

Date 22 / 1 / 14

Planning Agreement

57, 63 & 83 Church Street & 44 Early Street Parramatta

Parramatta City Council
ABN 49 907 174 773

and

Boyded Industries Pty Ltd
ACN 000 092 464

Contents

1.	Planning agreement under the EPAA Act	5
1.1	Section 93F	5
1.2	Application	5
2.	Operation & End of Agreement	5
2.1	Planning Agreement Operation	5
2.2	End of Planning Agreement	5
2.3	Termination of Planning Agreement	5
2.4	Procure Removal	5
3.	Definitions	6
4.	Interpretation	10
4.1	Governing Law and Jurisdiction	10
4.2	Persons	10
4.3	Joint and Several	10
4.4	Legislation	10
4.5	Clauses and Headings	10
4.6	Severance	11
4.7	Business Day	11
4.8	Number and Gender	11
4.9	Explanatory Note	11
5.	No Fetter	11
5.1	Discretion	11
5.2	No Fetter	12
5.3	Conflict	12
6.	Registration	12
6.1	Procure Registration	12
6.2	Effect of Registration	12
6.3	Release	12
6.4	Removal of Registration	13
7.	Public Benefits	13
7.1	Delivery	13
7.2	Public Purpose	13
7.3	Ownership and Control of the Public Thoroughfares, Northern Land Parcel Footpath and Central Land Parcel Footpath	13
8.	Monetary Contribution	13
8.1	Sections 94 and 94A of the EPAA Act	13
8.2	Monetary Contribution Payment Obligation	14
8.3	Monetary Contribution Payment Arrangements	14
8.4	Monetary Contribution Adjustment	14

9.	Design of the Landowner's Works	14
9.1	Context	14
9.2	Definition of Scope	15
9.3	Landowner to Prepare Plans	15
9.4	Cost estimate the Landowner's Works	15
10.	Execution of the Landowner's Works	15
10.1	Context	15
10.2	Approvals and Consents	16
10.3	Construction Work	16
10.4	Inspection of Works	16
10.5	Indemnity and Release	16
10.6	Insurance	17
10.7	Insurance requirements	17
10.8	Evidence	17
11.	Completion of the Landowner's Works	17
11.1	Date of Completion of Works	17
11.2	Completion	18
11.3	Parramatta Final Inspection	18
11.4	Non-completion of Landowner's Works	19
12.	Defects and Rectification	20
13.	Land Dedication	20
13.1	Open Space	20
13.2	Directions	20
13.3	Floor Space Ratio	20
14.	Commercial Suite Transfer	20
14.1	Draft Strata Plan Registration	20
14.2	Minor Variation	21
14.3	Further encumbrances	21
14.4	Plan Registration Notification	21
14.5	Ownership Transfer	21
15.	Thoroughfare Easements	22
15.1	Northern Thoroughfare	22
15.2	Central Thoroughfare	24
15.3	Northern Land Parcel Footpath and Central Land Parcel Footpath	26
15.4	Further Easements or Term of Easements	29
16.	Security	30
16.1	Incremental Security Delivery	30
16.2	Security Amount Adjustment	31
16.3	Security Substitution or Top up	31

16.4	Reduction or Replacement	31
16.5	Call-up of Security	31
16.6	Security Return	32
16.7	Replacement bank guarantee	32
17.	Dispute Resolution	32
17.1	Notice of Dispute	32
17.2	Claim Notice Response	32
17.3	Negotiation	33
17.4	Further Notice	33
17.5	Mediation	33
17.6	Litigation	34
17.7	Continue to Perform Obligations	34
18.	Assignment and Other Dealings	34
18.1	Dealings with the Project Land	34
18.2	Restriction on Transfer of Shares	34
19.	Costs, GST and Interest	35
19.1	Preparation Costs	35
19.2	Default Costs	35
19.3	Advertising Costs	35
19.4	GST	35
19.5	Interest	35
20.	Notices	36
20.1	Service of Notice	36
20.2	Particulars for Service	36
20.3	Time of Service	36
21.	Approvals and Consents.....	36
22.	Representations and Warranties.....	37
23.	New Laws.....	37
24.	General.....	37
24.1	Amendment	37
24.2	Entire Understanding	37
24.3	Further Assurance	37
24.4	Preservation, Waiver and Exercise of Rights	37
24.5	No Relationship	37
24.6	Review of this Planning Agreement	38
	Schedule 1 Reference Schedule	40
	Schedule 2 Project Land Plan	1
	Schedule 3 Monetary Contribution	1
	Schedule 4 Landowner's Works.....	4

Planning Agreement

57, 63 & 83 Church Street & 44 Early Street Parramatta

Dated / /

Parties

Name	Parramatta City Council ABN 49 907 174 773
Address	30 Darcy Street, Parramatta, NSW
Facsimile	9806 5917
Short name	Parramatta

Name	Boyded Industries Pty Ltd ACN 000 092 464
Address	18 Chicago Avenue, Blacktown 2148
Facsimile	
Short name	Landowner

Background

- A. The Landowner has made a request under section 54(3) of the EPAA Act by lodging the Planning Proposal requesting that the Project Land be zoned to allow for the Proposed Development.
- B. The Landowner proposes to lodge applications for Approvals to carry out the Proposed Development if the Draft LEP is made.
- C. The parties wish to enter into a planning agreement in relation to the Landowner's offer to provide the Public Benefits towards public facilities and infrastructure on the terms and conditions contained in this planning agreement if the Draft LEP is made and the Development Consent is activated.

It is agreed

1. Planning agreement under the EPAA Act

1.1 Section 93F

The parties agree that this document is a planning agreement governed by subdivision 2 of Division 6 of Part 4 of the EPAA Act.

1.2 Application

The planning agreement constituted by this document applies to:

1.2.1 the Project Land; and

1.2.2 the Proposed Development.

2. Operation & End of Agreement

2.1 Planning Agreement Operation

2.1.1 The parties agree that this planning agreement is effective and binding on the parties from the date that the Draft LEP commences in accordance with section 34(5) of the EPAA Act.

2.1.2 The Landowner is not bound by this planning agreement to provide any Public Benefits unless:

(a) Development Consent for the Proposed Development is obtained; and

(b) the Development Consent is activated.

2.2 End of Planning Agreement

This planning agreement will be at an end when the Landowner provides to Parramatta all of the Public Benefits, subject to clauses 2.3, 6.3 and 24.4

2.3 Termination of Planning Agreement

This planning agreement will be at an end and taken to have been revoked and neither party will have any obligation to the other if the Draft LEP is declared invalid by a Court of competent jurisdiction.

2.4 Procure Removal

Each party will promptly sign all documents and do all things reasonably required to procure the removal of this planning agreement as an encumbrance on the Register by appropriate notification or request if this planning agreement comes to an end under clause 2.2 or clause 2.3.

3. Definitions

In this planning agreement unless expressed or implied to the contrary:

Approval means any certificate, licence, consent, permit, approval or other requirement of any Governmental Agency.

Business Day means any day on which trading banks are open for business in New South Wales other than a Saturday, Sunday or a public holiday in New South Wales.

Central Land Parcel means the land so described in Item 1 and shown in the Project Land Plan.

Central Land Parcel Footpath means that part of the Project Land identified M and N on the Project Land Plan.

Central Thoroughfare means that part of the Project Land identified Y on the Project Land Plan.

Claim means any claim, loss, liability, damage, proceeding, order, judgment or expense.

Claimant has the meaning given to that term in clause 17.1.

Claim Notice has the meaning given to that term in clause 17.1.

Commercial Suite means commercial office space with a net lettable floor area of not less than 200 sq m located in the commercial podium and identified as CS to be constructed on that part of the Project Land identified C the Project Land Plan.

Completion means for each Component of the Landowner's Works, the point in time when that component is practically completed as evidenced by a Compliance Certificate issued by the relevant certifier for that component.

Compliance Certificate means compliance certificate within the meaning of section 109C(1)(a)(i) of the EPAA Act.

Component of the Landowner's Works means the several separable portions of works specified as such in Schedule 4.

Consent Authority means the governmental agency having the function to determine a development application or major project approval for the Proposed Development or any other development of the Project Land.

Construction Certificate has the meaning given to that term in the EPAA Act.

Dealing has the meaning given to that term in clause 18.1.

Defect means a defect (which adversely affects the work or will require rectification because of the defect) arising from materials or workmanship or design other than:

- (a) minor shrinkage;
- (b) minor settlement cracks; or
- (c) normal wear and tear.

Defects Liability Period means the period of 12 months from the date on which the relevant component of the Landowner's Works reach Completion.

Development Consent means the Consent Authority's approval of the Proposed Development upon conditions acceptable to the Landowner.

Discretion has the meaning given to that term in clause 5.1.

Dispute Notice has the meaning given to that term in clause 17.4.

Draft LEP means any local environmental plan that amends the Parramatta City Centre Local Environmental Plan 2007, or any other local environmental plan that applies to the Project Land, generally in accordance with the Planning Proposal.

EPAA Act means the *Environmental Planning & Assessment Act 1979* (NSW).

EPAA Regulation means the *Environmental Planning & Assessment Regulation 2000* (NSW).

Explanatory Note means the explanatory note relating to this planning agreement and required by the EPAA Regulation.

Force Majeure Event means any of the following events provided they are outside the reasonable control of the Landowner and could not have been prevented or avoided by the Landowner taking all reasonable prudent steps:

- (a) act of God, earthquake, cyclone, fire, explosion, flood, landslide, lightning or meteor;
- (b) war (declared or undeclared), invasion, act of a foreign enemy, hostilities between nations, civil insurrection or military usurped power;
- (c) an act of public enemy, terrorism or civil unrest;
- (d) ionising radiation or contamination by radioactivity from any nuclear waste or from combustion of nuclear fuel not caused by the Landowner;
- (e) confiscation, nationalisation, requisition, expropriation or embargo by or under the order of any government or Governmental Agency; or
- (f) strikes, blockades, lockout or other industrial disputes.

Handover means:

- (a) dedication of the Open Space in accordance with clause 13; and
- (b) transfer of the Commercial Suite in accordance with clause 14.5.

Incoming party has the meaning given to that term in clause 18.1.

Index Number means:

- (a) the consumer price index (all groups) for Sydney published from time to time by the Australian Bureau of Statistics; or
- (b) if the Index Number is no longer published, it means an index Parramatta reasonably decides is a similar index.

Item means an item in Schedule 1.

Landowner's Works means all works and services required to procure and deliver the Public Benefits in accordance with this planning agreement and (for the avoidance of doubt) includes the following:

- (a) Northern Land Parcel Footpath design and construction – the design and construction of an embellished footpath within and adjacent to the Northern Land Parcel in the location identified H on the Project Land Plan;
- (b) Central Land Parcel Footpath design and construction – the design and construction of an embellished footpath within and adjacent to the Central Land Parcel in the location identified N on the Project Land Plan;
- (c) Open Space design and construction - the design and construction of public open space within the Southern Land Parcel in the location identified O on the Project Land Plan;
- (d) Northern Thoroughfare design and construction - the design and construction of a publicly accessible thoroughfare within the Northern Land Parcel in the location identified on the Project Land Plan;
- (e) Central Thoroughfare design and construction - the design and construction of a publicly accessible thoroughfare within the Central Land Parcel in the location identified on the Project Land Plan; and
- (f) Commercial Suite design and construction - the design and construction of the Commercial Suite generally in the location identified CS on the Project Land Plan.

