCP) which also has a number of identified significant view corridors.</p> <p>The Proposal is of a similar height and scale to the existing development to the west of the site and does not impede on any view corridors. Any future development must consider the</p>

		relevant sections under the PDCP and other heritage requirements as outlined in the GSRP.
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Productivity

An assessment of the planning proposal's consistency with the GSRP's relevant Productivity objectives is provided in Table 3c, below.

Table 3c – Consistency of planning proposal with relevant GSRP Actions – Productivity

Productivity Direction	Relevant Objective	Comment
<p>7. A well connected city</p>	<p>O14: The plan integrates land use and transport creates walkable and 30 minute cities</p>	<p>The subject site is located in close proximity to the future Alfred Street PCB and the PLR 'Tramway Avenue' stop. These two major pieces of infrastructure would enable greater movement to and from the site to the Parramatta CBD, other centres or other transport modes, whether by active or public transport. The site is located well within 30-minutes to the Parramatta CBD and a major transport interchange to connect to other centres. The proposed density is appropriately located and can be accommodated at the site.</p>
	<p>O15: The Eastern, GOP and Western Economic Corridors are better connected and more competitive</p>	<p>The site is located in the GOP area and is within 1km from the Parramatta CBD. With the incoming PLR Stage 1 route, accessibility to the Parramatta CBD, and subsequently, connectivity to the other economic corridors is enhanced. This allows for greater access to jobs within the GOP area and beyond.</p>
<p>Jobs and skills for the city</p>	<p>O19: Greater Parramatta is stronger and better connected</p>	<p>As discussed, a letter of offer accompanies the Planning Proposal whereby a monetary contribution may potentially go towards public domain works, including the delivery of the Alfred Street PCB and embellishment of the Parramatta River foreshore area as part of a future VPA. This infrastructure will enhance connectivity to the Parramatta CBD and improve</p>

	O22: Investment and business activity in centres	use of the Parramatta River foreshore. Whilst there is no anticipated increase in jobs as part of the Proposal, the proposed R4 zoning would allow for a number of non-residential uses which could be accommodated on the site. Notwithstanding, the site's location is in proximity to the Parramatta CBD and is well within 30-minutes of a major centre and a major transportation interchange to other centres.
	O23: Industrial and urban services land is planned, retained and managed	Whilst the site is adjacent to the identified "Precinct 08 – Parramatta (River Rd West & Alfred St)" precinct identified under the Parramatta Employment Lands Strategy, it is located outside of this employment zone. The proposed rezoning is not anticipated to affect the employment zone.

Sustainability

An assessment of the planning proposal's consistency with the GSRP's relevant Sustainability objectives is provided in Table 3d, below.

Table 3d – Consistency of planning proposal with relevant GSRP Actions – Sustainability

Sustainability Direction	Relevant Objective	Comment
8. A city in its landscape	O25: The coast and waterways are protected and healthier	The site is located along the Parramatta River foreshore and is adjacent to the future Alfred Street PCB. As discussed, a letter of offer accompanies the Planning Proposal whereby a monetary contribution may potentially go towards public domain works, including the delivery of the Alfred Street PCB and embellishment of the Parramatta River foreshore area as part of a future VPA. With the future bridge and PLR, active transport and public transport patronage is encouraged, thus contributing to the reduction of greenhouse emissions and encouragement to use these transport modes. Any future public domain works at the southern landing of the
	O27: Biodiversity is protected, urban bushland and remnant vegetation is enhanced	
	O28: Scenic and cultural landscapes are protected	
	O29: Environmental, social and economic values in rural areas are protected and enhanced	
	O30: Urban tree canopy cover is increased	
	O31: Public open space is accessible, protected and enhanced	
	O32: The Green grid links Parks, open spaces, bushland and walking and cycling paths	

An efficient city	O33: A low-carbon city contributes to net-zero emissions by 2050 and mitigates climate change	PCB and foreshore area will be carried out by Council and will consider these objectives. Furthermore, landscaping of the site is intended to be provided at the DA stage which will include tree planting and provision of vegetation.
	O34: Energy and water flows are captured, used and re-used	The Planning Proposal does not indicate any sustainability initiatives. However, sustainability measures will be further addressed at the DA stage.
9. A resilient city	O36: People and places adapt to climate change and future shocks and stresses	The site is located in a flood prone area and is subject to the Probable Maximum Flood (PMF). The proposed design is compliant with Council's requirement for development in flood prone areas which is the 1:100 year flood level plus 0.5m. A flood emergency evacuation plan must accompany any future DA and will likely include a combination of evacuation and shelter-in-place strategies. This will be further addressed at the DA stage.
	O37: Exposure to natural and urban hazards is reduced	

Implementation

An assessment of the planning proposal's consistency with the GSRP's relevant Implementation objectives is provided in Table 3d, below.

Table 3e – Consistency of planning proposal with relevant GSRP Actions – Implementation

Implementation Direction	Relevant Objective	Comment
Implementation	O39: A collaborative approach to city planning	The Planning Proposal considers other strategic planning documents including the Central City District Plan and local strategies. This will be further discussed below.

Central City District Plan

In March 2018, the NSW Government released *Central City District Plan* which outlines a 20 year plan for the Central City District which comprises The Hills, Blacktown, Cumberland and Parramatta local government areas.

Taking its lead from the GSRP, the *Central City District Plan* ("CCDP") is also structured under four themes relating to Infrastructure and Collaboration, Liveability, Productivity and Sustainability. Within these themes are Planning Priorities that are each supported by corresponding Actions. Those Planning Priorities and Actions relevant to this planning proposal are discussed below.

Infrastructure and Collaboration

An assessment of the planning proposal's consistency with the CCDP's relevant Infrastructure and Collaboration Priorities and Actions is provided in Table 4a, below.

Table 4a – Consistency of planning proposal with relevant CCDP Actions – Infrastructure and Collaboration

Infrastructure and Collaboration Direction	Planning Priority/Action	Comment
<p>11. A city supported by infrastructure</p> <p>12. O1: Infrastructure supports the three cities</p> <p>13. O2: Infrastructure aligns with forecast growth – growth infrastructure compact</p> <p>14. O3: Infrastructure adapts to meet future need</p> <p>O4: Infrastructure use is optimised</p>	<p>PP C1: Planning for a city supported by infrastructure</p> <ul style="list-style-type: none"> • A1: Prioritise infrastructure investments to support the vision of <i>A metropolis</i> • A2: Sequence growth across the three cities to promote north-south and east-west connections • A3: Align forecast growth with infrastructure • A4: Sequence infrastructure provision using a place based approach • A5: Consider the adaptability of infrastructure and its potential shared use when preparing infrastructure strategies and plans • A6: Maximise the utility of existing infrastructure assets and consider strategies to influence behaviour changes to reduce the demand for new infrastructure, supporting the development of adaptive and flexible regulations to allow decentralised utilities 	<p>As discussed above in Table 3a, whilst the Planning Proposal does not provide community infrastructure, as such, on the site, a letter of offer to enter into a VPA with Council for monetary contribution accompanies the proposal. This contribution could potentially be used for the delivery of the Alfred Street PCB and for public domain works around the Parramatta River foreshore. The contribution to deliver the PCB would provide an essential north-south connection over the Parramatta River.</p> <p>17. The site is also in close proximity to the future PLR stop and encourages public transport patronage to the Parramatta CBD and beyond.</p>
<p>18. O5: Benefits of growth realized by collaboration of governments, community and business</p>	<p>PP C2: Working through collaboration</p> <ul style="list-style-type: none"> • A7: Identify prioritise and delivery collaboration areas 	<p>The Planning Proposal seeks to work in collaboration with local government, particularly with the delivery of the future Alfred Street PCB. As it stands, the PCB Plan maintain access to 22 Noller Parade from Alfred Street through retention of the Alfred Street cul-de-sac as a road.</p> <p>21. The Planning Proposal seeks to relocate the main access to the site from Alfred Street to Noller Parade to provide the opportunity for the southern landing of the PCB to be converted to a fully pedestrianised area.</p>

Liveability

An assessment of the planning proposal's consistency with the CCDP's relevant Liveability Priorities and Actions is provided in Table 4b, below.

