

# Planning Agreement

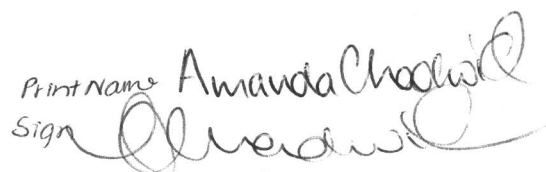

## *Parramatta RSL Club Redevelopment*

City of Parramatta Council

ABN 49 907 174 773

Castle Hill RSL Club Ltd

ACN 001 043 910

Print name Amanda Chadwick  
Sign   
x  Gregory Dyer

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# Agreement

Date 18 October 2016

## Parties

### First party

**Name** City of Parramatta Council (**Council**)  
**ACN** 49 907 174 773  
**Contact** The Interim General Manager  
**Telephone** (02) 9806 5050

### Second party

**Name** Castle Hill RSL Club Ltd (**Castle Hill RSL**)  
**ACN** 001 043 910  
**Contact** David O'Neil  
**Telephone** (02) 8858 4825

## Background

- A. The Developer owns the Land.
- B. The Developer proposes to carry out the Development on the Land.
- C. Council has granted Development Consent in respect of the Development.
- D. Condition 26 of the Development Consent provides that a monetary contribution is payable to Council pursuant to Section 94A of the Act and the Parramatta City Centre Civic Improvement Plan.
- E. The Developer has made an offer to enter into a planning agreement with Council requiring the payment of monetary contributions in lieu of the payment of a levy pursuant to Section 94A of the Act.
- F. To this extent the Developer has made an application to modify the Development Consent for the Development to enable the payment of a monetary contribution pursuant to the planning agreement.
- G. The Parties wish to formalise the terms of the offer by entering into this agreement in accordance with section 93F of the Act.

## Operative part

### 1 Definitions

In this agreement, unless context indicates a contrary intention:

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

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

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

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

**Bank Guarantee** means an irrevocable and unconditional undertaking by one of the following trading banks:

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

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

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

**Childcare Facility** means a childcare facility within the Parramatta Local Government Area as agreed between the parties.

**Community Infrastructure Project** means a community asset or project (other than the Childcare Facility) which is provided by Council for the benefit of the community and which is to be agreed between the parties.

**Construction Certificate** means a construction certificate as defined under section 109C of the Act;

**Council** means City of Parramatta Council.

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

**Developer** means Castle Hill RSL Club Limited;

**Development** means the development proposed for the Land by the Developer, including the demolition of existing buildings and removal of bowling greens together

with construction of a two storey club over 3 levels and includes the Stage 2 Development;

**Development Application** has the same meaning as in the Act;

**Development Consent** has the same meaning as in the Act and includes Development Consent No. DA/805/2013 (as modified from time to time);

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

**GST** has the same meaning as in the GST Law;

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

**Insolvent** means the occurrence of any of the following:

- (a) a Party is liquidated, whether compulsorily or voluntarily (other than for the purpose of amalgamation or reconstruction whilst solvent);
- (b) a Party becomes unable to pay its debts as they fall due;
- (c) a Party enters into any arrangement with creditors;
- (d) a Party becomes subject to external administration within the meaning of Chapter 5 of the *Corporations Act 2001* (Cth), including having a receiver or administrator appointed over all or any part of its assets; or
- (e) anything analogous (such as analogous bankruptcy processes) or having a substantially similar effect to the events specified in clauses (a) to (d) above occurs in relation to a party, including the court appointment of a receiver.

**Land** means Lot 362 DP 752058 known as 2 Macquarie Street, Parramatta NSW 2150;

**Law** means:

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

**LEP** means the *Parramatta Local Environmental Plan 2011*;

**Monetary Contribution** means the monetary contribution to be paid by the Developer to the Council in accordance with Schedule 1 of this Agreement;

**Register** means the Torrens Title register maintained under the *Real Property Act 1900* (NSW).

**Stage 2 Development** means the construction of a below ground 3 level car park, an at grade car park and landscaping as approved by the Development Consent and as shown in Schedule 2.