Landowner Works – Private means items (a), (b), (d) and (e) in the Definition of the Landowner's Works.

Landowner Works – Public mean item (c) and (f) in the Definition of Landowner's Works.

Law means:

- (a) the common law including the principles of equity; and
- (b) the requirements of all statutes, rules, ordinances, codes, regulations, proclamations, by-laws, or Approvals.

Minister means the minister for the time being responsible for the administration of the EPAA Act.

Monetary Contribution means the amount stated in Item 4 as varied from time to time under this planning agreement.

New Law means a Law that is amended, varied or changed or a new Law either of which comes into force on or after the date of this planning agreement.

Northern Land Parcel means the land so described in Item 1 and shown in the Project Land Plan.

Northern Land Parcel Footpath means that part of the Project Land identified G and H on the Project Land Plan.

Northern Thoroughfare means that part of the Project Land identified X on the Project Land Plan.

Occupation Certificate means a certificate referred to in section 109C(1)(c) of the EPAA Act.

Open Space means that part of the Project Land identified O on the Project Land Plan.

Owner means the owner from time to time of the Northern Thoroughfare and/or the Central Thoroughfare and/or the Northern Land Parcel Footpath and/or the Central Land Parcel Footpath (including an owners' corporation or similar entity).

Planning Agreement means this document and includes all schedules and annexures to it.

Planning Proposal means the planning proposal (that the Project Land be rezoned to allow for the Proposed Development) referred to in the Minutes of Meeting of Parramatta held on 9 December 2013 to be submitted by Parramatta to the Minister under section 56 of the EPAA Act.

Prescribed Rate means the rate prescribed from time to time under the Uniform Civil Procedure Rules 2005 as the rate of interest on judgment debts, calculated daily and compounded on the last day of each month.

Project Land means each of the Northern Land Parcel, Central Land Parcel and the Southern Land Parcel.

Project Land Plan means the plan contained Schedule 2 (that in a diagrammatic form identifies the Project Land and the locations of some of the Public Benefits).

Proposed Development means the development of the Project Land briefly described in Item 2.

Public Benefits means the public benefits described in Item 3 to be delivered under this planning agreement.

Quarter means each consecutive period of three months (or part of it) ending on the respective last days of March, June, September and December.

Rectification Certificate means a Compliance Certificate within the meaning of section 109C(1)(a)(v) of the EPAA Act to the effect that work the subject of a Rectification Notice has been completed in accordance with the Rectification Notice.

Rectification Notice means a notice in writing that identifies a Defect in a work and requires rectification of the Defect within a reasonably specified period of time.

Register means the Torrens Title register held by the New South Wales office of Land and Property Information.

Respondent has the meaning given to that term in clause 17.1.

Review Date means each anniversary of the date of this planning agreement.

Schedule means a schedule to this planning agreement.

Security means an unconditional and irrevocable bank guarantee or bank guarantees for the relevant Security Amount issued by a trading bank or other financial institution acceptable to Parramatta which does not have an expiry date

Security Amount means the amount stated in Item 5 adjusted and progressively reduced from time to time under clause 16.

Southern Land Parcel means the land so described in Item 1 and shown in the Project Land Plan.

4. Interpretation

4.1 Governing Law and Jurisdiction

This planning agreement is governed by and is to be construed in accordance with the laws of New South Wales. Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of New South Wales and waives any right to object to proceedings being brought in those courts.

4.2 Persons

In this planning agreement, a reference to:

- 4.2.1 a person includes a firm, partnership, joint venture, association, corporation or other corporate body;
- 4.2.2 a person includes the legal personal representatives, successors and permitted assigns of that person; and
- 4.2.3 any body which no longer exists or has been reconstituted, renamed, replaced or whose powers or functions have been removed or transferred to another body or agency is a reference to the body which most closely serves the purposes or objects of the first-mentioned body.

4.3 Joint and Several

If a party consists of more than one person, this planning agreement binds them jointly and each of them severally.

4.4 Legislation

In this planning agreement, a reference to a statute includes regulations under it and consolidations, amendments, re-enactments or replacements of any of them.

4.5 Clauses and Headings

In this planning agreement:

- 4.5.1 a reference to this planning agreement or other document includes this planning agreement or the other document as varied or replaced regardless of any change in the identity of the parties;
- 4.5.2 a reference to a clause, schedule, appendix or annexure is a reference to a clause, schedule, appendix or annexure in or to this planning agreement all of which are deemed part of this planning agreement;
- 4.5.3 a reference to writing includes all modes of representing or reproducing words in a legible, permanent and visible form;
- 4.5.4 headings and sub-headings are inserted for ease of reference only and do not affect the interpretation of this planning agreement;
- 4.5.5 where an expression is defined, another part of speech or grammatical form of that expression has a corresponding meaning;
- 4.5.6 where the expression **including** or **includes** is used it means 'including but not limited to' or 'including without limitation'; and

- 4.5.7 a reference to **governmental agency** means the Crown, any government, any governmental ministry or department, or any Crown, governmental, semi-governmental, statutory, parliamentary, administrative, fiscal, public, municipal, local, judicial or regulatory entity, agency, instrumentality, authority, court, commission, tribunal or statutory corporation having jurisdiction over or in respect of the Project Land or its use or both; and
- 4.5.8 a reference to any notice, claim, demand, consent, agreement, approval, authorisation, specification, direction, disclosure, notification, request, communication, appointment, or waiver being given or made by a party to this Agreement is a reference to its being given or made in writing, and the expression **notice** includes any of the foregoing.

4.6 Severance

- 4.6.1 If a provision in this planning agreement is held to be illegal, invalid, void, voidable or unenforceable, that provision must be read down to the extent necessary to ensure that it is not illegal, invalid, void, voidable or unenforceable.
- 4.6.2 If it is not possible to read down a provision in accordance with this clause 4.6, that provision is to be treated as severable without affecting the validity or enforceability of the remaining part of that provision or any other provision of this planning agreement.

4.7 Business Day

If a payment or other act is required by this planning agreement to be made or done on a day which is not a Business Day, the payment or act must be made or done on the next following Business Day.

4.8 Number and Gender

In this planning agreement, a reference to:

- 4.8.1 the singular includes the plural and vice versa; and
- 4.8.2 a gender includes the other genders.

4.9 Explanatory Note

The Explanatory Note must not be used in construing this planning agreement.

5. No Fetter

5.1 Discretion

This planning agreement is not intended to operate to fetter, in any unlawful manner:

- 5.1.1 the sovereignty of the Parliament of the State of New South Wales to make any Law;
- 5.1.2 the power of the executive government of the State of New South Wales to make any statutory rules; or
- 5.1.3 the exercise of any statutory power or discretion of any Minister of the State of New South Wales or any governmental agency (including Parramatta),

(all referred to in this planning agreement as a '**Discretion**').

5.2 No Fetter

No provision in this planning agreement is intended to, or does, constitute any unlawful fetter of any Discretion. If, contrary to the operation of this clause 5, any provision of this planning agreement is held by a Court of competent jurisdiction to constitute an unlawful fetter on any Discretion, the parties agree:

- 5.2.1 they will take all practice steps, including the execution of any further documents to ensure the objective of this clause 5 is substantially satisfied;
- 5.2.2 in the event that clause 5.2.1 cannot be achieved without giving rise to unlawful fetter on a Discretion, the relevant provision is to be severed and the remainder of this planning agreement has full force and effect; and
- 5.2.3 to endeavour to satisfy the common objectives of the parties in relation to the provision of this planning agreement which is held to be unlawful fetter to the extent that is possible having regard to the relevant Court judgement.

5.3 Conflict

In the event of any conflict between the exercise of any Discretion and the performance or obligations under this planning agreement, the former prevails.

6. Registration

6.1 Procure Registration

The Landowner must:

- 6.1.1 lodge this planning agreement for registration on the Register pertaining to the Project Land no later than 60 Business Days after the date of this planning agreement including obtaining the consent of any mortgagee or other person who has an interest in the Project Land; and
- 6.1.2 promptly after registration on the Register, deliver to Parramatta a title search of the Project Land confirming registration of this planning agreement.

6.2 Effect of Registration

The parties agree and acknowledge that if any of the Project Land is subdivided and sold, then all of the obligations of this planning agreement are binding on, and enforceable against, the owner of each subdivided parcel of land from time to time, on whose title this planning agreement is registered, as if each owner for the time being had entered into this planning agreement.

6.3 Release

Parramatta agrees to promptly provide a release and discharge of this planning agreement with respect to any part of the Project Land if the Landowner requests a release and discharge of this planning agreement (whether in full or part) and:

- 6.3.1 in the case of a request for a full release and discharge, the Landowner has complied with all its obligations under this planning agreement to Parramatta's satisfaction which should not be unreasonably withheld; or
- 6.3.2 in the case of a request for partial release and discharge, the Landowner has, at the time of the request complied with its obligations under this planning agreement to

Parramatta's satisfaction which should not be unreasonably withheld to the extent that they affect that part of the Project Land to which the partial release relates.

6.4 Removal of Registration

Within 10 Business Days of Parramatta confirming any release and discharge under clause 6.3, Parramatta will do all things necessary to enable the extinguishment of this planning agreement from the Register pertaining to the Project Land or that part of the Project Land to which the release and discharge relates and must return to the Landowner any Security Amount referable to the part or parts of the Project Land to which that release and discharge relates.

7. Public Benefits

7.1 Delivery

The Landowner must do all things reasonably required to deliver the Public Benefits in accordance with this planning agreement.

7.2 Public Purpose

The Public Benefits are made for the purposes of providing public amenities and public services including the provision of open space and publically accessible thoroughfares enabling Parramatta to carry out activities consistent with its charter prescribed by Law.

7.3 Ownership and Control of the Public Thoroughfares, Northern Land Parcel Footpath and Central Land Parcel Footpath

The parties acknowledge that:

- 7.3.1 the Northern Thoroughfare and the Central Thoroughfare will be owned, controlled, managed and maintained by the Owner;
- 7.3.2 neither the Landowner nor the Owner is required to undertake any work on the parts of the Northern Land Parcel Footpath identified G on the Project Land Plan and the part of the Central Land Parcel Footpath identified M on the Project Land Plan;
- 7.3.3 the Northern Thoroughfare, the Central Thoroughfare, the Northern Land Parcel Footpath and the Central Land Parcel Footpath will be subject to the easements to be created in accordance with clause 15;
- 7.3.4 unless any such areas are acquired from the Landowner or Owner, the Northern Land Parcel Footpath and the Central Land Parcel Footpath will be owned, controlled, managed and maintained by either the Landowner or the Owner; and
- 7.3.5 if the Northern Land Parcel Footpath and/or the Central Land Parcel Footpath are acquired from the Landowner or the Owner all compensation for such acquisition will be retained by the Landowner or the Owner.

8. Monetary Contribution

8.1 Sections 94 and 94A of the EPAA Act

The application of sections 94 and 94A of the EPAA Act are excluded.