Table 4b – Consistency of planning proposal with relevant CCDP Actions – Liveability

Liveability Direction	Planning Priority/Action	Comment
<p>22. A city for people O6: Services and infrastructure meet communities' changing needs</p>	<p>PP C3: Provide services and social infrastructure to meet people's changing needs</p> <ul style="list-style-type: none"> • A8: Deliver social infrastructure that reflects the need of the community now and in the future • A9: Optimise the use of available public land for social infrastructure 	<p>The Planning Proposal does not provide social infrastructure on the site. However, as part of Council's adopted Planning Agreements Policy, 10% of the 50% value uplift is to be used towards affordable housing, whether in the form of an affordable housing unit or monetary contribution.</p> <p>Furthermore, as discussed above, by relocating the main access to the site from Alfred Street to Noller Parade, the southern landing of the Alfred Street PCB has the opportunity to be converted to a pedestrianised area which subsequently would open up the foreshore for activation and use.</p>
<p>24. O7: Communities are healthy, resilient and socially connected 25. O8: Greater Sydney's communities are culturally rich with diverse neighbourhoods 26. O9: Greater Sydney celebrates the arts and supports creative industries and innovation</p>	<p>PP C4: Working through collaboration</p> <ul style="list-style-type: none"> • A10: Deliver healthy, safe and inclusive places for people of all ages and abilities that support active, resilient and socially connected communities by (a-d). • A11: Incorporate cultural and linguistic diversity in strategic planning and engagement. • A12: Consider the local infrastructure implications of areas that accommodate large migrant and refugee populations. • A13: Strengthen the economic self-determination of Aboriginal communities by engagement and consultation with Local Aboriginal Land Council's. • A14: Facilitate opportunities for creative and artistic expression and participation, wherever feasible with a minimum regulatory burden including (a-c). • A15: Strengthen social connections within and between communities through better understanding of the nature of social networks and supporting infrastructure in local places 	
<p>28. Housing the city 29. O10: Greater housing supply 30. O11: Housing is more diverse and affordable</p>	<p>PP C5: Providing housing supply, choice and affordability, with access to jobs, services and public transport</p> <ul style="list-style-type: none"> • A16: Prepare local or district housing strategies that 	<p>Refer to "Housing the City" in Table 3b above.</p> <p>34.</p>

31.	address housing targets [abridged version] • A17: Prepare Affordable Rental housing Target Schemes	
<p>35. A city of great places</p> <p>36. O12: Great places that bring people together</p> <p>37. O13: Environmental heritage is identified, conserved and enhanced</p>	<p>PP C6: Creating and renewing great places and local centres, and respecting the District's heritage</p> <ul style="list-style-type: none"> • A18: Using a place-based and collaborative approach throughout planning, design, development and management deliver great places by (a-e) • A19: Identify, conserve and enhance environmental heritage by (a-c) • A20: Use place-based planning to support the role of centres as a focus for connected neighbourhoods • A21: In Collaboration Areas, Planned Precincts and planning for centres (a-d) • A22: Use flexible and innovative approaches to revitalise high streets in decline. 	<p>As discussed above under "A city of Great Places" in Table 3b, the site does not contain a heritage item but is in close proximity to a number of heritage items, including the State Significant Elizabeth Farm. It is also located in the "Area of National Significance" as identified under the Parramatta Development Control Plan (PDCP) which also has a number of identified significant view corridors</p> <p>The Proposal is of a similar height and scale to the existing development to the west of the site and does not impede on any view corridors. Any future development must consider the relevant sections under the PDCP and other heritage requirements as outlined in the GSRP.</p>

Productivity

An assessment of the planning proposal's consistency with the CCDP's relevant Productivity Priorities and Actions is provided in Table 4c, below.

Table 4c – Consistency of planning proposal with relevant CCDP Actions – Productivity

Productivity Direction	Planning Priority/Action	Comment
<p>41. A well-connected city O19: Greater Parramatta is stronger and better connected</p>	<p>PP C7: Growing a stronger and more competitive Greater Parramatta</p> <ul style="list-style-type: none"> • A23: Strengthen the economic competitiveness of Greater Parramatta and grow its vibrancy [abridged] • A26: Prioritise infrastructure investment [abridged] • A27: Manage car parking and identify smart traffic management strategies 	<p>The Planning Proposal is located within the GOP area and is within 1km of the Parramatta CBD and is adjacent to the future Alfred Street PCB and PLR stop. Its location is within the Government's target for a 30-minute city and provides ample opportunities to travel to the Parramatta CBD and beyond.</p> <p>The site's proximity to the Parramatta CBD allows for greater connectivity to other centres and access to jobs by providing ample opportunity for transport interchange.</p>
<p>44. Jobs and skills for the city 45. O15: The Eastern, GOP and Western Economic Corridors are better connected and more competitive 46.</p>	<p>PP C8: Delivering a more connected and competitive GOP Economic Corridor</p> <ul style="list-style-type: none"> • A29: Prioritise public transport investment to deliver the 30-minute city objective for strategic centres along the GOP Economic Corridor • A30: Prioritise transport investments that enhance access to the GOP between centres within GOP 	<p>Further, the Proposal includes provision for 20 car parking spaces which is compliant with the Parramatta DCP requirements.</p> <p>For more information, refer to "Jobs and Skills in the City" under Table 3c.</p>
<p>48. O14: The plan integrates land use and transport creates walkable and 30 minute cities</p>	<p>PP C9: Delivering integrated land use and transport planning and a 30-minute city</p> <ul style="list-style-type: none"> • A32: Integrate land use and transport plans to deliver a 30-minute city 	
<p>50. O23: Industrial and urban services land is planned, retained and managed</p>	<p>PP C10: Growing investment, business opportunities and jobs in strategic centres</p> <ul style="list-style-type: none"> • A37: Provide access to jobs, goods and services in centres [abridged] 	
<p>52. O23: Industrial and urban services land is planned, retained and managed</p>	<p>PP C11: Maximising opportunities to attract advanced manufacturing and innovation in industrial and urban services land</p> <ul style="list-style-type: none"> • A49: Review and manage industrial and urban service land, in line with the principles for managing industrial and urban services land, in the 	<p>54. Refer to "Jobs and Skills in the City" under Table 3c.</p>

identified local government
area

Sustainability

An assessment of the planning proposal's consistency with the CCDP's relevant Productivity Priorities and Actions is provided in Table 4d, below.

Table 4d – Consistency of planning proposal with relevant CCDP Actions – Sustainability

Sustainability Direction	Planning Priority/Action	Comment
<p>55. A city in its landscape</p> <p>O25: The coast and waterways are protected and healthier</p>	<p>PP C13: Protecting and improving the health and enjoyment of the District's Waterways</p> <ul style="list-style-type: none"> • A60: Protect environmentally sensitive areas of waterways • A61: Enhance sustainability and liveability by improving and managing access to waterways and foreshores for recreation, tourism, cultural events and water based transport • A62: Improve the health of catchments and waterways through a risk based approach to managing the cumulative impacts of development including coordinated monitoring of outcomes • A63: Work towards reinstating more natural conditions in highly modified urban waterways 	<p>The site is adjacent to the Parramatta River foreshore. As discussed above, with the future Alfred Street PCB and relocation of the main access from Alfred Street to Noller Parade, there is an opportunity to convert the southern landing of the PCB to be a pedestrianised area.</p>
<p>57. O27: Biodiversity is protected, urban bushland and remnant vegetation is enhanced</p> <p>58. O28: Scenic and cultural landscapes are protected</p>	<p>PP C15: Protecting and enhancing bushland, biodiversity and scenic and cultural landscapes</p> <ul style="list-style-type: none"> • A67: Enhance and protect views of scenic and cultural landscapes from the public realm 	<p>As discussed above, the site is located in an area with identified significant view corridors. The Planning Proposal does not impede on any of these view corridors and retains the frame view from Alfred Street towards the Parramatta River.</p>
<p>60. O31: Public open space is accessible, protected and enhanced</p>	<p>PP C17: Delivering high quality open space</p> <ul style="list-style-type: none"> • A71: Maximise the use of existing open space and protect, enhance and expand public open space by (a-g) [abridged] 	<p>Refer to PP C13 above.</p>
<p>62. An efficient city</p> <p>63. O33: A low-carbon city contributes to net-zero emissions by 2050 and mitigates climate change</p> <p>64. O34: Energy and water flows are</p>	<p>PP C19: Reducing carbon emissions and managing energy, water and waste efficiently</p> <ul style="list-style-type: none"> • A75: Support initiatives that contribute to the aspirational objectives of achieving net-zero emissions by 2050 	<p>The subject site is located in close proximity to the future PLR stop which will encourage public transport patronage. Likewise, the future Alfred Street PCB also encourages walkability and active transport. These two major infrastructures would facilitate an overall reduction in emissions by providing the</p>

<p>captured, used and re-used</p> <p>65. O35: More waste is re-used and recycled to support the development of a circular economy</p>	<ul style="list-style-type: none"> • A76: Support precinct-based initiatives to increase renewable energy generation and energy and water efficiency • A78: Support innovative solutions to reduce the volume of waste and reduce waste transport requirements • A79: Encourage the preparation of low carbon, high efficiency strategies to reduce emissions, optimise the use of water, reduce waste and optimising car parking provisions where an increase in total floor in 100,000sqm 	<p>opportunity for their use rather than reliance on private vehicles. Furthermore, the car parking provisions proposed are in keeping with the minimum car parking requirements under the PDCP and does not exceed these rates.</p> <p>The Planning Proposal does not indicate any sustainability initiatives. Sustainability measures will be further addressed at the DA stage.</p>
<p>67. O36: People and places adapt to climate change and future shocks and stresses</p> <p>68. O37: Exposure to natural and urban hazards is reduced</p> <p>69. O38: Heatwaves and extreme heat are managed</p>	<p>PP C20: Adapting to the impacts of urban and natural hazards and climate change</p> <ul style="list-style-type: none"> • A81: Support initiatives that respond to the impacts of climate change • A82: Avoid locating new urban development in areas exposed to natural and urban hazards and consider options to limit the intensification of development in existing areas most exposed to hazards • A83: Mitigate the urban heat island effect and reduce the vulnerability to extreme heat • A85: Consider strategies and measures to manage flash flooding and safe evacuation when planning for growth in Parramatta CBD 	<p>Refer to "A Resilient City" under Table 3d above.</p>

70.1.1. Will the planning proposal give effect to a council's endorsed local strategic planning statement, or another endorsed local strategy or strategic plan?