## 2 Interpretation

In this agreement, unless context indicates a contrary intention:

- (a) **(documents)** a reference to this agreement or another document includes any document which varies, supplements, replaces, assigns or novates this agreement or that other document;
- (b) **(references)** a reference to a party, clause, paragraph, schedule or annexure is a reference to a party, clause, paragraph, schedule or annexure to or of this agreement;
- (c) **(headings)** clause headings and the table of contents are inserted for convenience only and do not affect interpretation of this agreement;
- (d) **(person)** a reference to a person includes a natural person, corporation, statutory corporation, partnership, the Crown and any other organisation or legal entity and their personal representatives, successors, substitutes (including persons taking by novation) and permitted assigns;
- (e) **(party)** a reference to a party to a document includes that party's personal representatives, executors, administrators, successors, substitutes (including persons taking by novation) and permitted assigns;
- (f) **(requirements)** a requirement to do any thing includes a requirement to cause that thing to be done, and a requirement not to do any thing includes a requirement to prevent that thing being done;
- (g) **(including)** including and includes are not words of limitation, and a list of examples is not limited to those items or to items of a similar kind;
- (h) **(corresponding meanings)** a word that is derived from a defined word has a corresponding meaning;
- (i) **(singular)** the singular includes the plural and vice-versa;
- (j) **(gender)** words importing one gender include all other genders;
- (k) **(parts)** a reference to one or more things includes each part and all parts of that thing or group of things but nothing in this clause implies that part performance of an obligation constitutes performance of that obligation;
- (l) **(rules of construction)** neither this agreement nor any part of it is to be construed against a party on the basis that the party or its lawyers were responsible for its drafting;
- (m) **(legislation)** a reference to any legislation or provision of legislation includes all amendments, consolidations or replacements and all regulations or instruments issued under it;
- (n) **(time and date)** a reference to a time or date in connection with the performance of an obligation by a party is a reference to the time and date in Sydney, Australia, even if the obligation is to be performed elsewhere;
- (o) **(joint and several)** an agreement, representation, covenant, right or obligation:



- (i) in favour of two or more persons is for the benefit of them jointly and severally; and
- (ii) on the part of two or more persons binds them jointly and severally;
- (p) **(writing)** a reference to a notice, consent, request, approval or other communication under this agreement or an agreement between the parties means a written notice, request, consent, approval or agreement;
- (q) **(replacement bodies)** a reference to a body (including an institute, association or Authority) which ceases to exist or whose powers or functions are transferred to another body is a reference to the body which replaces it or which substantially succeeds to its power or functions;
- (r) **(Australian currency)** a reference to dollars or \$ is to Australian currency;
- (s) **(month)** a reference to a month is a reference to a calendar month.
- (t) **(year)** a reference to a year is a reference to twelve consecutive calendar months;

### 3 Planning Agreement under the Act

The parties agree that this agreement is a planning agreement within the meaning of section 93F of the Act.

### 4 Application of this Agreement

This agreement applies to:

- (a) the Land,
- (b) the Development.

### 5 Operation of this Agreement

The parties agree that this agreement operates on and from the date it is executed by the parties.

### 6 Contributions to be made under this Agreement

#### 6.1 Monetary Contribution

- (a) Subject to this Agreement, the Developer will pay the Monetary Contribution to Council:
  - (i) under the specification in column 1 of Schedule 1;
  - (ii) in the amount referred to in column 2 of Schedule 1; and
  - (iii) at the time referred to in column 3 of Schedule 1.
- (b) The Monetary Contribution must be paid by way of bank cheque in favour of City of Parramatta Council.
- (c) The Monetary Contribution will be taken to have been made when the Council notifies the Developer in writing that the bank cheque has been received and cleared funds have been deposited in the Council's bank account.