8.2 Monetary Contribution Payment Obligation

8.2.1 The Landowner covenants to pay the Monetary Contribution to Parramatta.

8.3 Monetary Contribution Payment Arrangements

8.3.1 The Landowner must pay the Monetary Contribution in the manner and at the times set out in Schedule 3.

8.3.2 All payments of the Monetary Contribution (including any part of it) or other moneys payable by the Landowner to Parramatta (using a direct debit payment method or such other payment method reasonably acceptable to Parramatta) as Parramatta may in otherwise direct under this planning agreement must be without deductions and free of any right of set off.

8.3.3 Parramatta need not make demand for any amount payable by the Landowner unless this planning agreement says that demand must be made.

8.4 Monetary Contribution Adjustment

The Monetary Contribution is to be adjusted on each Review Date in accordance with the following calculation:

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

where:

A is the adjusted Monetary Contribution applicable from the relevant Review Date;

B is the Monetary Contribution applicable immediately prior to the relevant Review Date;

C is the Index Number for the Quarter ending immediately before the date of this planning agreement or the last prior Review Date (whichever is the later); and

D is the Index Number for the Quarter ending immediately before the relevant Review Date.

9. Design of the Landowner's Works

9.1 Context

The parties agree that this clause 9:

9.1.1 governs the design of the Landowner's Works and sets out the terms and conditions the parties will observe in relation to the design of the Landowner's Works; and

9.1.2 applies to whole of the Landowner's Works and any relevant part of them as the context requires for the orderly conduct of the Proposed Development and observance of the terms and conditions of this planning agreement.

9.2 Definition of Scope

The parties acknowledge and agree that further design detail and refinement of the Landowner's Works is necessary having regard to the following:

- 9.2.1 conditions reasonably affecting the Landowner's Works that were not reasonably capable of identification on or before the date of this planning agreement;
- 9.2.2 any or all policies, procedures and standards identified in the description of the Landowner's Works; and
- 9.2.3 the conditions of any Approval that is required in order to carry out, and/or complete the Landowner's Works.

9.3 Landowner to Prepare Plans

Before making an application for a development consent in respect of each Component of the Landowner's Works, the Landowner must prepare detailed plans and specifications for that component and provide those plans and specifications to Parramatta. The Landowner must:

- 9.3.1 consult with Parramatta in connection with the preparation of the detailed plans and specifications;
- 9.3.2 ensure that the Landowner's Works are designed in a manner so that they are suitable for their intended use; and
- 9.3.3 acting reasonably, consider Parramatta's comments and observations regarding that Component of the Landowner's Works.

9.4 Cost estimate the Landowner's Works

- 9.4.1 Contemporaneously with the detailed plans and specifications given to Parramatta under clause 9.3, the Landowner must deliver to Parramatta a detailed costs estimate in respect of the Landowner's Works as specified in such plans and specifications.
- 9.4.2 The Landowner is not entitled to change or reduce the scope of the Landowner's Works by reason only that the anticipated costs incurred in the execution of the Landowner's Works are greater than:
 - (a) the estimated costs stated in the cost estimate given to Parramatta under this clause 9.4.1 or otherwise; or
 - (b) any amount identified in this planning agreement.

10. Execution of the Landowner's Works

10.1 Context

The parties agree that this clause 10:

- 10.1.1 governs the execution of the Landowner's Works and subject to the terms of any Approvals or other statutory certificates under the EPAA Act, sets out the terms and conditions the parties will observe in relation to the execution of the Landowner's Works; and

- 10.1.2 applies to whole of the Landowner's Works and any relevant part of them as the context requires for the orderly conduct of the Proposed Development and observance of the terms and conditions of this planning agreement.

10.2 Approvals and Consents

- 10.2.1 The Landowner must, at its own cost, obtain all Approvals from any relevant governmental agencies having jurisdiction over or in respect of the Landowner's Works.
- 10.2.2 Before commencing the Landowner's Works, the Landowner must give Parramatta copies of all Approvals and consents relating to the Landowner's Works.

10.3 Construction Work

The Landowner must at its cost:

- 10.3.1 carry out and complete the Landowner's Works in accordance with all approvals and consents relating to the Landowner's Works issued by any relevant governmental agencies having jurisdiction over or in respect of the Landowner's Works;
- 10.3.2 ensure that the Landowner's Works are conducted in a proper and workmanlike manner so that they are structurally sound, and suitable for their intended use; and
- 10.3.3 promptly notify Parramatta of any delays which it experiences in completing the Landowner's Works that may affect completion within the timeframe specified in Schedule 4.

10.4 Inspection of Works

- 10.4.1 Parramatta may (but is not obliged) at reasonable times and on reasonable notice inspect the Landowner's Works during the course of construction.
- 10.4.2 Parramatta will promptly notify the Landowner of any material or significant Defect, in the Landowner's Works identified during or as the result of such inspection. The parties expressly agree that any failure to identify a Defect will not be construed as amounting to an acceptance by Parramatta of that Defect.

10.5 Indemnity and Release

- 10.5.1 Subject to clause 10.5.2, until Handover of the relevant Component of the Landowner's Works the Landowner indemnifies and releases Parramatta against all damage, expense, loss or liability suffered or incurred by Parramatta to the extent that it arises from any act or omission by the Landowner (or any person engaged or employed by the Landowner) in connection with the execution of all and any Components of the Landowner's Works except to the extent that Parramatta (or any person engaged or employed by Parramatta) has caused or contributed to causing such damage, expense, loss or liability by its wrongful and/or negligent act omission or default.
- 10.5.2 Parramatta indemnifies and releases the Landowner against all damage, expense, loss or liability suffered or incurred by the Landowner to the extent that it arises from any act or omission by Parramatta (or any person engaged or employed by Parramatta) in connection with the completion of all and any Components of the Landowner's Works by Parramatta pursuant to clause 11.4 or the rectification by Parramatta of Defects notified under a Rectification Notice pursuant to clause 12 except to the extent that the Landowner (or any person engaged or employed by the Landowner) has caused or contributed causing such damage, expense, loss or liability.

10.6 Insurance

The Landowner must establish and maintain:

- 10.6.1 public liability insurance for an amount not less than \$20 million (or such greater amount Parramatta reasonably requires) covering all aspects of the Landowner's Works and submit to Parramatta a copy of the certificate of insurance prior to the commencement of the construction of the Landowner's Works and at all other times Parramatta reasonably requires;
- 10.6.2 all other insurance policies in respect of the Landowner's Works Parramatta considers reasonably necessary including:
 - (a) insurance of the Landowner's Works and insurance against death or injury to persons employed in the conduct of the Landowner's Works; and
 - (b) any other insurances required at law; and
- 10.6.3 if any of the insurance required by this clause 10.6 can be supplied by the Landowner's builder for any Component of the Landowner's Works, then the Landowner shall give notice of this opportunity and the Landowner and Parramatta shall act reasonably in considering and effecting that substitution.

10.7 Insurance requirements

All insurance policies the Landowner must keep current under this planning agreement must:

- 10.7.1 be established with one or more insurance companies which are respectable, reputable and financially sound and approved by Parramatta (such approval not to be unreasonably withheld);
- 10.7.2 name Parramatta as an insured party;
- 10.7.3 cover the parties for their respective interests; and
- 10.7.4 be kept current until the Landowner's Works achieve Practical Completion.

10.8 Evidence

No later than 10 Business Days after any request by Parramatta, the Landowner must provide Parramatta with a certificate of currency (or such other evidence as the Parramatta may reasonably require) in respect of any insurance that must be established and maintained under this planning agreement:

11. Completion of the Landowner's Works

11.1 Date of Completion of Works

- 11.1.1 Unless delayed by any Force Majeure Event, the Landowner must use all reasonable efforts to cause Completion of the relevant Component of the Landowner's Works within the times set out in Schedule 4.
- 11.1.2 If Completion is delayed or is likely to be delayed by any Force Majeure Event:

- (a) the Landowner must promptly and in any event within 10 Business Days of becoming aware of the Force Majeure Event, give notice to Parramatta providing:
 - (i) details of the Force Majeure Event;
 - (ii) an estimate of the likely duration of the Force Majeure Event; and
 - (iii) the steps taken or to be taken to mitigate the effects of the Force Majeure Event; and
- (b) the Landowner must use all reasonable endeavours to remove, overcome or minimise the effects of that Force Majeure Event.

11.2 Completion

- 11.2.1 When the Landowner considers that any Component of the Landowner's Works have reached Completion, the Landowner must give Parramatta a practical completion notice which includes:
 - (a) a Compliance Certificate from the appointed certifier that this Component of the Landowner's Works have reached Completion; and
 - (b) 3 sets of the "as built" drawings of the Landowner's Works, including 1 set in electronic format.
- 11.2.2 Subject to any liability for any antecedent breach of this planning agreement and for rectification of any Defect, the Landowner is discharged from any further obligation in relation to Completion of that Component of the Landowner's Works or any part thereof on receipt of written notice from Parramatta that it accepts the Compliance Certificate.

11.3 Parramatta Final Inspection

- 11.3.1 Parramatta must inspect the Component of the Landowner's Works within 10 Business Days of receiving notice from the Landowner pursuant to clause 11.2. Promptly after such an inspection, Parramatta must give the Landowner a notice that states whether Parramatta:
 - (a) accepts the Compliance Certificate and concurs that Completion has been achieved; or
 - (b) disagrees that Completion has been achieved and identifies the errors or omissions which in Parramatta's opinion prevent Completion; or
 - (c) issue a notice of the nature identified in clause 11.4.
- 11.3.2 Nothing in this clause 11.3 will be constructed to reduce or waive in any manner the Landowner's responsibility to correct minor Defects of minor omissions, whether or not these are identified by Parramatta.

11.4 Non-completion of Landowner's Works

- 11.4.1 Parramatta may permit the Landowner not to complete the Landowner's Works (or part of them) by issuing a notice to the Landowner, expressly stating that completion of the items identified in that notice is not required to achieve Completion.
- 11.4.2 If Parramatta considers that the Landowner is in breach of an obligation under this planning agreement in relation to the execution of the Landowner's Works or that the Landowner has failed to achieve Completion of any Component of the Landowner's Works, then Parramatta may elect to give the Landowner a notice providing specific detail of that breach or failure to complete and requiring the breach or failure to complete to be rectified within a period of no less than 20 business days or such greater period as Parramatta considers reasonable in the circumstances.
- 11.4.3 Parramatta is required to give the Landowner at least 20 business days notice under clause 11.4.2 as a pre-condition precedent to calling up the security in relation to the Landowner's breach.
- 11.4.4 Without limiting any other rights Parramatta has to enforce this planning agreement, Parramatta may, if the Landowner does not comply with a notice given under clause 11.4.2:
 - (a) call upon on the Security under this clause no earlier than 20 business days after the notice has been given; and
 - (b) to the extent only that they are Landowner Works – Public, carry out and complete the Landowner's Works the subject of the notice.
- 11.4.5 If Parramatta calls up the Security, it may use the amount so paid to it in satisfaction of costs actually incurred by it in remedying the Landowner breach as follows:
 - (a) the reasonable costs of Parramatta reasonably incurred to remedy a breach including carrying out and completion, but only of the Landowner Works – Public; and
 - (b) all fees and charges (including but not limited to legal costs and expenses) necessarily and reasonably incurred by Parramatta to remedy the Landowner's breach whether for the Landowner Works – Public or for Landowner Works - Private.
- 11.4.6 Works carried out by Parramatta pursuant to this clause must be carried out in the form and to the standards required under this planning agreement and all approvals and consents issued by any relevant governmental agency having jurisdiction over or in respect of the Landowner Works - Public.
- 11.4.7 To the extent that expenditure incurred by Parramatta in the conduct of the Landowner Works – Public exceeds the Security Amount available for appropriation at the relevant time, Parramatta may recover any such shortfall from the Landowner as a debt due.
- 11.4.8 Where Parramatta calls up the Security for the Landowner's Works it must hold any surplus over and above the fees and charges described in clause 11.4.5(b) against any other damages or losses resulting from the Landowner's breach of this planning agreement and return any surplus to the Landowner when all issues relating to the assessment of those damages and losses are concluded.