The following local strategic planning documents are relevant to the planning proposal.

Parramatta 2038 Community Strategic Plan

Parramatta 2038 is a long term Community Strategic Plan for the City of Parramatta and it links to the long-term future of Sydney. The plan formalises several big and transformational ideas for the City and the region.

The planning proposal is considered to meet the strategies and key objectives identified in the plan including:

- **Accessible:** The site is located within 1km of the Parramatta CBD and is in close proximity to the future PLR "Tramway Avenue" stop. This will provide ample opportunities for public transport patronage well within 30-

minutes of a major centre and major transport interchange to connect to other centres. Furthermore, the future Alfred Street PCB is located adjacent to the site and will provide a new north-south connection over the Parramatta River with provision of new pedestrian and cycle paths that will promote active transport use.

- **Green:** The Planning Proposal will provide a greater opportunity for the future Alfred Street PCB southern landing to be converted into a pedestrianised area which would include public domain works and enhancement of the Parramatta River foreshore.
- **Welcoming:** The site is located in the Harris Park Precinct, an important heritage precinct. The Proposal is in keeping with the surrounding built form and does not impede on any significant view corridors and retains the frame views from Alfred Street to the Parramatta River.
- **Thriving:** Contributes to the vibrancy of Parramatta, particularly along the Parramatta River foreshore area and connectivity to the Parramatta CBD.
- **Innovative:** The proposed relocation of the main access from Alfred Street to Noller Parade provides an opportunity for the southern landing of the Alfred Street PCB to be converted to a pedestrianised area and for collaboration between the landowner, Council and other relevant parties towards that outcome.

Parramatta Local Strategic Planning Statement

At the time of preparing this Planning Proposal, the draft Parramatta LSPS has not been considered and endorsed by Council. The draft LSPS is intended to be reported to Council in September 2019.

Should a Gateway determination be issued for this Planning Proposal with a condition to consider Council's draft LSPS, this Planning Proposal will be updated which formerly considers Council's draft LSPS in accordance with section 3.33(2)(c) of the *Environmental Planning and Assessment Act 1979*.

Is the planning proposal consistent with the applicable State Environmental Planning Policies?

The following State Environmental Planning Policies (SEPPs) are of relevance to the site (refer to Table 5 below).

Table 5 – Consistency of planning proposal with relevant SEPPs

State Environmental Planning Policies (SEPPs)	Consistency: Yes = ✓ No = x N/A = Not applicable	Comment
SEPP No 1 Development Standards	N/A	This SEPP does not apply to land subject to the Parramatta Local Environmental Plan 2011.
72. SEPP 4 – Development Without Consent and Miscellaneous Exempt and Complying Development	N/A	This SEPP does not apply to land subject to the Parramatta Local Environmental Plan 2011.

74. SEPP 6 – Number of Storeys in a Building	N/A	This SEPP does not apply to land subject to the Parramatta Local Environmental Plan 2011.
76. SEPP 33 – Hazardous and Offensive Development	N/A	Not relevant to the Planning Proposal.
78. SEPP No 55 Remediation of Land 79.	✓	The Planning Proposal is consistent with the aims and provisions of this SEPP. Notwithstanding, future redevelopment of the site will need to address the requirements of the SEPP. A preliminary investigation may be provided as a condition of any Gateway Determination.
81. SEPP 60 – Exempt and Complying Development	N/A	Not relevant to the Planning Proposal.
83. SEPP 64 – Advertising and Signage	N/A	Not relevant to the Planning Proposal.
85. SEPP No 65 Design Quality of Residential Flat Development 86.	✓	Detailed compliance with SEPP 65 will be demonstrated at the time of making a development application for the site facilitated by this Planning Proposal.
88. SEPP No.70 Affordable Housing (Revised Schemes) 89.	N/A	Not relevant to the Planning Proposal.
91. SEPP (Affordable Rental Housing) 2009	N/A	Not relevant to the Planning Proposal.
93. SEPP (BASIX) 2004	N/A	Detailed compliance with SEPP (BASIX) will be demonstrated at the time of making a development application for the site facilitated by this Planning Proposal.
95. SEPP (Exempt and Complying Development Codes) 2008	✓	May apply to future development of the site.
98. SEPP (Infrastructure) 2007	✓	May apply to future development of the site.
100. Sydney Regional Environmental Plan No 18– Public Transport Corridors 101.	N/A	Not relevant to the Planning Proposal.

103. Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 104.	N/A	The proposed development is not located directly on the Sydney Harbour Catchment foreshore. Any potential impacts as a result of development on the site, such as stormwater runoff, will be considered and addressed appropriately at DA stage.
106. SEPP (Urban Renewal) 2010	✓	Not relevant to the Planning Proposal.

Is the planning proposal consistent with applicable Ministerial Directions (s.9.1 directions)

In accordance with Clause 9.1 of the *EP&A Act 1979* the Minister issues directions for the relevant planning authorities to follow when preparing planning proposals for new LEPs. The directions are listed under the following categories:

- Employment and resources
- Environment and heritage
- Housing, infrastructure and urban development
- Hazard and risk
- Housing, Infrastructure and Urban Development
- Local plan making

The following directions are considered relevant to the subject Planning Proposal.

Table 6 – Consistency of planning proposal with relevant Section 9.1 Directions

Relevant Direction	Comment	Compliance
1. Employment and Resources		
Direction 1.1 – Business and Industrial Zones	The subject site is not in an employment zone. The Ministerial Direction is not relevant for the Planning Proposal.	Yes
2. Environment and Heritage		
Direction 2.3 - Heritage Conservation	The subject site is located in the Harris Park precinct which contains some of the most important parts of Parramatta's heritage. Whilst the site does not contain a heritage item, it is within close proximity to several heritage items and is located within the special areas of the Harris Park Precinct, being the 'Area of National Significance' and the Harris Park River Area' under the PDCP. The site is also in an area with significant historic view corridors identified in the PDCP.	Yes

	<p>The proposal seeks to increase the height of building control from RL 14 to 17m. This increased height is considered minor particularly in relation to the existing 4-storey residential flat building to the west of the site and to the B4 zone to the east of the site.</p> <p>That said, the site does not contain a heritage item, it does not impede on any identified view corridors, it retains the frame view from Alfred Street and is of a similar scale to the properties to the west and south.</p> <p>Further investigations in relation to the State significant archaeology will be assessed as part of any future Gateway Determination condition or as a requirement at the DA stage.</p>	
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3. Housing, Infrastructure and Urban Development

<p>Direction 3.1 - Residential Zones</p>	<p>The Planning Proposal is consistent with this direction, in that it:</p> <ul style="list-style-type: none"> • facilitates additional housing in close proximity to the Parramatta CBD that is currently not provided on the site • provides residential development in an existing urban area that will be fully serviced by existing infrastructure and future infrastructure, including the Parramatta Light Rail and Alfred Street PCB 	<p>Yes</p>
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<p>Direction 3.4 - Integrating Land Use and Transport</p>	<p>The Planning Proposal is consistent with this direction, in that it:</p> <ul style="list-style-type: none"> • will provide new dwellings in close proximity to future public transport links • will enable residents to walk or cycle to work if employed in the Parramatta City Centre or • makes more efficient use of space and infrastructure by increasing densities on an underutilised site. 	<p>Yes</p>
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4. Hazard and Risk

<p>Direction 4.1 - Acid Sulfate Soils</p>	<p>The site is identified as Class 4 on the Acid Sulfate Soils Map in Parramatta Local Environmental Plan 2011. Acid sulfate soils are generally not found in the first 2 metres of Class 4 areas. However, this will be addressed further at the development application stage.</p>	<p>Yes</p>
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<p>Direction 4.3 - Flood Prone Land</p>	<p>The site is located in a flood prone area and is affected by the Probable Maximum Flood. ¹²⁸ As per Council's flood requirements, a minimum flood planning level, which is the 1:100 year flood level plus 0.5m, is required. This translates to a flood planning level of RL 5.6 as required for the site. The proposal indicates a ground floor of RL 5.62, hence it is compliant in this regard.</p> <p>¹²⁹ Any potential impacts as a result of development on the site, such as stormwater runoff, will be considered and addressed appropriately at DA stage. This will also include any design detail required to ensure compliance</p>	<p>Yes</p>
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	with Council's water management controls within the Parramatta DCP 2011.	
5. Local Plan Making		
Direction 6.1 - Approval and Referral Requirements	131. The Planning Proposal does not introduce any provisions that require any additional concurrence, consultation or referral.	Yes
Direction 6.3 - Site Specific Provisions	133. The Planning Proposal does not introduce any site specific provisions.	Yes
6. Metropolitan Planning		
Direction 7.1 - Implementation of A Plan for Growing Sydney	136. The Planning Proposal is consistent with the principles, directions and priorities prescribed in the Plan for Growing Sydney.	Yes
Direction 7.5 – Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	138. The subject site is located within the Greater Parramatta Priority Growth Area. The proposal is consistent with the Interim and achieves the overall intent of the Interim Plan while ensuring the overall objectives, planning principles and priorities for the GOP are able to be met.	Yes

○ **Section C – Environmental, social and economic impact**

This section considers the potential environmental, social and economic impacts which may result from the Planning Proposal.

Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

The site is located in an existing residential zone and it is unlikely to contain critical habitat or threatened species, populations or ecological communities, or their habitats.

Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

The main potential environmental impacts to be examined in detail with any future development proposal for the site are:

Heritage

The subject site is located in the Harris Park Precinct and is in the special areas of 'Area of National Significance' and the 'Harris Park River Area', as identified in the Parramatta DCP. It is also in an area that has significant historic view corridors.

As discussed above, the proposed increase of height control from RL 14 to 17m is considered a minor increase and provides an appropriate transition,

particularly in relation to the existing 4-storey development to the west of the site and the 13-storey development to the east of the site.

The site does not contain a heritage item, does not impede on any identified view corridors, retains the frame view corridor from Alfred Street to the Parramatta River and is of a similar scale to the properties to the west and south.

The site is located in an area of State significant archaeology, however, any future DA would need to be referred to the NSW Environment, Energy and Science prior to any works commencing for assessment of potential relics on the site and their conservation.

Urban Design and Built Form

The Planning Proposal seeks an increase of height from RL14 (approx. 9m) to 17m. The proposed height will allow a 5-storey residential flat building on the site.

The Proposal indicates a design that is consistent with the setback requirements under the Parramatta DCP, comprising 6m from the front, 4.5m from the west, 7m from the rear and 3m from the east. The 5th storey is setback approximately 15m from Noller Parade which will address impacts at the street level and provide for communal open space (refer to **Figure 2 and 3**).

The increased 5th storey setback is consistent with Part 2F and 3F of the Apartment Design Guide (ADG) where the 5th storey of a development requires a greater setback than the first 4 storeys in order to provide adequate building separation, which in this instance, is from the adjoining property to the west of the site.

The proposed height increase to 17m is considered to be a minimum increase in height from the existing 4-storey residential flat building to the west of the site and also ensures an appropriate transition to the B4 zone to the east.

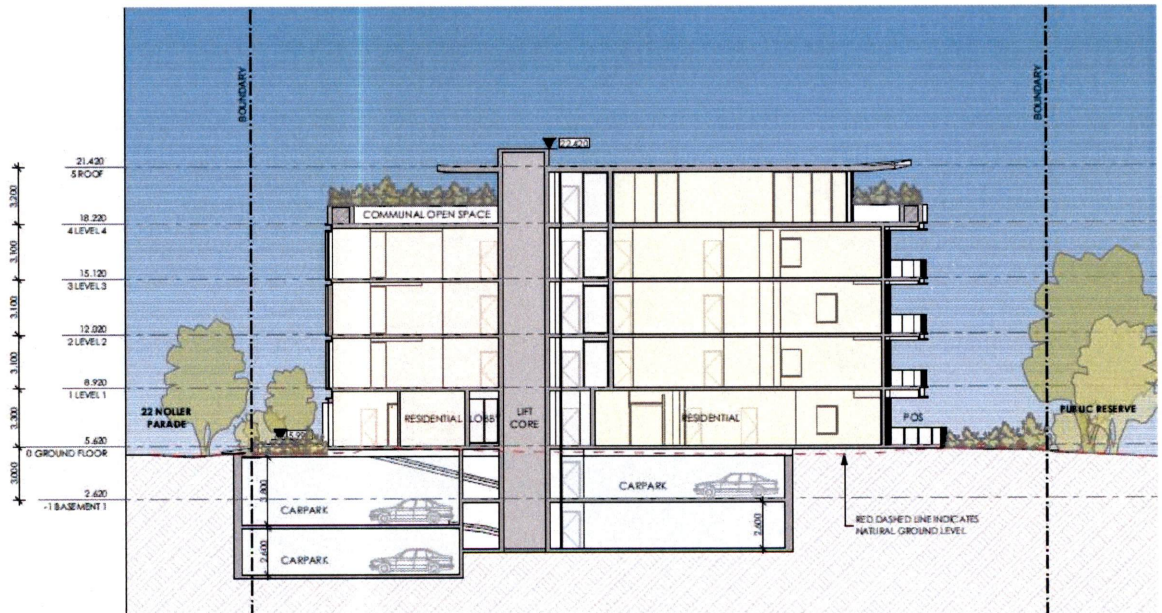


Figure 2 – Elevation of 22 Noller Parade, Parramatta from the east

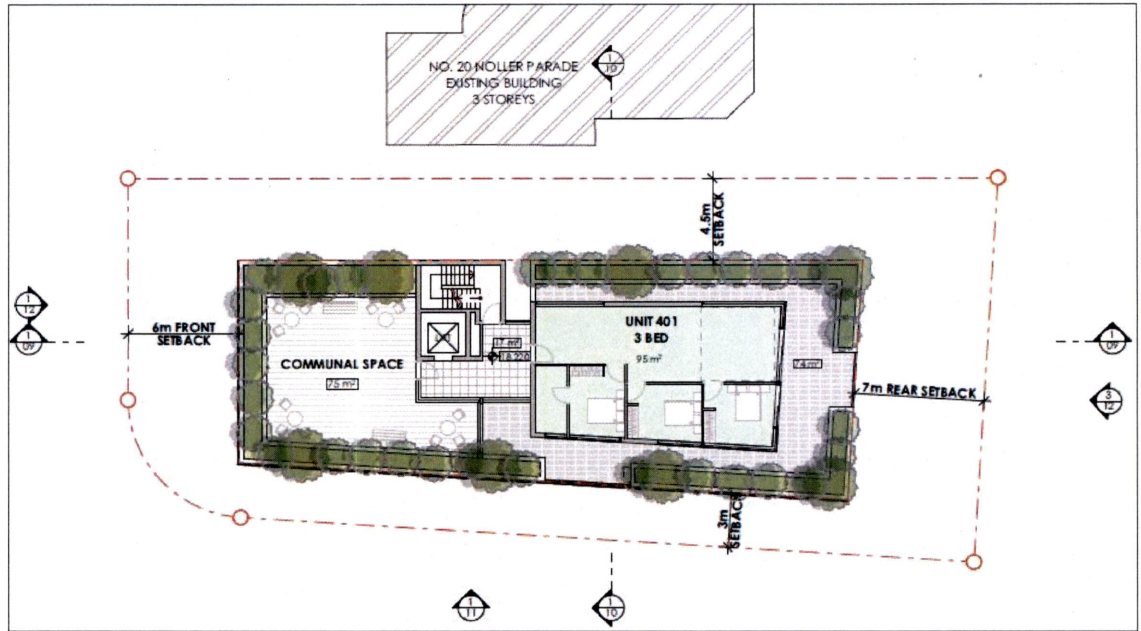


Figure 3 – Setbacks from the 5th storey

Flooding

The subject site is located within a flood prone area but is identified as being subject to low hazard flooding (see **Figure 4**). The site is also subject to the Probable Maximum Flood (PMF) (refer to **Figure 5**).



Figure 4 – Flooding hazard

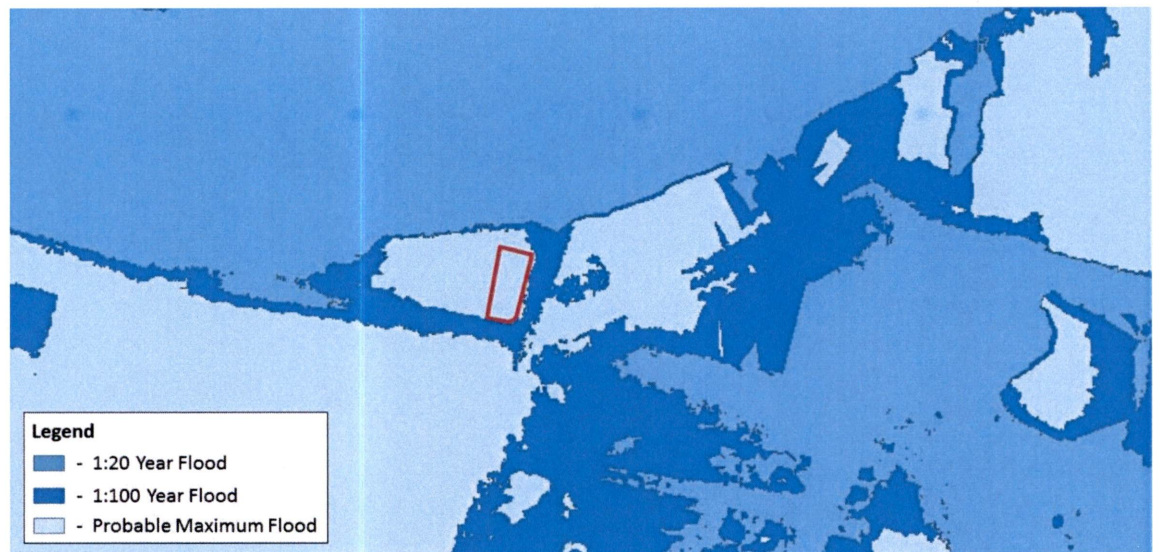


Figure 5 – Flooding levels

Council's requirement is that any development must be at a flood planning level, which is the 1:100-year flood level plus 0.5m. This equates to a minimum required level of RL5.6. The proposal is compliant with Council's requirement as the ground level is proposed to be RL5.62.