- (d) The parties acknowledge and agree that the Monetary Contribution will be used by Council to implement a mutually agreeable Community Infrastructure Project and improvements to a Childcare Facility as described in Schedule 1.
- (e) If the parties are unable to reach agreement in relation to the Community Infrastructure Project to be carried out by Council as referred to in clause 6.1(d), either party may refer the matter for dispute resolution in accordance with clause 9.
- (f) The Developer is to receive public recognition for the making of the Monetary Contribution which may include the erection of signage, media announcement or the like.

## 6.2 *Indexation*

- (a) If the Monetary Contribution, in respect of the Community Infrastructure Project and the Childcare Facility, is not paid to Council as required by this Agreement, then from the day following the date on which the payment falls due, the Monetary Contribution must be indexed as follows:

**Monetary Contribution (to be provided) =**

**Monetary Contribution (as per item 1 of clause 1 above)    x    (A/B)**

where:

- A. is the CPI most recently published before the date the Monetary Contribution is to be paid;
- B. is the CPI most recently published before the date this agreement commenced in accordance with clause 3.1(a) of this document.

If after the formula is applied and the Monetary Contribution will be less than the amount stated in item 1 of clause 1 above, the Monetary Contribution will not be adjusted.

## 7 Application of sections 94, 94A and 94EF of the Act

- (a) This agreement excludes the application of section 94 and section 94A of the Act to the Development or any other development on the Land.
- (b) This agreement does not exclude the application of section 94EF of the Act to the Development or any other development on the land.
- (c) Benefits under this agreement must not be taken into consideration under section 94(6) of the Act for the purposes of determining any contributions payable under the Act for the Development or any other development on the Land.

## 8 Registration of this Agreement

### 8.1 *Registration of this agreement*

- (a) The Developer represents and warrants that it is the registered proprietor of the Land.

- (b) The Developer agrees that they will procure the registration of this agreement, under the *Real Property Act 1900* (NSW) in the relevant folios of the Register for the Land in accordance with section 93H of the Act.
- (c) The Developer at their own expense will, promptly after this agreement is executed, take all practical steps, and otherwise do anything that the Council reasonably requires, to procure:
  - (i) the consent of each person who:
    - (A) has an estate or interest in the Land; or
    - (B) is seized or possessed of an estate or interest in the Land; and
  - (ii) the execution of any documents; and
  - (iii) the production of the relevant duplicate certificates of title, to enable the registration of this agreement in accordance with clause 8.1(b).
- (d) The Developer at their own expense, will take all practical steps, and otherwise do anything that the Council reasonably requires:
  - (i) to procure the lodgement of this agreement with the Registrar-General as soon as reasonably practicable after this agreement is executed but in any event, no later than 10 Business Days after that date; and
  - (ii) to procure the registration of this agreement by the Registrar-General in the relevant folios of the Register for the Land as soon as reasonably practicable after this agreement is lodged for registration.

## 8.2 *Removal from Register*

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

## 9 Dispute Resolution

### 9.1 *Reference to Dispute*

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

### 9.2 *Notice of Dispute*

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

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

### 9.3 *Representatives of Parties to Meet*

- (a) The representatives of the parties must promptly (and in any event within 14 Business Days of the Notice of Dispute) meet in good faith to attempt to resolve the notified dispute.
- (b) The parties may, without limitation:
  - (i) Resolve the dispute during the course of that meeting;
  - (ii) Agree that expert determination in accordance with clause 9.6 about a particular issue or consideration is needed to effectively resolve the dispute (in which event, the parties will, in good faith, agree to a timetable for resolution); or
  - (iii) Agree that the parties are unlikely to resolve the dispute and, in good faith, agree to a form of alternative dispute resolution (including expert determination, arbitration or mediation) which is appropriate for the resolution of the relevant dispute.

### 9.4 *Further Notice if Not Settled*

If the dispute is not resolved within 15 Business Days after the nominated representatives have met, either party may give to the other a written notice calling for determination of the dispute (**Determination Notice**) by mediation under clause 9.5 or by expert determination under clause 9.6.