12. Defects and Rectification

- 12.1 During the Defects Liability Period, Parramatta may give to the Landowner a Rectification Notice including a reasonable period to remedy any Defects, which the Landowner must comply with at its own cost according to the terms of the Rectification Notice.
- 12.2 When the Landowner considers that rectification is complete, the Landowner may give to Parramatta a Rectification Certificate relating to the Work the subject of the relevant Rectification Notice.
- 12.3 A Rectification Certificate discharges the Landowner from any further obligation to comply with a Rectification Notice.
- 12.4 If the Landowner does not comply with a Rectification Notice within 20 business days after the expiry of the time period in the Rectification Notice, then Parramatta may rectify the Defect and may recover its verified costs of so doing as a debt due in a Court of competent jurisdiction.

13. Land Dedication**13.1 Open Space**

The Landowner must do (or procure to be done) all things required to dedicate the Open Space to Parramatta (including land subdivision and transfer of ownership in fee simple) no later than 12 months after the date on which the first Occupation Certificate is issued in respect of that part of the Proposed Development occurring on those parts of the Project Land identified J or K or L on the Project Land Plan.

13.2 Directions

The Landowner must comply with any reasonable directions given by Parramatta in respect of any land dedication under this clause 13. Any such direction must be consistent with the provisions for land dedication under clauses 13.1 to 13.3.

13.3 Floor Space Ratio

Parramatta agrees:

- 13.3.1 the Landowner may include the area of the Northern Land Parcel Footpath in any calculation of floor space ratio for the Proposed Development or any relevant part thereof on the Northern Land Parcel; and
- 13.3.2 the Landowner may include the area of the Central Land Parcel Footpath in any calculation of floor space ratio for the Proposed Development or any relevant part thereof on the Central Land Parcel.

14. Commercial Suite Transfer**14.1 Draft Strata Plan Registration**

On Completion of that part of the Proposed Development occurring on that part of the Project Land identified C on the Project Land Plan, the Landowner must use all reasonable efforts to

promptly cause registration in the Register of a plan that creates a separate freehold strata title (in fee simple) in respect of the Commercial Suite.

14.2 Minor Variation

- 14.2.1 The parties acknowledge that for the purposes of this clause 14.2 that unless agreed by Parramatta:
- (a) a *minor variation* is a change which does not substantially, detrimentally and permanently affect the Commercial Suite; and
 - (b) a *minor reduction in the area of the Commercial Suite* means a reduction of not more than two per cent (2%) in the area of the Commercial Suite.
- 14.2.2 Unless agreed by Parramatta, the Landowner must not cause or permit to occur any:
- (a) change to the Commercial Suite that is not a minor variation; or
 - (b) any reductions in the area of the Commercial Suite that is not a minor reduction in the area of the Commercial Suite.
- 14.2.3 Parramatta must not make any claim in respect of:
- (a) any minor variations or discrepancies in the position of the Commercial Suite; and
 - (b) any minor reduction in the area or dimensions of the Commercial Suite.

14.3 Further encumbrances

- 14.3.1 The Landowner may create such easements, positive covenants and restrictions as to user (**Restrictions**) which are not required under any Approval but which:
- (a) the Landowner considers reasonably necessary; or
 - (b) are required by any governmental agency.
- 14.3.2 Parramatta is not entitled to make any claim against the Landowner on account of any matter or thing in relation to the Restrictions that may be created pursuant to this clause 14.3.

14.4 Plan Registration Notification

The Landowner must give Parramatta notice of registration of the a plan that creates a separate freehold strata title (in fee simple) in respect of the Commercial Suite no later than 5 Business Days after the registration in the Register occurs.

14.5 Ownership Transfer

No later than 10 Business Days after the registration in the Register of the plan that creates a separate freehold strata title (in fee simple) in respect of the Commercial Suite, the Landowner must at its cost cause the transfer to Parramatta unencumbered freehold strata title (in fee simple) to the Commercial Suite and deliver to Parramatta:

- 14.5.1 vacant possession of the Commercial Suite; and
- 14.5.2 a documentary evidence (including a certificate of title for the Commercial Suite that demonstrates the transfer to Parramatta of unencumbered freehold strata title (in fee simple) to the Commercial Suite.

15. Thoroughfare Easements

15.1 Northern Thoroughfare

- 15.1.1 No later than the date on which the first Occupation Certificate is issued in respect of any part of the Proposed Development occurring on those parts of the Project Land identified C or D or E or F on the Project Land Plan, the Landowner must cause (at no cost to Parramatta) an easement in gross in favour of Parramatta to be registered against the title to Northern Land Parcel that satisfies the requirements set out in clauses 15.1.2, 15.1.3 and 15.1.4.
- 15.1.2 The easement in gross referred to in clause 15.1.1 must:
- (a) burden that part of the Northern Land Parcel on which the Northern Thoroughfare is located;
 - (b) incorporate the grant of full and free right to Parramatta and every person authorised by it including any member of the public, to go, pass and re-pass on foot at all times and for all purposes without animals (other than guide dogs or registered companion animals) or vehicles (other than wheelchairs or other disabled access aids) over the Northern Thoroughfare provided that at all times:
 - (i) the Owner may monitor and direct the behaviour of the public when exercising such right of way;
 - (ii) the Owner may (acting reasonably) temporarily exclude the public or any member of the public from the Northern Thoroughfare;
 - (iii) if any member, or members of the public loiter, or congregate, for any purpose which the Owner considers to be inappropriate, the Owner may either remove those members of the public, or arrange for their removal by an appropriate authority;
 - (iv) the Owner may erect safety signage and any other appropriate signage and may erect CCTV cameras;
 - (v) the Owner may monitor and direct the behaviour of the public including but not limited to prohibiting smoking, consumption of alcohol (except within licensed areas) passage of animals, bicycles and skateboards and the like;
 - (vi) the Owner may engage security personnel to monitor and control the behaviour of the public when exercising the right of way over the Northern Thoroughfare;
 - (vii) the Owner may temporarily close parts of the Northern Thoroughfare for the purpose of construction, construction access, repairs, maintenance, replacement and alteration;
 - (viii) the Owner (acting reasonably) may prescribe days and times of the day or night that the easement rights may be exercised; and
 - (ix) the Owner may acting reasonably may temporarily suspend the use of the Northern Thoroughfare for the time and to the extent necessary but only on reasonable grounds including, without limitation, reasons of security, safety, construction and maintenance; and

- (c) incorporate the grant of a right of access permitting Parramatta and any servant, agent and contractor of Parramatta authorised by it to by any reasonable means pass across the Northern Thoroughfare for the purpose of exercising or performing any of its statutory powers, authorities, duties or functions provided that at all times:
- (i) Parramatta must at its expense, from time to time and at all times as soon as practicable and so far as reasonably necessary promptly make good and remedy any damage caused to the Northern Thoroughfare arising from any exercise of the rights under clause 15.1.2(c);
 - (ii) if Parramatta does not rectify any damage under clause (i) above within a reasonable time after receiving written notice from the Owner requiring rectification of the damage, the Owner may undertake the required work and recover the cost of such work from Parramatta as a liquidated debt;
 - (iii) Parramatta must at its expense effect and maintain in force at all times a public liability or broad form liability policy of insurance for \$20 million or other such amount as the Owner from time to time may reasonably require against liability arising in respect of personal injury to or death of any person and loss of and damage to any personal property on or about the Northern Thoroughfare arising from any exercise of the rights under clauses 15.1.2(b) and 15.1.2(c);
 - (iv) Parramatta must produce or cause to be produced to the Owner the relevant policy and certificates of currency as and when reasonably required by the Owner;
 - (v) if Parramatta fails to maintain the insurance required under clause (iii) the Owner may effect that insurance and its reasonable costs of doing so must be promptly paid by Parramatta on demand;
 - (vi) Parramatta acknowledges and agrees that Parramatta and all its servants, agents and contractors who use the Northern Thoroughfare under this easement at their own risk;
 - (vii) to the full extent permitted by law, Parramatta releases the Owner from any claim, liability, loss (including consequential loss), action, application, cause of action or demand or damage of whatsoever nature and howsoever caused, suffered or incurred in respect of or arising from any exercise in any of their rights granted under clause 15.1.2(b) and 15.2.(c); and
 - (viii) Parramatta must indemnify and keep the Owner fully indemnified from and against any claim, liability, loss (including consequential loss, action, application, cause of action or demand, costs (including reasonable legal costs calculated on a solicitor and own client basis, charges, damages and expenses of whatsoever nature and kind and howsoever caused, suffered or incurred in respect of or arising from any exercise of the rights under clauses 15.1.2(b) and 15.1.2(c).

15.1.3 The easement in gross referred to in clause 15.1.1 may:

- (a) make provision to permit the use of the Northern Thoroughfare by the public for passive recreation and if so, the provisions of clauses 15.1.2 (b) and 15.1.2 (c) must apply; and

- (b) in the event the easement permits Parramatta and any person authorised by it including any member of the public to exercise rights of access for passive recreation, the term will be defined and the Owner may exclude such activities including but not limited to, skateboards, ball sports, organised exercise classes and broadcast amplification.
- 15.1.4 The easement in gross referred to in clause 15.1.1 must provide the Owner is obliged to repair and maintain the Northern Thoroughfare.
- 15.1.5 The Landowner and Parramatta each acknowledge and agree that the terms of the easement in gross referred to in clause 15.1.1 will require further negotiations between them to take into account the built form and services relevant to, and desirable for the Northern Thoroughfare including possible seating, lighting, kiosks and other facilities and they will negotiate in good faith concerning the final terms of the easement in gross when its final plans are known and approved.