The reference design indicates a two-storey basement car park to accommodate 20 car parking space. Any future development would require exclusion of flood waters from the basement to the PMF. This matter can be addressed at the DA stage.

Similarly, a comprehensive flood emergency response plan would be required to support any future DA on this site and would likely involve a combination of evacuation and shelter-in-place strategies.

Transport and Accessibility

The subject site is located in an accessible area and is within 1km of the Parramatta CBD which is accessible by walking or cycling. This accessibility will be further enhanced with the future Parramatta Light Rail and Alfred Street pedestrian cycle bridge. This will be discussed in further more below in the section 3.4.1 relating to public infrastructure.

Council's Senior Traffic and Transport Engineer has reviewed the traffic generation of the proposal and has considered that it will not be significant. Furthermore, 20 car parking spaces are proposed which is in keeping with the minimum requirements under the Parramatta DCP. In this regard, traffic generation is considered minor and acceptable.

How has the planning proposal adequately addressed any social and economic effects?

The Planning Proposal seeks to provide 16 dwellings in an area which is within 1km from the Parramatta CBD and is well within the State Government's target for a 30-minute city to a major centre. This is an appropriate location for housing which is close to the Parramatta CBD and a major transport interchange for connectivity to other centres which allows for greater accessibility to jobs.

A social benefit of the proposal is that as part of Council's adopted Planning Agreements Policy, 10% of the 50% land value uplift will be used towards Council's adopted affordable housing policy, either in the form of a unit or a monetary contribution.

○ **Section D – State and Commonwealth Interests**

Is there adequate public infrastructure for the planning proposal?

Alfred Street Pedestrian-Cycle Bridge

The subject site is located adjacent to the southern landing of the future Alfred Street pedestrian-cycle bridge (PCB) (refer to **Figure 6**). This will be a significant piece of infrastructure that will provide a north-south connection over the Parramatta River at Rosehill and new pedestrian and cycle paths. This will increase accessibility to the site and provide greater opportunity and encouragement for active transport patronage.

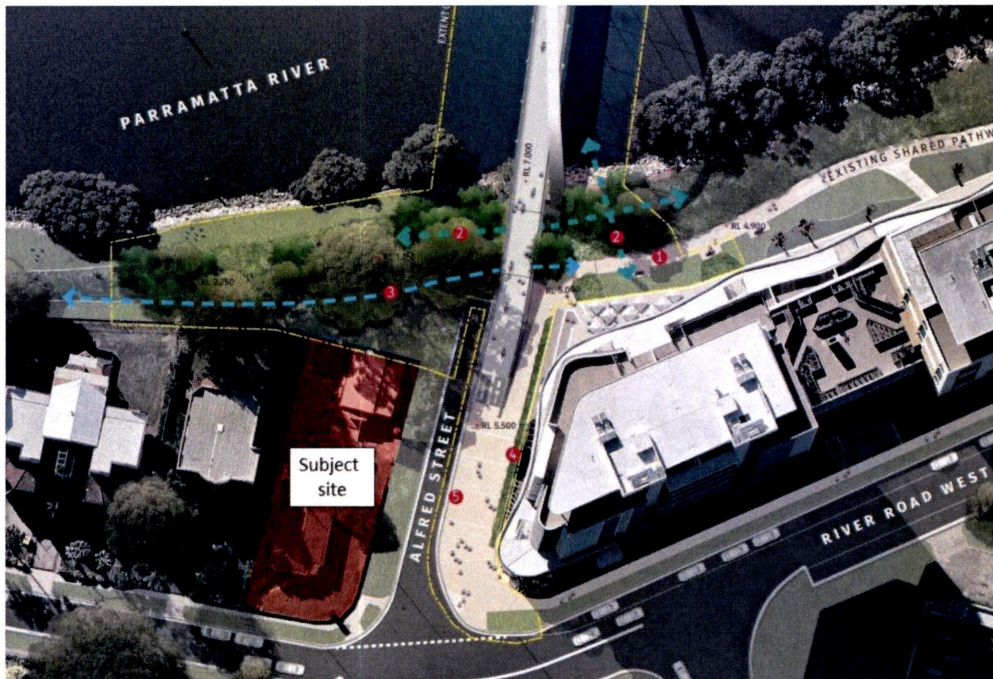


Figure 6 – Site at 22 Noller Parade, Parramatta subject to the planning proposal

As part of the new PCB project, the northern end of Alfred Street (i.e. the southern landing of the PCB) is proposed to be closed as a road and converted into a shared vehicle and pedestrian zone. The subject site is outside the scope of the PCB project which will maintain access to the subject site from Alfred Street.

The Planning Proposal, however, seeks to relocate its main access to the site from Alfred Street to Noller Parade to provide an opportunity to convert the southern landing area to a fully pedestrianised area. This will not only provide a larger public domain area but will also enhance activation at street level and use of the Parramatta River foreshore area.

Parramatta Light Rail

The subject site is also in close proximity to the future Parramatta Light Rail (PLR) 'Tramway Avenue' stop (refer to **Figure 7**). The PLR will significantly improve accessibility to and from the site to the Parramatta CBD and other centres by providing ample public transport to and from the site as well as encouraging its use.

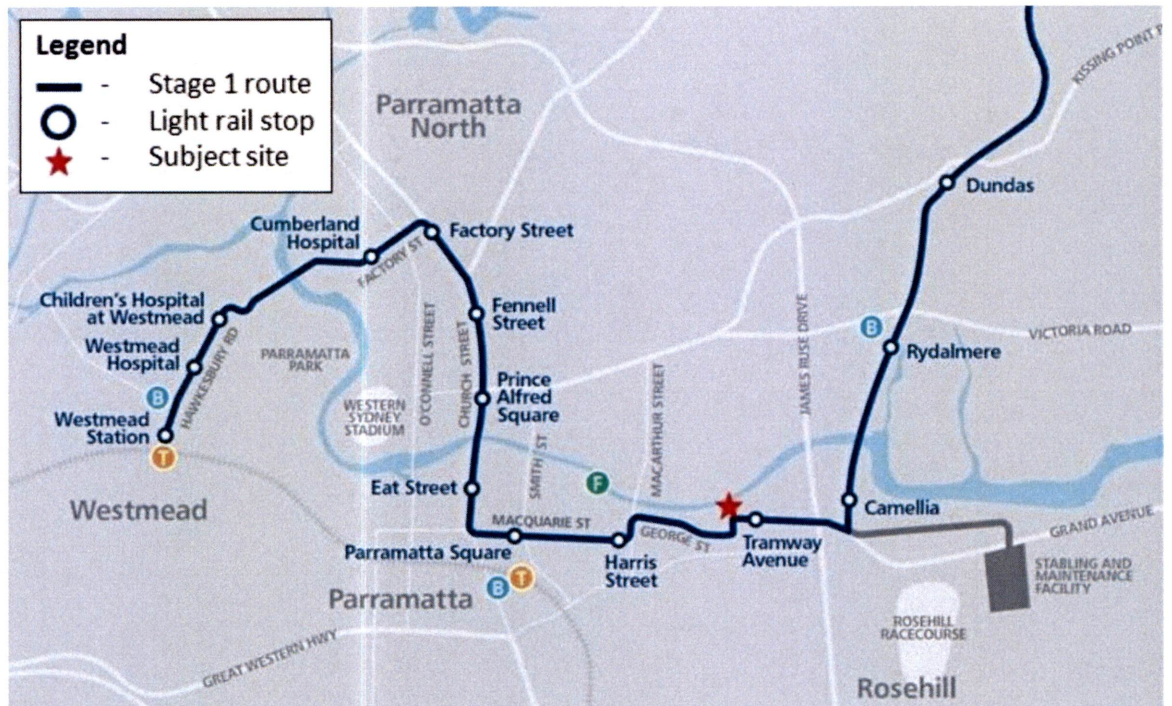


Figure 7 – PLR Stage 1 map

What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

Consultation with the State and Commonwealth public authorities will be undertaken once the gateway determination has been issued.

PART 4 – MAPPING

This section contains the mapping for this planning proposal in accordance with the DP&E's guidelines on LEPs and Planning Proposals. **Existing controls**
This section illustrates the current *PLEP 2011* controls which apply to the site.

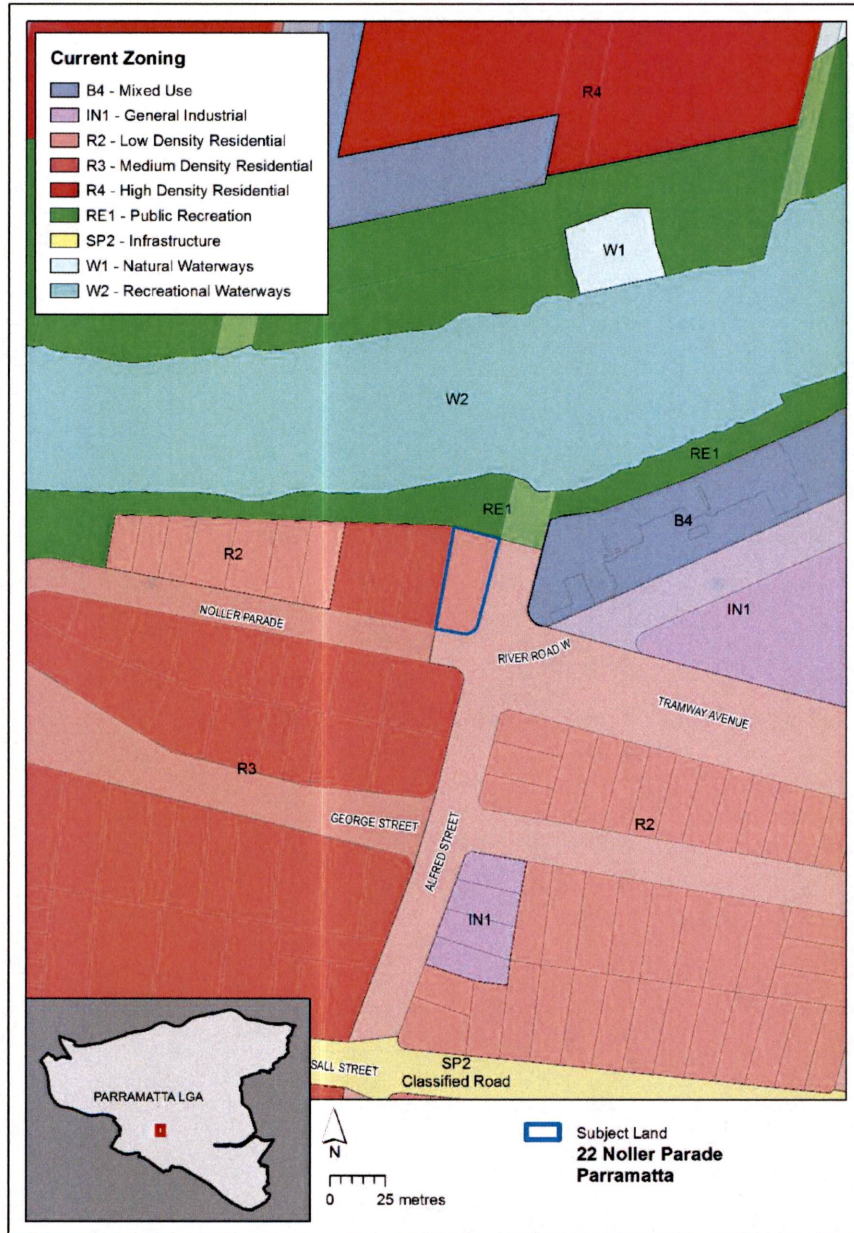


Figure 8 – Existing zoning extracted from *Parramatta LEP 2011* Land Zoning Map

Figure 8 illustrates the existing R2 Low Density Residential zone. The surrounding area is a mixture of R2 Low Density Residential to the south east, R3 Medium Density Residential to the west, B4 Mixed Use and IN1 General Industrial to the east and RE1 Public Recreation to the north.

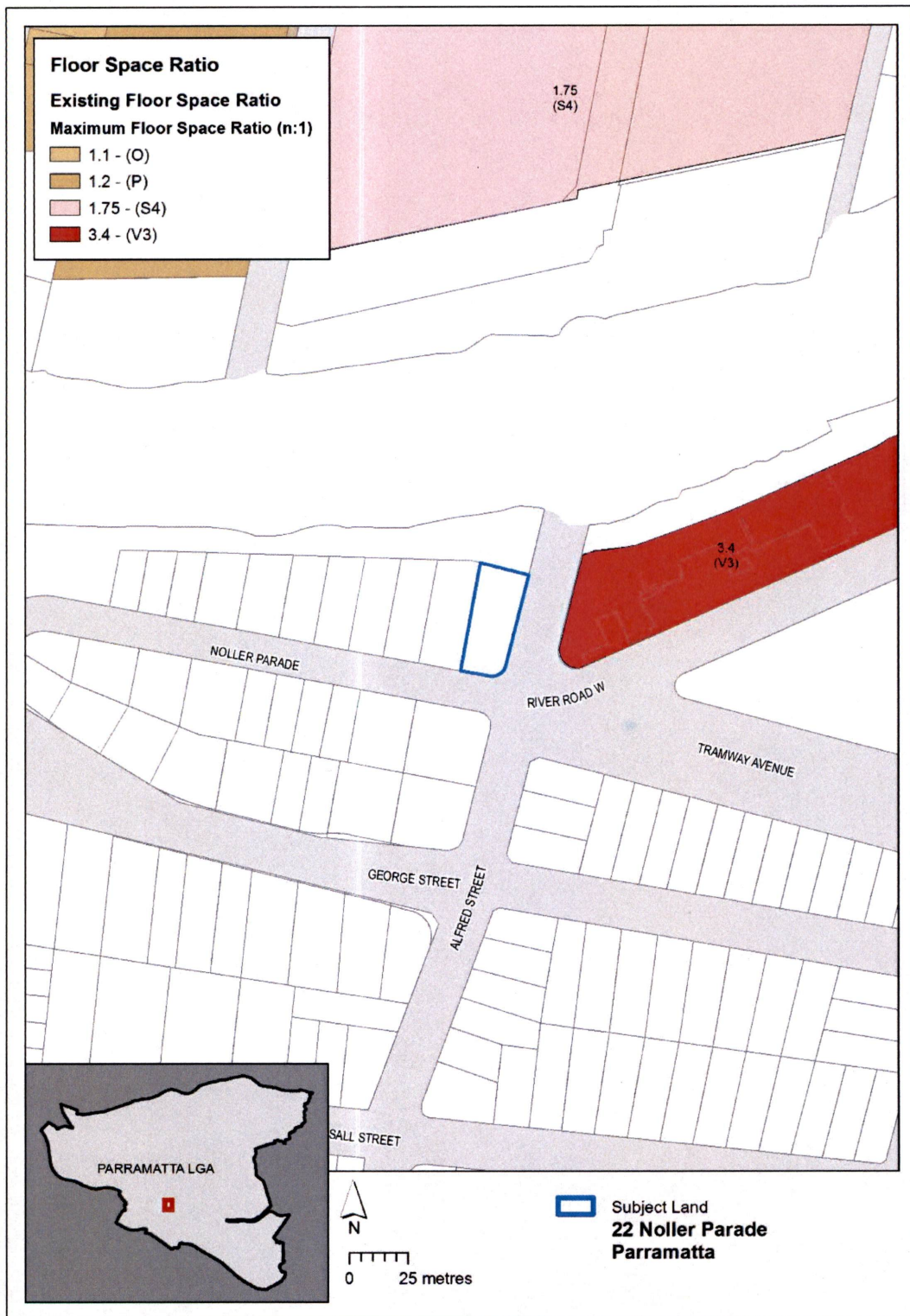


Figure 10 – Existing floor space ratio extracted from the *Parramatta LEP 2011* Floor Space Ratio Map

Figure 10 illustrates the existing maximum Floor Space Ratio control on the site. Currently there is no FSR control.



Figure 11 – Existing heritage items extracted from the *Parramatta LEP 2011* Heritage Map

Figure 11 above illustrates the site and its proximity to a number of heritage items. As discussed above in Section 3.3.2, the site does not contain a heritage item but is close to a number of items, including the State heritage item Elizabeth Farm.