15.2 Central Thoroughfare

- 15.2.1 No later than the date on which a final Occupation Certificate is issued in respect of any part of the Proposed Development occurring on those parts of the Project Land identified J or K or L on the Project Land Plan, the Landowner must cause (at no cost to Parramatta) an easement in gross in favour of Parramatta to be registered against the title to Central Land Parcel that satisfies the requirements set out in clauses 15.2.2, 15.2.3 and 15.2.4.
- 15.2.2 The easement in gross referred to in clause 15.2.1 must:
 - (a) burden that part of the Central Land Parcel on which the Central Thoroughfare is located;
 - (b) incorporate the grant of full and free right to Parramatta and every person authorised by it including any member of the public, to go, pass and re-pass on foot at all times and for all purposes without animals (other than guide dogs or registered companion animals) or vehicles (other than wheelchairs or other disabled access aids) over the Central Thoroughfare provided that at all times:
 - (i) the Owner may monitor and direct the behaviour of the public when exercising such right of way;
 - (ii) the Owner may (acting reasonably) temporarily exclude the public or any member of the public from the Central Thoroughfare;
 - (iii) if any member, or members of the public loiter, or congregate, for any purpose which the Owner considers to be inappropriate, the Owner may either remove those members of the public, or arrange for their removal by an appropriate authority;
 - (iv) the Owner may erect safety signage and any other appropriate signage and may erect CCTV cameras;
 - (v) the Owner may monitor and direct the behaviour of the public including but not limited to prohibiting smoking, consumption of alcohol (except within licensed areas) passage of animals, bicycles and skateboards and the like;
 - (vi) the Owner may engage security personnel to monitor and control the behaviour of the public when exercising the right of way over the Central Thoroughfare;

- (vii) the Registered Owner may temporarily close parts of the Central Thoroughfare for the purpose of construction, construction access, repairs, maintenance, replacement and alteration;
 - (viii) the Owner (acting reasonably) may prescribe days and times of the day or night that the easement rights may be exercised; and
 - (ix) the Owner may (acting reasonably) may temporarily suspend the use of the Central Thoroughfare for the time and to the extent necessary but only on reasonable grounds including, without limitation, reasons of security, safety, construction and maintenance; and
- (c) incorporate the grant of a right of access permitting Parramatta and any servant, agent and contractor of Parramatta authorised by it to by any reasonable means pass across the Central Thoroughfare for the purpose of exercising or performing any of its statutory powers, authorities, duties or functions provided that at all times:
- (i) Parramatta must at its expense, from time to time and at all times as soon as practicable and so far as reasonably necessary promptly make good and remedy any damage caused to the Central Thoroughfare arising from any exercise of the rights under clause 15.1.2(c);
 - (ii) if Parramatta does not rectify any damage under clause (i) above within a reasonable time after receiving written notice from the Owner requiring rectification of the damage, the Owner may undertake the required work and recover the cost of such work from Parramatta as a liquidated debt;
 - (iii) Parramatta must at its expense effect and maintain in force at all times a public liability or broad form liability policy of insurance for \$20 million or other such amount as the Owner from time to time may reasonably require against liability arising in respect of personal injury to or death of any person and loss of and damage to any personal property on or about the Central Thoroughfare arising from any exercise of the rights under clauses 15.1.2(b) and 15.1.2(c);
 - (iv) Parramatta must produce or cause to be produced to the Owner the relevant policy and certificates of currency as and when reasonably required by the Owner;
 - (v) if Parramatta fails to maintain the insurance required under clause (iii) the Owner may effect that insurance and its reasonable costs of doing so must be promptly paid by Parramatta on demand;
 - (vi) Parramatta acknowledges and agrees that Parramatta and all its servants, agents and contractors who use the Central Thoroughfare under this easement at their own risk;
 - (vii) to the full extent permitted by law, Parramatta releases the Owner from any claim, liability, loss (including consequential loss), action, application, cause of action or demand or damage of whatsoever nature and howsoever caused, suffered or incurred in respect of or arising from any exercise in any of their rights granted under clause 15.1.2(b) and 15.2.(c); and
 - (viii) Parramatta must indemnify and keep the Owner fully indemnified from and against any claim, liability, loss (including consequential loss, action, application, cause of action or demand, costs (including reasonable legal costs, charges, damages and expenses of whatsoever nature and kind

and howsoever caused, suffered or incurred in respect of or arising from any exercise of the rights under clauses 15.1.2(b) and 15.1.2(c).

15.2.3 The easement in gross referred to in clause 15.2.1 may:

- (a) make provision to permit the use of the Central Thoroughfare by the public for passive recreation and if so the provisions of clauses 15.2.2 (b) and 15.2.2 (c) must apply; and
- (b) in the event the easement permits Parramatta and any person authorised by it including any member of the public to exercise rights of access for passive recreation, the term will be defined and the Owner may exclude such activities including but not limited to, skateboards, ball sports, organised exercise classes and broadcast amplification.

15.2.4 The easement in gross referred to in clause 15.2.1 must provide the Owner is obliged to repair and maintain the Central Thoroughfare.

15.2.5 The Landowner and Parramatta each acknowledge and agree that the terms of the easement in gross referred to in clause 15.2.1 will require further negotiations between them to take into account the building form and services relevant to, and desirables for the Central Thoroughfare including possible seating, lighting, kiosks and other facilities and they will negotiate in good faith concerning the final terms of the easement in gross when its final plans are known and approved.

15.3 Northern Land Parcel Footpath and Central Land Parcel Footpath

15.3.1 No later than the date on which the Occupation Certificate referred to in clause 15.1.1 issues, the Landowner must cause (at no cost to Parramatta) an easement in gross in favour of Parramatta to be registered against the title to the Northern Land Parcel that satisfies the requirement set out in clauses 15.3.3 and 15.3.5.

15.3.2 No later than the date on which the Occupation Certificate referred to in clause 15.2.1 issues, the Landowner must cause (at no cost to Parramatta) an easement in gross in favour of Parramatta to be registered against the title to the Central Land Parcel that satisfies the requirements set out in set out in clauses 15.3.4 and 15.3.5.

15.3.3 The easement in gross referred to in clause 15.3.1 must:

- (a) burden that part of the Northern Land Parcel on which the Northern Land Parcel Footpath is located;
- (b) incorporate the grant of full and free right to Parramatta and every person authorised by it including all members of the public to go, pass and repass on foot or bicycle at all times and for all purposes without animals (other than guide dogs or registered companion animals) or vehicles (other than wheelchairs or other disabled access aids) over the Northern Land Parcel Footpath provided that at all times:
 - (i) the Owner may monitor and direct the behaviour of the public when exercising such right of way;
 - (ii) the Owner may (acting reasonably) temporarily exclude the public or any member of the public from the Northern Land Parcel Footpath;
 - (iii) if any member or members of the public loiter, or congregate, for any purpose which the Owner considers to be inappropriate, the Owner may either remove those members of the public, or arrange for their removal of an appropriate authority;

- (iv) the Owner may erect safety signage and any other appropriate signage and may erect CCTV cameras;
 - (v) the Owner may monitor and direct the behaviour of the public within the Northern Land Parcel Footpath;
 - (vi) the Owner may temporarily close parts of the Northern Land Parcel Footpath for the purpose of construction, construction access, repairs, maintenance, replacement and alteration; and
 - (vii) the Owner may (acting reasonably) temporarily suspend the use of the Northern Land Parcel Footpath for the time and to the extent necessary but only on reasonable grounds including without limitation, reasons of safety, construction and maintenance; and
- (c) incorporate the grant of a right of access permitting Parramatta and any servant, agent and contractor of Parramatta authorised by it to by any reasonable means pass across the Northern Land Parcel Footpath for the purpose of exercising or performing any of its statutory powers, authorities, duties or functions provided that at all times:
- (i) Parramatta must at its expense, from time to time and at all times as soon as practicable and so far as reasonably necessary promptly make good and remedy any damage caused to the Northern Land Parcel Footpath arising from any exercise of the rights under clause 15.3.3(c);
 - (ii) if Parramatta does not rectify any damage under clause (i) above within a reasonable time after receiving written notice from the Owner requiring rectification of the damage, the Owner may undertake the required work and recover the cost of such work from Parramatta as a liquidated debt;
 - (iii) Parramatta must at its expense effect and maintain in force at all times a public liability or broad form liability policy of insurance for \$20 million or other such amount as the Owner from time to time may reasonably require against liability arising in respect of personal injury to or death of any person and loss of and damage to any personal property on or about the Northern Land Parcel Footpath arising from any exercise of the rights under clauses 15.3.3(b) and 15.3.3(c);
 - (iv) Parramatta must produce or cause to be produced to the Owner the relevant policy and certificates of currency as and when reasonably required by the Owner;
 - (v) if Parramatta fails to maintain the insurance required under clause (iii) the Owner may effect that insurance and its reasonable costs of doing so must be promptly paid by Parramatta on demand;
 - (vi) Parramatta acknowledges and agrees that Parramatta and all its servants, agents and contractors who use the Northern Land Parcel Footpath under this easement at their own risk;
 - (vii) to the full extent permitted by law, Parramatta releases the Owner from any claim, liability, loss (including consequential loss), action, application, cause of action or demand or damage of whatsoever nature and howsoever caused, suffered or incurred in respect of or arising from any exercise in any of their rights granted under clause 15.3.3(b) and 15.3.3(c); and

- (viii) Parramatta must indemnify and keep the Owner fully indemnified from and against any claim, liability, loss (including consequential loss, action, application, cause of action or demand, costs (including reasonable legal costs, charges, damages and expenses of whatsoever nature and kind and howsoever caused, suffered or incurred in respect of or arising from any exercise of the rights under clauses 15.3.3(b) and 15.3.3(c).

15.3.4 The easement in gross referred to in clause 15.3.2 must:

- (a) burden that part of the Central Land Parcel on which the Central Land Parcel Footpath is located;
- (b) incorporate the grant of full and free right to Parramatta and every person authorised by it including all members of the public to go, pass and repass on foot at all times and for all purposes without animals (other than guide dogs or registered companion animals) or vehicles (other than wheelchairs or other disabled access aids) over the Central Land Parcel Footpath:
 - (i) the Owner may monitor and direct the behaviour of the public when exercising such right of way;
 - (ii) the Owner may (acting reasonably) temporarily exclude the public or any member of the public from the Central Land Parcel Footpath;
 - (iii) if any member or members of the public loiter, or congregate, for any purpose which the Owner considers to be inappropriate, the Owner may either remove those members of the public, or arrange for their removal of an appropriate authority;
 - (iv) the Owner may erect safely signage and any other appropriate signage and may erect CCTV cameras;
 - (v) the Owner may monitor and direct the behaviour of the public within the Central Land Parcel Footpath;
 - (vi) the Owner may temporarily close parts of the Central Land Parcel Footpath for the purpose of construction, construction access, repairs, maintenance, replacement and alteration; and
 - (vii) the Owner may (acting reasonably) temporarily suspend the use of the Central Land Parcel Footpath for the time and of the extent necessary but only on reasonable grounds including without limitation, reasons of safety, construction and maintenance;
- (c) incorporate the grant of a right of access permitting Parramatta and any servant, agent and contractor of Parramatta authorised by it to by any reasonable means pass across the Central Land Parcel Footpath for the purpose of exercising or performing any of its statutory powers, authorities, duties or functions provided that at all times:
 - (i) Parramatta must at its expense, from time to time and at all times as soon as practicable and so far as reasonably necessary promptly make good and remedy any damage caused to the Central Land Parcel Footpath arising from any exercise of the rights under clause 15.3.4(c);
 - (ii) if Parramatta does not rectify any damage under clause (i) above within a reasonable time after receiving written notice from the Owner requiring rectification of the damage, the Owner may undertake the required work and recover the cost of such work from Parramatta as a liquidated debt;

- (iii) Parramatta must at its expense effect and maintain in force at all times a public liability or broad form liability policy of insurance for \$20 million or other such amount as the Owner from time to time may reasonably require against liability arising in respect of personal injury to or death of any person and loss of and damage to any personal property on or about the Central Land Parcel Footpath arising from any exercise of the rights under clauses 15.3.4(b) and 15.3.4(c);
- (iv) Parramatta must produce or cause to be produced to the Owner the relevant policy and certificates of currency as and when reasonably required by the Owner;
- (v) if Parramatta fails to maintain the insurance required under clause (iii) the Owner may effect that insurance and its reasonable costs of doing so must be promptly paid by Parramatta on demand;
- (vi) Parramatta acknowledges and agrees that Parramatta and all its servants, agents and contractors who use the Central Land Parcel Footpath under this easement at their own risk;
- (vii) to the full extent permitted by law, Parramatta releases the Owner from any claim, liability, loss (including consequential loss), action, application, cause of action or demand or damage of whatsoever nature and howsoever caused, suffered or incurred in respect of or arising from any exercise in any of their rights granted under clause 15.3.4(b) and 15.3.4(c); and
- (viii) Parramatta must indemnify and keep the Owner fully indemnified from and against any claim, liability, loss (including consequential loss, action, application, cause of action or demand, costs (including reasonable legal costs, charges, damages and expenses of whatsoever nature and kind and howsoever caused, suffered or incurred in respect of or arising from any exercise of the rights under clauses 15.3.4(b) and 15.3.4(c).