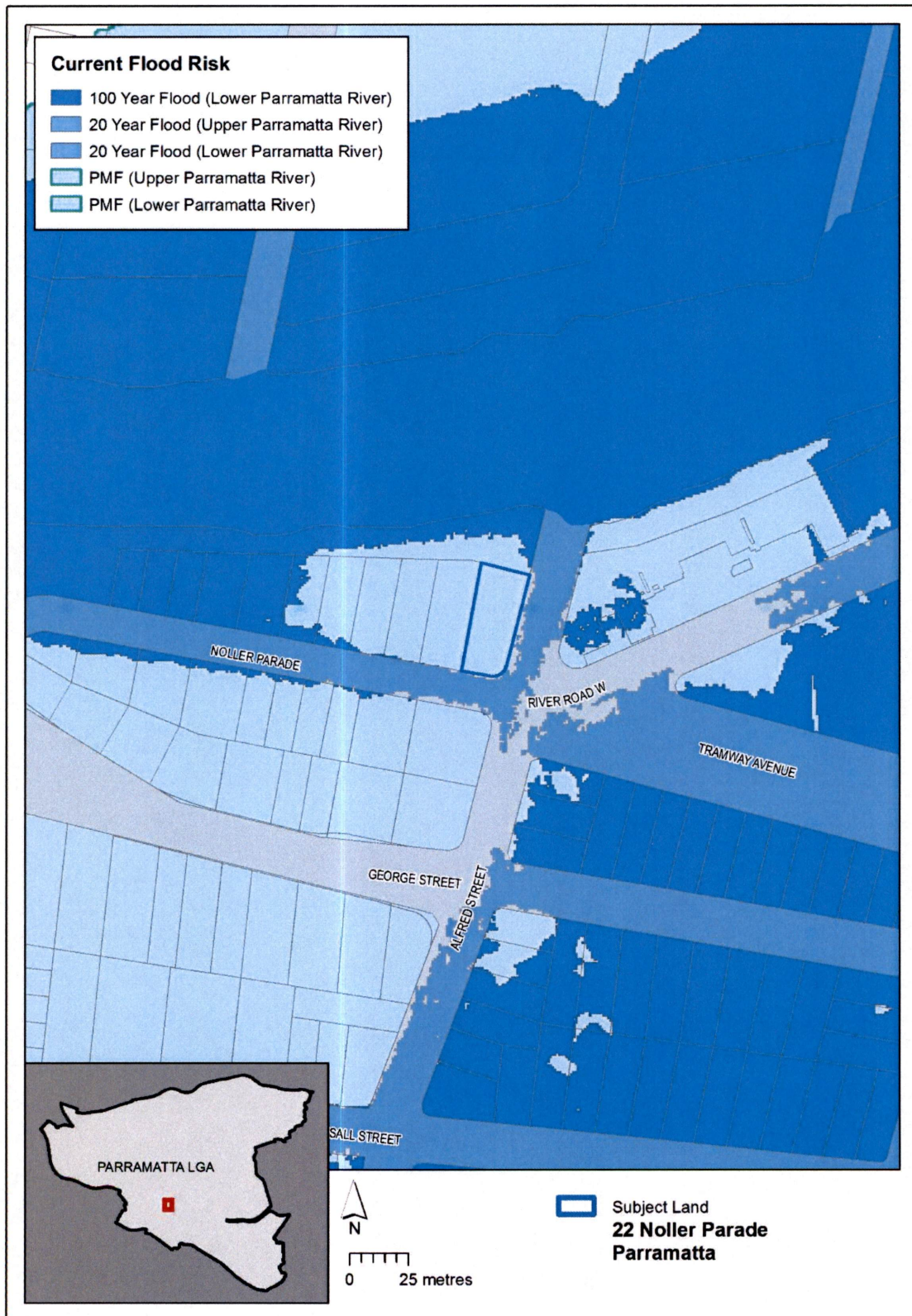


Figure 12 – Existing flooding extant extracted from the *Parramatta LEP 2011* Flooding Map

Figure 12 above illustrates the flooding extant in the vicinity of the site. As discussed above in Section 3.3.2, the land is subject to the PMF and is in a low hazard area (refer to **Figure 4**).

4.2 Proposed controls

The figures in this section illustrate the proposed rezoning, increase in maximum height of building control, and inclusion of a maximum FSR control.

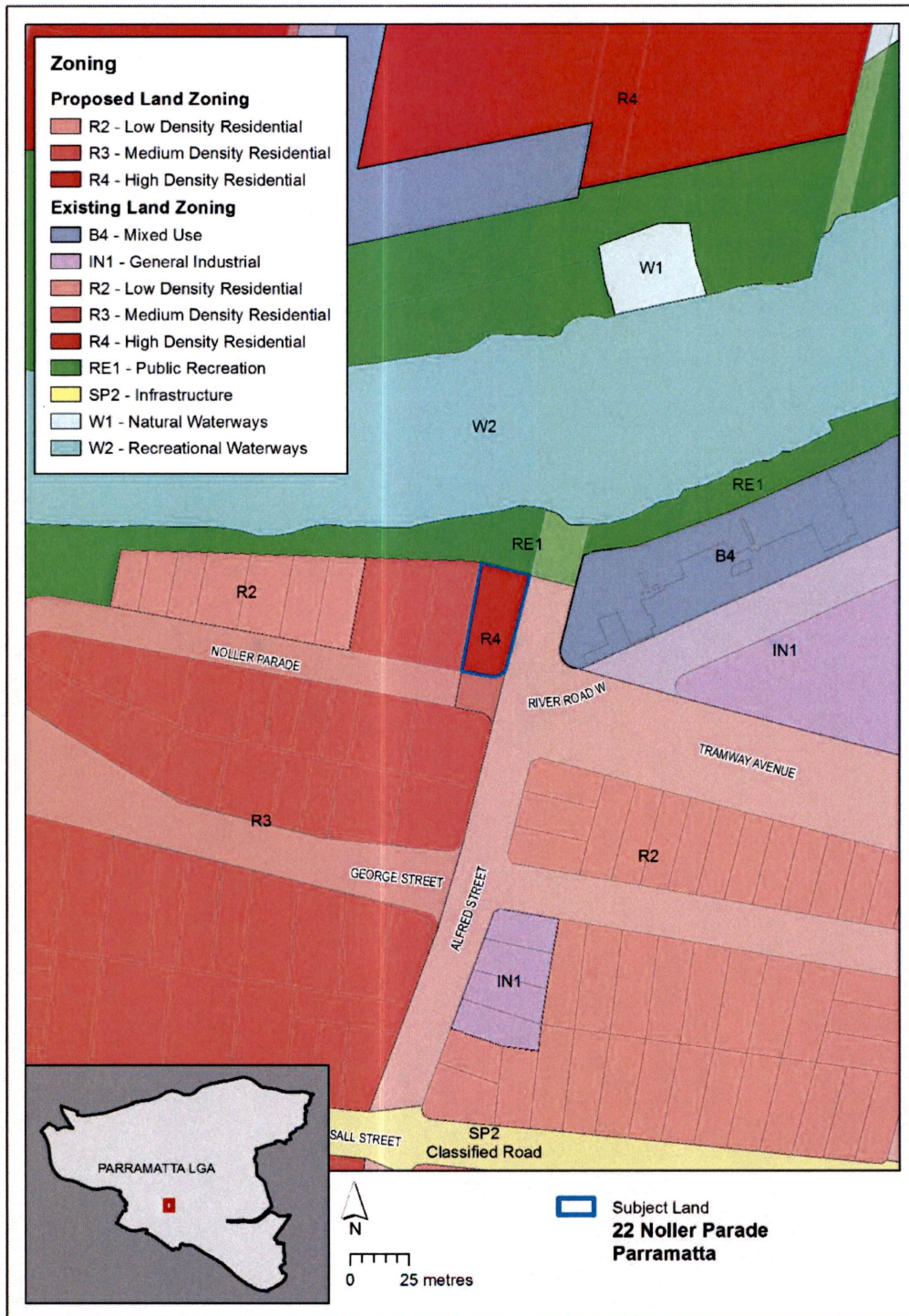


Figure 13 – Proposed amendment to the *Parramatta LEP 2011* Zoning Map

Figure 13 above illustrates proposed R4 High Density Residential zoning over the site. The R4 zone would allow for a residential flat building on the site in a manner consistent with the surrounding context.

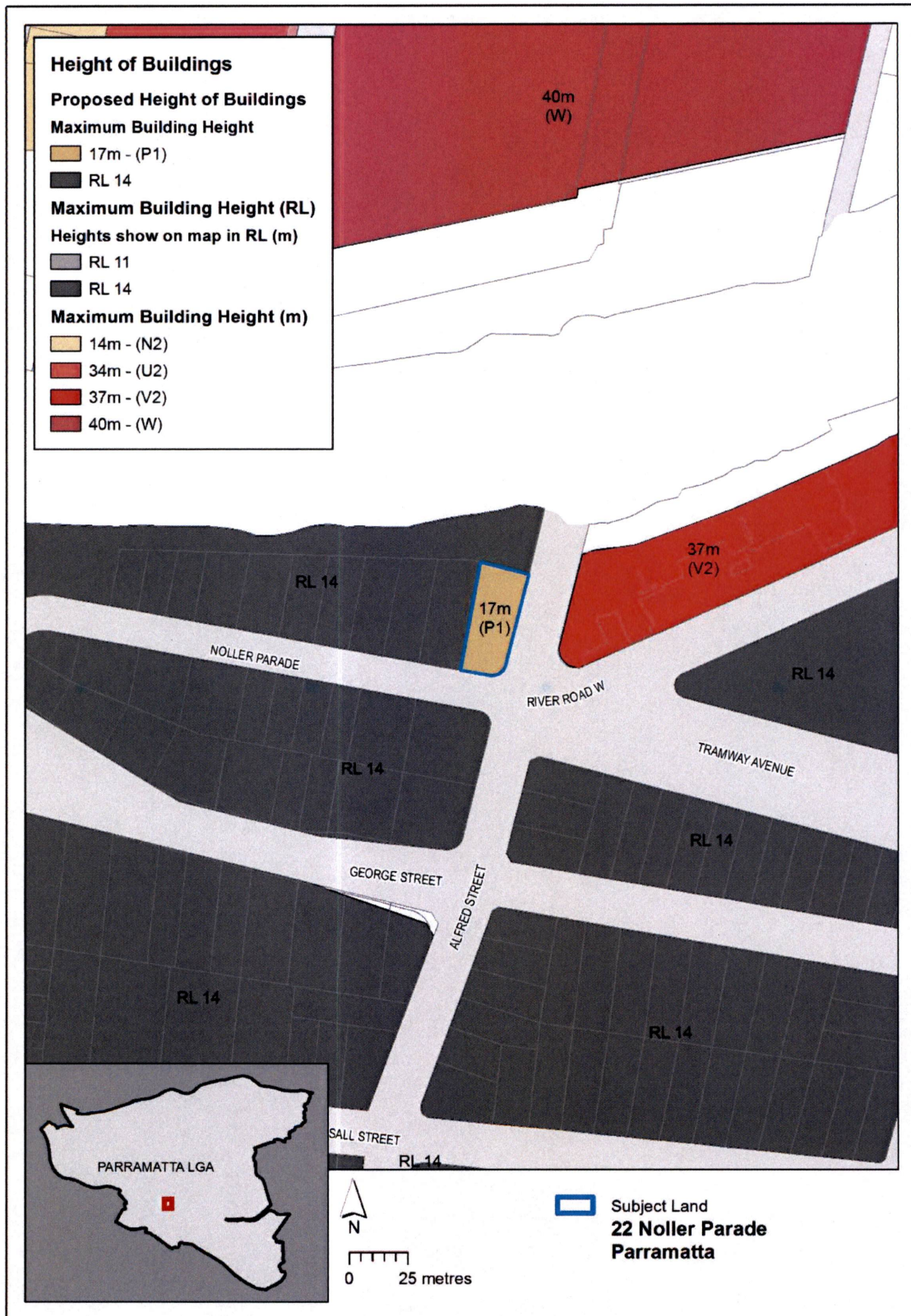


Figure 14 – Proposed amendment to the *Parramatta LEP 2011* Height of Building Map

Figure 14 above illustrates the proposed maximum 17m building height control over the site which would enable a 5-storey development.

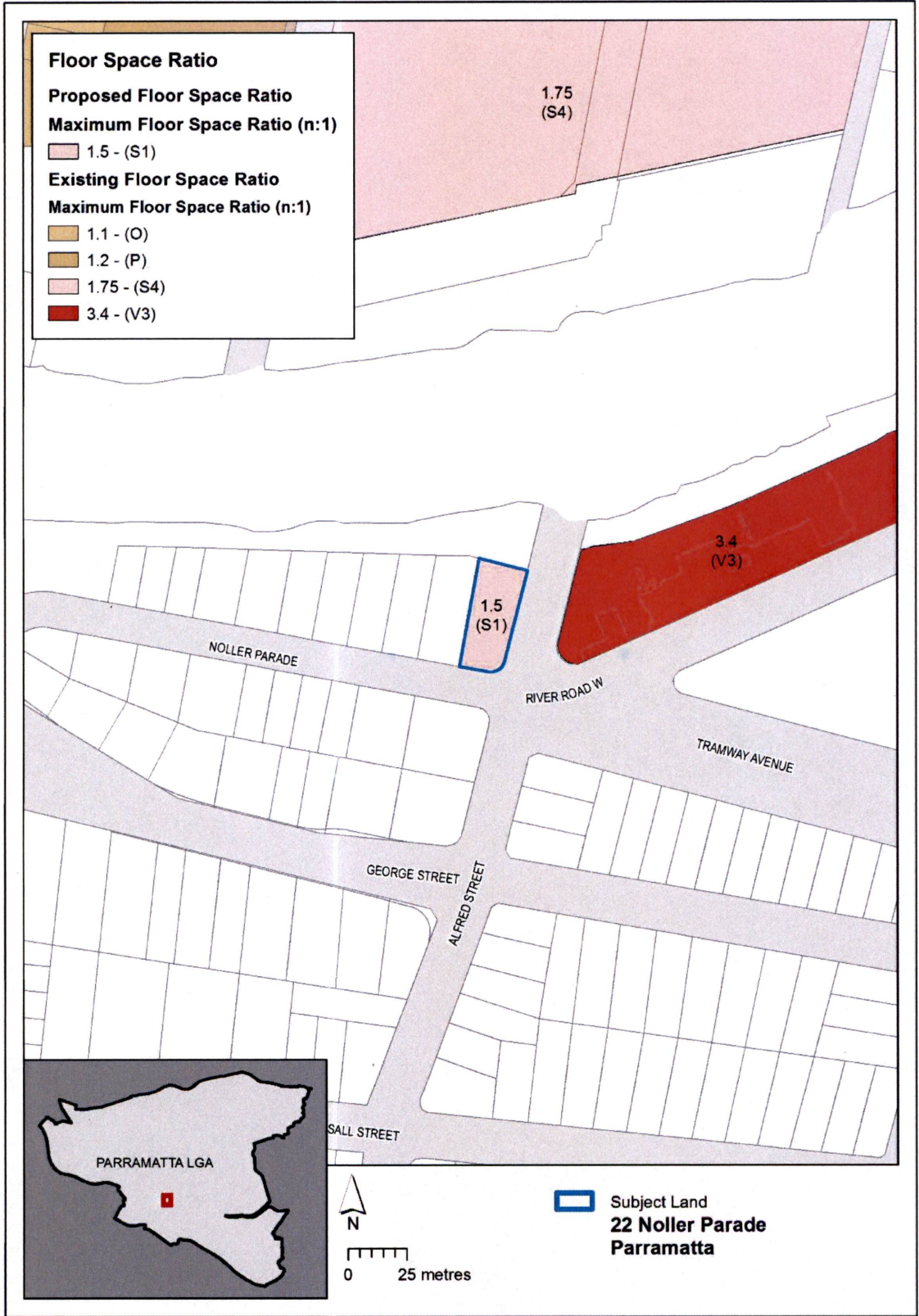


Figure 15 – Proposed amendment to the *Parramatta LEP 2011* Floor Space Ratio Map

Figure 15 above illustrates the proposed 1.5:1 maximum FSR control over the site. The 1.5:1 FSR control would allow for approximately 16 dwellings on the site.

PART 5 – COMMUNITY CONSULTATION

The planning proposal (as revised to comply with the Gateway determination) is to be publicly available for community consultation.

Public exhibition is likely to include:

- newspaper advertisement;
- display on the Council's web-site; and
- written notification to adjoining landowners.

The gateway determination will specify the level of public consultation that must be undertaken in relation to the planning proposal including those with government agencies.

Consistent with sections 3.34(4) and 3.34(8) of the *EP&A Act 1979*, where community consultation is required, an instrument cannot be made unless the community has been given an opportunity to make submissions and the submissions have been considered.

PART 6 – PROJECT TIMELINE

Once the planning proposal has been referred to the Minister for review of the Gateway Determination and received a Gateway determination, the anticipated project timeline will be further refined, including at each major milestone throughout the planning proposal's process.

Table 7 below outlines the anticipated timeframe for the completion of the planning proposal.

Table 7 – Anticipated timeframe to planning proposal process

MILESTONE	ANTICIPATED TIMEFRAME
Report to LPP on the assessment of the PP	September 2019
Report to Council on the assessment of the PP	October 2019
Referral to Minister for review of Gateway determination	November 2019
Date of issue of the Gateway determination	February 2019
Date of issue or revised Gateway determination (if relevant)	-
Commencement and completion dates for public exhibition period	March/April 2020
Commencement and completion dates for government agency notification	March/April 2020
Consideration of submissions	May 2020
Consideration of planning proposal post exhibition and associated report to Council	June/July 2020
Submission to the Department to finalise the LEP	August 2020
Notification of instrument	September 2020

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- **Appendix 1 – Reference Design**

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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

Leanne Sutcliffe

Name of witness

Address of witness

Executed by **Jimstam Holdings Pty Ltd** (ACN 002 435 207) as trustee for The J & S Klapsogiannis Family Trust in accordance with section 127 of the *Corporations Act 2001*:

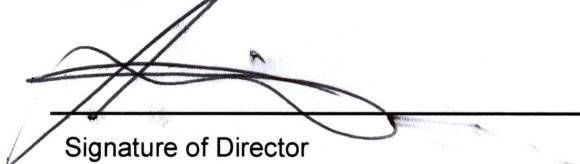


Signature of Director

Jim KLAPSOGIANNIS

Name of Director

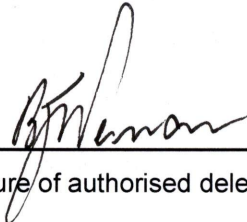
Executed by **The J & S Klapsogiannis Family Trust**



Signature of Director

Jim KLAPSOGIANNIS

Name of Director



Signature of authorised delegate

BRETT NEWMAN

Name of authorised delegate

CEO

Position of authorised delegate



Signature of Director

Stami Klapsogiannis

Name of Director



Signature of Director

Stami Klapsogiannis

Name of Director