15.3.5 The easements in gross referred to in clauses 15.3.1 and 15.3.2:

- (a) must provide the Owner is obliged to repair and maintain the Northern Land Parcel Footpath and the Central Land Parcel Footpath; and
- (b) shall be cancelled and released if Roads and Maritime Services acquire the Northern Land Parcel Footpath and/or the Central Land Parcel Footpath.

15.4 Further Easements or Term of Easements

The parties each acknowledge and agree that further refinement of the specific terms of the Easements referred to in 15.1, 15.2 and 15.3 is likely to be required having regard to the following:

- 15.4.1 the conditions reasonably affecting the Proposed Development and the Landowner's works that were not capable of identification on or before the date of this planning agreement; and
- 15.4.2 the ultimate form of any Approval for each or any part of the Proposed Development including but not limited to design, form, staging and authorised land uses community facilities, services and other matters of utility for the Proposed Development.

16. Security

16.1 Incremental Security Delivery

- 16.1.1 The parties agree that the Security is to be delivered incrementally at times linked to the instalment payments of the Monetary Contribution in accordance with clause 16.1.2 and Schedule 3 and when a Construction Certificate is obtained for the Open Space.
- 16.1.2 The Landowner must deliver the Security to Parramatta as security for the performance by the Landowner of its obligations under this planning agreement (except in relation to rectification of any Defect and the Landowner's Works – Private) in the manner and at the times set out in the table below and in Schedule 3:

Security Instalment	Timing
An amount equal one half of Northern Land Parcel Payment 1 (see Schedule 3)	No later than the date on which a Construction Certificate is issued in respect of any part of the Proposed Development occurring on those parts of the Project Land identified A or B or C on the Project Land Plan.
An amount equal one half of Northern Land Parcel Payment 2 (see Schedule 3)	No later than the date on which a Construction Certificate is issued in respect of any part of the Proposed Development occurring on those parts of the Project Land identified D on the Project Land Plan.
An amount equal one half of Northern Land Parcel Payment 3 (see Schedule 3)	No later than the date on which a Construction Certificate is issued in respect of any part of the Proposed Development occurring on those parts of the Project Land identified E on the Project Land Plan.
An amount equal one half of Northern Land Parcel Payment 4 (see Schedule 3)	No later than the date on which a Construction Certificate is issued in respect of any part of the Proposed Development occurring on those parts of the Project Land identified F on the Project Land Plan.
An amount equal one half of Central Land Parcel Payment 1 (see Schedule 3)	No later than the date on which a Construction Certificate is issued in respect of any part of the Proposed Development occurring on those parts of the Project Land identified I or J on the Project Land Plan.
An amount equal one half of Central Land Parcel Payment 2 (see Schedule 3)	No later than the date on which a Construction Certificate is issued in respect of any part of the Proposed Development occurring on those parts of the Project Land identified K on the Project Land Plan.
An amount equal one half of Central Land Parcel Payment 3 (see Schedule 3)	No later than the date on which a Construction Certificate is issued in respect of any part of the Proposed Development

	occurring on those parts of the Project Land identified L on the Project Land Plan.
An amount not less than \$2,000,000 provided that the amount shall reduce to 50% on commencement of the Component of the Landowner's Works on those parts of the Project Land identified 'O' (open space) on the Project Land Plan (noting that Parramatta will then hold other Security in relation to all such works)	No later than the date on which a Construction Certificate is issued in respect of any part of the Proposed Development occurring on those parts of the Project Land identified 'O' (open space) on the Project Land Plan.

16.2 Security Amount Adjustment

The Security Amount is to be adjusted on each Review Date in accordance with the following calculation:

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

where:

- A is the adjusted Security Amount applicable from the relevant Review Date;
- B is the Security Amount applicable immediately prior to the relevant Review Date;
- C is the Index Number for the Quarter ending immediately before the date of this planning agreement or the last prior Review Date (whichever is the later); and
- D is the Index Number for the Quarter ending immediately before the relevant Review Date.

16.3 Security Substitution or Top up

The Landowner agrees to give Parramatta a substitute or supplement Security for the revised Security Amount no later than 20 Business Days after each Review Date.

16.4 Reduction or Replacement

Parramatta agrees that subject to clause 16.6.1, the face value of any Security provided by the Landowner will reduce in amount, or be replaced by Security with face values of reduced amounts, as determined by Parramatta, acting reasonably, having regard to payments of Monetary Contributions secured by the Security and made by the Landowner from time to time. The Security amount will be reduced progressively on payment of Monetary Contributions

16.5 Call-up of Security

The Landowner acknowledges and agrees that Parramatta may call-up the Security to compensate or reimburse Parramatta for loss it has suffered or the costs and expenses it has reasonably incurred as a result of any failure by the Landowner to comply with the obligation to pay the Monetary Contribution provided that:

- 16.5.1 Parramatta provides 20 business days' notice of its intention to call-up the Security (**Call-up Notice**); and

- 16.5.2 any dispute in relation to the call-up of the Security has been resolved in accordance with the provisions of clause 17 of this planning agreement.

The Landowner must respond to any Call-up Notice within 5 business days of receipt by either accepting or disputing the call upon on the Security. No response by the Landowner is deemed to be acceptance of the Call-up Notice.

Any dispute by the Landowner of a call upon the Security by Parramatta is subject to the provisions of Clause 17 of this planning agreement.

16.6 Security Return

- 16.6.1 Parramatta must promptly after request by the Landowner, progressively release and return the Security to the Landowner as and when the face value of any Security reduces in amount or be replaced with accordance with clause 16.4 and the Landowner performs its obligations under this planning agreement (in accordance with clause 16.4) but only if:
- (a) the remaining amount of the Security is adequate having regard to the Landowner's remaining obligations under this planning agreement (except in relation to rectification of any Defect and the Landowner Works – Private); and
 - (b) the Landowner is not in breach of this planning agreement at the time the Security is to be progressively released and returned.
- 16.6.2 Parramatta must release and return the Security or any remaining part of it without delay after the Monetary Contribution has been paid in full and completion of the Open Space has occurred.
- 16.6.3 Parramatta must simultaneously release and return the relevant Security to the Landowner if the Landowner Sells, transfers or assigns the whole or any part of the Project Land and satisfies the requirements of clause 18.1 and Parramatta receive a substitute Security from an Incoming Party.

16.7 Replacement bank guarantee

At Parramatta's request, the Landowner must provide an additional, supplementary or replacement Security for the Security Amount if there has been a call-up the Security that results in the value of the Security held by Parramatta after call-up being less than the Security Amount.

17. Dispute Resolution

17.1 Notice of Dispute

If a party claims that a dispute has arisen under this planning agreement (**Claimant**), it must give notice to the other party (**Respondent**) stating the matters in dispute and designating as its representative a person to negotiate the dispute (**Claim Notice**).

17.2 Claim Notice Response

Within 5 Business Days of receiving the Claim Notice, the Respondent must notify the Claimant of its representative authorised to negotiate the dispute.

17.3 Negotiation

The nominated representatives must:

- 17.3.1 meet to discuss the matter in good faith within 10 Business Days after the Respondent has given a notice advising of its representatives; and
- 17.3.2 use reasonable endeavours to settle or resolve a dispute within 15 Business Days after they have met.

17.4 Further Notice

If the dispute is not resolved within 15 Business Days after the nominated representatives have met, either party may give to the other a notice calling for the termination of the dispute (**Dispute Notice**).

17.5 Mediation

The parties agree that a dispute will be mediated if it is the subject of a Dispute Notice, in which case:

- 17.5.1 the parties must agree to the terms of reference for the mediation within 5 Business Days of receipt of the Dispute Notice, the terms shall include a requirement that the mediation rules at the Institute of Arbitrators and Mediators Australia (NSW Chapter) applies;
- 17.5.2 the mediator will be agreed between the parties, or failing agreement within 5 Business Days of receipt of the Dispute Notice, either party may request the President of the Institute of Arbitrators and Mediators Australia (NSW Chapter) to appoint a mediator;
- 17.5.3 the mediator appointed pursuant to clause 17.5.2 must:
 - (a) have reasonable qualifications and practical experience in the area of the dispute; and
 - (b) have no interest or duty which conflicts or may conflict with his function as mediator, he being required to fully disclose and such interest or duty before his appointment;
- 17.5.4 the mediator will be required to undertake to keep confidential all matters coming to his knowledge by reason of his appointment and performance of his duties;
- 17.5.5 the parties must within 5 Business Days of receipt of the Dispute Notice notify each other if their representatives will be involved in the mediation;
- 17.5.6 the parties agree to be bound by a mediation settlement and may only initiate judicial proceedings in respect of a dispute which the subject of the mediation settlement for the purpose of enforcing that mediation settlement;
- 17.5.7 in relation to costs and expenses:
 - (a) each party will bear their own professional and expert costs incurred in connection with the mediation; and
 - (b) the costs of the mediator will be shared equally by the parties unless the Mediator determines a party has engaged in vexatious or unconscionable behaviour in

which case the mediator may require the full cost of the mediation be borne by that party.

17.6 Litigation

If a dispute is not finally resolved in accordance with this clause 17, either party is at liberty to litigate the dispute.

17.7 Continue to Perform Obligations

Each party must continue to perform its obligations under this planning agreement, notwithstanding the existence of a dispute to the extent to which the dispute does not affect each party's performance of its obligations under this planning agreement.

18. Assignment and Other Dealings

18.1 Dealings with the Project Land

The Landowner must not sell, transfer or assign, (**Dealing**) its right, title and interest in the Project Land (if any) or its rights and obligations under this planning agreement, or allow any interest in them to arise or be varied, in each case, unless, before any such sale, transfer, assignment, novation, the Landowner:

- 18.1.1 gives Parramatta not less than 10 Business Days notice of the proposed Dealing; and
- 18.1.2 procures that the transferee, assignee or novatee (**incoming party**) signs and delivers to Parramatta prior to any such Dealing taking effect, a deed in favour of the Landowner in form and substance acceptable to Parramatta whereby:
 - (a) the incoming party becomes contractually bound to perform all of the Landowner's obligations (including obligations which may have arisen before the transfer, assignment or novation takes effect) and have the benefit of all the Landowner's rights under this planning agreement; and
 - (b) each party agrees to pay their own legal costs and expenses incurred in connection with the negotiation, preparation and signature of such deed.
- 18.1.3 If the Landowner sells, transfers or assigns of the whole or any part of the Project Land and satisfies the requirements of clause 18.1, the Landowner will be released from all and any obligations under this planning agreement with respect to the whole or any part of the Project Land being sold, transferred and assigned and if required by the Landowner, Parramatta will execute a deed of such release.

18.2 Restriction on Transfer of Shares

If the Landowner is a corporation (other than a corporation listed on the Australian Stock Exchange (**ASX**)), a change in effective control of the Landowner (by way of change in shareholding ownership of more than 50%) is deemed to be a dealing for the purposes of clause 18.1 and the requirements and provisions of clause 18.1 apply.

19. Costs, GST and Interest

19.1 Preparation Costs

The Landowner must pay all reasonable legal costs, charges and expenses incurred by Parramatta in relation to the preparation, negotiation, completion, signature and registration of this planning agreement.

19.2 Default Costs

In connection with this planning agreement and any document or matter in connection with it, the Landowner must pay:

19.2.1 for everything it must do;

19.2.2 all registration fees; and

19.2.3 all costs, damages and expenses (including any reasonable legal costs and expenses) in relation to any default by the Landowner under this planning agreement or any enforcement or attempted enforcement by Parramatta of its rights under this planning agreement.

19.3 Advertising Costs

No later than 10 Business Days after being given a demand by Parramatta, the Landowner must pay or reimburse all Parramatta's costs and expenses in connection with the advertising and exhibition of this planning agreement in accordance with any Law relating public notification.

19.4 GST

19.4.1 In this clause 19.4 words that are defined in *A New Tax System (Goods and Services Tax) Act 1999* have the same meaning as their definition in that Act.

19.4.2 All consideration payable under this planning agreement in relation to any supply is GST exclusive unless otherwise stated.

19.4.3 If GST is payable in respect of any supply made by a supplier under this planning agreement, subject to clause 19.4.4 the recipient will pay to the supplier an amount equal to the GST payable on the supply at the same time and in the same manner as the consideration for the supply is to be provided under this planning agreement.

19.4.4 The supplier must provide a tax invoice to the recipient before the supplier will be entitled to payment of the GST payable under this clause 19.4.

19.5 Interest

If the Landowner does not pay any other moneys payable under this planning agreement on time, the Landowner must pay interest at the Prescribed Rate on the outstanding amount for the period from the day the unpaid money was due until it is paid. The interest must be paid to Parramatta no later than 10 Business Days after Parramatta has given the Landowner a demand for any interest.

20. Notices

20.1 Service of Notice

A notice or other communication (including any request or demand) required or permitted, under this planning agreement, to be served on a person must be in writing and may be served:

- 20.1.1 personally on the person;
- 20.1.2 by posting it by prepaid post addressed to that person at the person's current address for service; or
- 20.1.3 by facsimile to the person's current number for service.

20.2 Particulars for Service

- 20.2.1 The particulars for service of each party are set out on page six of this planning agreement under the heading 'parties'.
- 20.2.2 A party may change the address, facsimile or email number for service by giving notice to the other party.
- 20.2.3 If the person to be served is a company, the notice or other communication may be served on it at the company's registered office.

20.3 Time of Service

A notice or other communication is deemed served:

- 20.3.1 if served personally upon service;
- 20.3.2 if posted within Australia to an Australian address, 2 Business Days after posting and in any other case, 5 Business Days after posting;
- 20.3.3 if served by facsimile, subject to clause 20.3.4, at the time indicated on the transmission report produced by the sender's facsimile machine indicating that the facsimile was sent in its entirety to the addressee's facsimile;
- 20.3.4 if received after 6.00pm in the place of receipt or on a day which is not a Business Day, at 9.00am on the next Business Day.

21. Approvals and Consents

The parties acknowledge that:

- 21.1.1 except as otherwise stated in this planning agreement (including any obligation to act reasonably or not unreasonably withhold any approval or consent), and subject to any statutory obligations, a party must act reasonably in considering any approval or consent to be given under this planning agreement ; and
- 21.1.2 this planning agreement does not impose any obligations on a governmental agency to:
 - (a) grant a development consent where it is acting as a Consent Authority; or
 - (b) exercise any function under any Laws (including the EPAA Act).

22. Representations and Warranties

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

23. New Laws

If the Landowner is obliged by a New Law to do something to pay an amount which it is already contractually obliged to do or pay under this planning agreement then, to the extent only that the relevant obligation is required under both the New Law and this planning agreement, compliance with the New Law will constitute compliance with the relevant obligation under this planning agreement.

24. General**24.1 Amendment**

This planning agreement may only be varied or replaced by a document duly signed by the parties.

24.2 Entire Understanding

This planning agreement contains the entire understanding between the parties as to the subject matter contained in it. All previous agreements, representations, warranties, explanations and commitments, expressed or implied, affecting this subject matter are superseded by this planning agreement and have no effect.

24.3 Further Assurance

Each party must promptly execute and deliver all documents and take all other action necessary or desirable to affect, perfect or complete the transactions contemplated by this planning agreement.

24.4 Preservation, Waiver and Exercise of Rights

24.4.1 A single or partial exercise or waiver of a right relating to this planning agreement does not prevent any other exercise of that right or the exercise of any other right.

24.4.2 No party will be liable for any loss or expenses incurred by the other party caused or contributed to by the waiver, exercise, attempted exercise, failure to exercise or delay in the exercise of a right.

24.4.3 The expiration or termination of this planning agreement does not affect any right that has accrued to a party before the expiration or termination date.

24.5 No Relationship

24.5.1 No party to this planning agreement has the power to obligate or bind any other party.

24.5.2 Nothing in this planning agreement will be construed or deemed to constitute a partnership, joint venture or employee, employer or representative relationship between any of the parties.

- 24.5.3 Nothing in this planning agreement will be deemed to authorise or empower a party to act as agent for the other party.

24.6 Review of this Planning Agreement

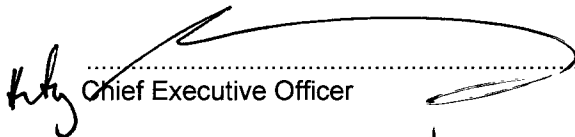
- 24.6.1 The parties, acting in good faith and using all reasonable endeavours, agree to review this planning agreement if the Landowner is of the opinion that any change of circumstance has occurred that materially affects the operation of this planning agreement.
- 24.6.2 For the purposes of clause 24.6.1, the relevant change includes (but is not limited to) any change in a Law that restricts or prohibits or enables Parramatta or any other Governmental Agency to restrict or prohibit any aspect of the Proposed Development.
- 24.6.3 If Parramatta fails to agree to participate or take action requested by the Landowner as a consequence of a review under clause 24.6.1, such failure shall be taken to be a Dispute within the meaning of clause 17.

Signing Page

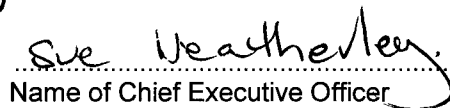
Executed by the parties

THE OFFICIAL SEAL of PARRAMATTA
CITY COUNCIL was affixed in the presence of
, and the sealing is
attested by:

THE COMMON SEAL OF THE COUNCIL
OF THE CITY OF PARRAMATTA WAS
HEREUNTO AFFIXED THIS 22 DAY
OF JANUARY 2014 PURSUANT TO A
RESOLUTION OF COUNCIL PASSED
AT ITS MEETING HELD ON THE
9 DAY OF DECEMBER 2013.
MINUTE 14364

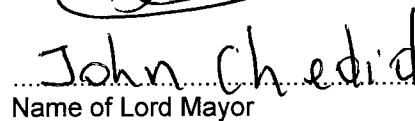


Chief Executive Officer


Name of Chief Executive Officer



Lord Mayor

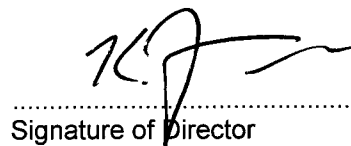

Name of Lord Mayor

EXECUTED by **Boyded Industries PTY
LIMITED ACN 000 092 464** in accordance
with Section 127 of the Corporations Act 2001
in the presence of:

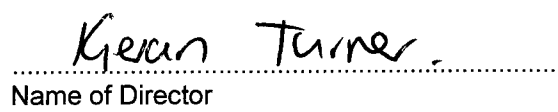


Signature of Secretary/Director


Name of Secretary/Director



Signature of Director


Name of Director

Schedule 1

Reference Schedule

Item	Name	Description
1	Northern Land Parcel	The land comprised in Lot B Deposited Plan 304570, known as 44 Early Street and Lot 10, DP 733044 known as 83 Church Street, Parramatta, NSW.
	Central Land Parcel	The land comprised in Lot 20 Deposited Plan 732622 and known as 63 Church Street, Parramatta, NSW
	Southern Land Parcel	The land comprised in Lot 15 Deposited Plan 651039, Lot 16 Deposited Plan 12623 and Lot 114 Deposited Plan 129484 and known as 57 Church Street, Parramatta, NSW
2	Proposed Development	The development of the Project Land generally in accordance with the Project Land Plan including (without limitation) subdivision, retail, office and related commercial uses, high density residential, mixed uses, thoroughfares and open space.
3	Public Benefits	<p>The public benefits to be provided under this planning agreement are:</p> <ul style="list-style-type: none"> • <i>(Monetary Contribution)</i> payment of the Monetary Contribution; • <i>(Northern Land Parcel Footpath design and construction)</i> the design and construction of an embellished footpath within and adjacent to the Northern Land Parcel in the locations identified H on the Project Land Plan; • <i>(Central Land Parcel Footpath design and construction)</i> the design and construction of an embellished footpath within and adjacent to the Central Land Parcel in the location identified N on the Project Land Plan; • <i>(Open Space design and construction)</i> the design and construction of public open space within the Southern Land Parcel in the location identified O on the Project Land Plan;

		<ul style="list-style-type: none"> • (<i>Open Space dedication</i>) the dedication to Parramatta of the Open Space after completion of the design and construction of the relevant works; • (<i>Northern Thoroughfare design and construction</i>) the design and construction of a publicly accessible thoroughfare within the Northern Land Parcel in the location identified on the Project Land Plan; • (<i>Northern Thoroughfare easement registration</i>) the registration of an easement in gross in favour of Parramatta that burdens that part of the Northern Land Parcel comprising the Northern Thoroughfare after completion of the design and construction of the relevant works; • (<i>Central Thoroughfare design and construction</i>) the design and construction of a publicly accessible thoroughfare within the Central Land Parcel in the location identified on the Project Land Plan; • (<i>Central Thoroughfare easement registration</i>) the registration of an easement in gross in favour of Parramatta that burdens that part of the Central Land Parcel comprising the Central Thoroughfare after completion of the design and construction of the relevant works; • (<i>Commercial Suite design and construction</i>) the design and construction of the Commercial Suite; and • (<i>Commercial Suite ownership</i>) the transfer to Parramatta of an unencumbered freehold title to the Commercial Suite.
4	Monetary Contribution	\$7,308,331 as adjusted in accordance with clause 8.4 and by the instalments in accordance with Schedule 3.
5	Security Amount	An amount equal to half of the Monetary Contribution adjusted and progressively reduced from time to time in accordance with clause 16.

Schedule 2

Project Land Plan

This Schedule 2 contains a plan that shows the Project Land and illustrates the Proposed Development of the Project Land.

VPA Key Plan

Table 1. Site area

Site ID	Site Area (m ²)	FSR
1- Northern site	7,592	7.2:1
2- Central site	4,742	6.4:1
3- Southern site	1,953	No FSR
TOTAL	14,287	

Table 2. VPA dedications key

ID	Description
1-Northern Site	
A	Basement retail (extends under 'C')
B	Ground level retail
C	Residential and commercial podium
CS	Commercial suite on first floor of podium (200m ²)
D	Residential tower 1
E	Residential tower 2
F	Commercial building
G	Setback to accommodate road widening
H	Additional width for cycle way / footpath
2-Central Site	
I	Ground level retail
J	Residential and commercial podiums
K	Residential tower
L	Commercial building
M	Setback to accommodate road widening
N	Additional width for cycle way / footpath
3-Southern Site	
O	New park
X & Y	
X & Y	Pedestrian walkway



Figure 1 - VPA Key Plan

Refer Figure 2 for section diagram

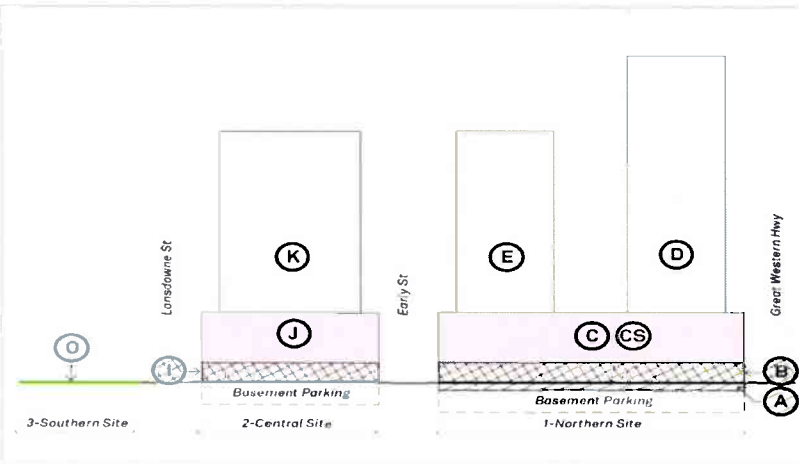


Figure 2 - VPA section diagram

Schedule 3 Monetary Contribution

This Schedule 3 sets out the:

- manner in which the Monetary Contribution is to be paid by way of instalments in the amounts linked to particular aspects of the Proposed Development; and
- due date for payment of those instalments.

The Monetary Contribution is subject to indexation under clause 16.2. This indexation applies to each of the instalments set out below.

Northern Land Parcel		
Payment	Amount	Instalment and Timing
Northern Land Parcel Payment 1	\$2,185,900	<p>The Northern Land Parcel Payment 1 is payable by 2 equal instalments at the following times:</p> <ul style="list-style-type: none"> • the first instalment is payable on or before the date on which a Construction Certificate is issued in respect of any part of the Proposed Development occurring on those parts of the Project Land identified A or B or C on the Project Land Plan; and • the second instalment is payable on or before the date on which the first Occupation Certificate is issued in respect of any part of the Proposed Development occurring on those parts of the Project Land identified A or B or C on the Project Land Plan.
Northern Land Parcel Payment 2	\$943,566	<p>The Northern Land Parcel Payment 2 is payable by 2 equal instalments at the following times:</p> <ul style="list-style-type: none"> • the first instalment is payable on or before the date on which a Construction Certificate is issued in respect of any part of the Proposed Development occurring on those parts of the Project Land identified D on the Project Land Plan; and • the second instalment is payable on or before the date on which the first Occupation Certificate is issued in respect of any part of the Proposed Development occurring on those parts of the Project Land identified D on the Project Land Plan.
Northern Land Parcel Payment 3	\$664,700	<p>The Northern Land Parcel Payment 3 is payable by 2 equal instalments at the following times:</p>

		<ul style="list-style-type: none"> the first instalment is payable on or before the date on which a Construction Certificate is issued in respect of any part of the Proposed Development occurring on those parts of the Project Land identified E on the Project Land Plan; and the second instalment is payable on or before the date on which the first Occupation Certificate is issued in respect of any part of the Proposed Development occurring on those parts of the Project Land identified E on the Project Land Plan.
Northern Land Parcel Payment 4	\$1,028,000	<p>The Northern Land Parcel Payment 4 is payable by 2 equal instalments at the following times:</p> <ul style="list-style-type: none"> the first instalment is payable on or before the date on which a Construction Certificate is issued in respect of any part of the Proposed Development occurring on those parts of the Project Land identified F on the Project Land Plan; and the second instalment is payable on or before the date on which the first Occupation Certificate is issued in respect of any part of the Proposed Development occurring on those parts of the Project Land identified F on the Project Land Plan.
Central Land Parcel		
Payment	Amount	Instalment and Timing
Central Land Parcel Payment 1	\$827,900	<p>The Central Land Parcel Payment 1 is payable by 2 equal instalments at the following times:</p> <ul style="list-style-type: none"> the first instalment is payable on or before the date on which a Construction Certificate is issued in respect of any part of the Proposed Development occurring on those parts of the Project Land identified I or J on the Project Land Plan; and the second instalment is payable on or before the date on which the first Occupation Certificate is issued in respect of any part of the Proposed Development occurring on those parts of the Project Land identified I or J on the Project Land Plan.

Central Land Parcel Payment 2	\$955,600	<p>The Central Land Parcel Payment 2 is payable by 2 equal instalments at the following times:</p> <ul style="list-style-type: none"> the first instalment is payable on or before the date on which a Construction Certificate is issued in respect of any part of the Proposed Development occurring on those parts of the Project Land identified K on the Project Land Plan; and the second instalment is payable on or before the date on which the first Occupation Certificate is issued in respect of any part of the Proposed Development occurring on those parts of the Project Land identified K on the Project Land Plan.
Central Land Parcel Payment 3	\$702,675	<p>The Central Land Parcel Payment 3 is payable by 2 equal instalments at the following times:</p> <ul style="list-style-type: none"> the first instalment is payable on or before the date on which a Construction Certificate is issued in respect of any part of the Proposed Development occurring on those parts of the Project Land identified L on the Project Land Plan; and the second instalment is payable on or before the date on which the first Occupation Certificate is issued in respect of any part of the Proposed Development occurring on those parts of the Project Land identified L on the Project Land Plan.

Schedule 4 Landowner's Works

This Schedule 4 sets out:

- the time by which Completion must be reached for various parts of the Landowner's Works; and
- some minimum requirements for the Landowner's Works that are intended to guide the parties in observing the terms and conditions of this planning agreement relating to the design and execution of the Landowner's Works.

Northern Land Parcel		
Component of the Landowner's Works	Minimum Requirements	Time for Completion
Northern Land Parcel Footpath	<p>No less than 1.5 m in width.</p> <p>The qualitative standard of the design and finishes is to be no less than those described in:</p> <ul style="list-style-type: none"> • the relevant Australian standards; • any relevant public domain guidelines, requirements or policies applied by Parramatta from time to time in assessing the adequacy of any improvements proposed for the public domain; and <p>The design and finishes are to be generally consistent with the indicative images contained in this Schedule 4.</p>	No later than the date on which the first Occupation Certificate is issued in respect of any part of the Proposed Development occurring on that part of the Project Land identified F on the Project Land Plan.
Northern Thoroughfare	<p>No less than 15 m in width.</p> <p>The qualitative standard of the design and finishes is to be no less than those described in:</p> <ul style="list-style-type: none"> • the relevant Australian standards; • any relevant public domain guidelines, requirements or policies applied by Parramatta from time to time in assessing the adequacy of any improvements proposed for the public domain; and 	No later than the date on which the first Occupation Certificate is issued in respect of any part of the Proposed Development occurring on those parts of the Project Land identified B, C or D or E or F on the Project Land Plan.
Commercial Suite	A net lettable floor area of no less	No later than 10 Business Days of

	<p>than 200 sq m.</p> <p>Fully serviced condition and ready for fitout installation.</p>	<p>registration of a strata plan creating the commercial suite as a separate freehold Proposed Development occurring on that part of the Project Land identified C on the Project Land Plan.</p>
Central Land Parcel		
Component of the Landowner's Works	Minimum Requirements	Time for Completion
Central Land Parcel Footpath	<p>No less than 1.5 m in width.</p> <p>The qualitative standard of the design and finishes is to be no less than those described in:</p> <ul style="list-style-type: none"> the relevant Australian standards; any relevant public domain guidelines, requirements or policies applied by Parramatta from time to time in assessing the adequacy of any improvements proposed for the public domain; and <p>The design and finishes are to be generally consistent with the indicative images contained in this Schedule 4.</p>	<p>No later than the date on which the first Occupation Certificate is issued in respect of any part of the Proposed Development occurring on that part of the Project Land identified L on the Project Land Plan.</p>
Central Thoroughfare	<p>No less than 15 m in width.</p> <p>The qualitative standard of the design and finishes is to be no less than those described in:</p> <ul style="list-style-type: none"> the relevant Australian standards; any relevant public domain guidelines, requirements or policies applied by Parramatta from time to time in assessing the adequacy of any improvements proposed for the public domain; and 	<p>No later than the date on which the first Occupation Certificate is issued in respect of any part of the Proposed Development occurring on those parts of the Project Land identified J or K or L on the Project Land Plan.</p>
Southern Land Parcel		
Component of the Developer's Landowner's	Minimum Requirements	Time for Completion

Works		
Open Space	<p>An area of no less than 1953 sq m.</p> <p>The qualitative standard of the design and finishes is to be no less than those described in:</p> <ul style="list-style-type: none"> • the relevant Australian standards; • any relevant public domain (open space) guidelines, requirements or policies applied by Parramatta from time to time in assessing the adequacy of any improvements proposed for the public domain; and <p>The design and finishes are to be generally consistent with the indicative images contained in this Schedule 4.</p>	<p>No later than 12 months after the date on which the first Occupation Certificate is issued in respect of any part of the Proposed Development occurring on those parts of the Project Land identified J or K or L on the Project Land Plan.</p>



Public domain plan



Indicative images –thoroughfares



Indicative images – Church Street frontage



Indicative images - Park treatments