### 9.5 *Mediation*

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

- (a) The parties must agree to the terms of reference of the mediation within five Business Days of the receipt of the Determination Notice (the terms shall include a requirement that the mediation rules of the Institute of Arbitrators and Mediators Australia (NSW Chapter) apply);
- (b) The mediator will be agreed between the parties, or failing agreement within five Business Days of receipt of the Determination Notice, either party may request the President of the Institute of Arbitrators and Mediators Australia (NSW Chapter) to appoint a mediator;
- (c) The mediator appointed pursuant to this clause 9.5 must:
  - (i) Have reasonable qualifications and practical experience in the area of the dispute; and
  - (ii) Have no interest or duty which conflicts or may conflict with his or her function as a mediator, he or she being required to fully disclose any such interest or duty before his or her appointment.
- (d) The mediator shall be required to undertake to keep confidential all matters coming to his or her knowledge by reason of his or her appointment and performance of his or her duties;
- (e) The parties must within five Business Days of receipt of the Determination Notice notify each other of their representatives that will be involved in the mediation (except if a resolution of the Council is required to appoint a representative, the

Council must advise of the representative within five Business Days of the resolution);

- (f) The parties agree to be bound by a mediation settlement and unless waived by the parties, may only initiate judicial proceedings in respect of a dispute which is the subject of a mediation settlement for the purpose of enforcing that mediation settlement; and
- (g) In relation to costs and expenses:
  - (i) Each party will bear its own professional and expert costs incurred in connection with the mediation; and
  - (ii) The costs of the mediator will be shared equally by the parties unless the mediator determines that a party has engaged in unreasonable behaviour in which case the mediator may require the full costs of the mediation to be borne by that party.

#### 9.6 *Expert determination*

If the dispute is not resolved under clause 9.3 or clause 9.5, or the parties otherwise agree that the dispute may be resolved by expert determination, the parties may refer the dispute to an expert, in which event:

- (a) The dispute must be determined by an independent expert in the relevant field:
  - (i) agreed upon and appointed jointly by Council and the Developer; and
  - (ii) in the event that no agreement is reached or no appointment is made within 30 Business Days of the agreement to refer the dispute to an expert, appointed on application of a party by the then President of the Law Society of New South Wales;
- (b) The expert must be appointed in writing and the terms of the appointment must not be inconsistent with this clause;
- (c) The determination of the dispute by such an expert will be made as an expert and not as an arbitrator and will be in writing and contain the reasons for the determination;
- (d) The expert will determine the rules for the conduct of the process but must conduct the process in accordance with the rules of natural justice;
- (e) Each party will bear its own costs in connection with the process and the determination by the expert and will share equally the expert's fees and costs; and
- (f) Any determination made by an expert pursuant to this clause is final and binding upon the parties unless:
  - (i) within 20 Business Days of receiving the determination, a party gives written notice to the other party that it does not agree with the determination and commences litigation; or
  - (ii) the determination is in respect of, or relates to, termination or purported termination of this agreement by any party, in which event the expert is deemed to be giving a non-binding appraisal.

9.7 *Litigation*

If the dispute is not finally resolved in accordance with this clause 9, then either party is at liberty to litigate the dispute.

9.8 *No suspension of contractual obligations*

Subject to any interlocutory order obtained under clause 9.1, the referral to or undertaking of a dispute resolution process under this clause 9 does not suspend the parties' obligations under this agreement.

10 Security and Enforcement

10.1 *Bank Guarantee – Monetary Contribution for Childcare Facility*

- (a) Within five business days of a Construction Certificate being issued for the Childcare Facility, the Developer must provide to the Council a Bank Guarantee or Bank Guarantees in the amount of \$400,000.00 in respect of the remaining Monetary Contribution for the Childcare Facility.
- (b) The Council may call on a Bank Guarantee provided under this clause if the Developer is in material or substantial breach of the obligation to pay the Monetary Contribution under this agreement and have failed to rectify the breach after having been given reasonable notice (which must not be less than 10 Business Days) in writing to do so.
- (c) Within 20 Business Days of each anniversary of a Bank Guarantee provided under clause 10.1(a), the Developer must provide Council with one or more replacement Bank Guarantees (**replacement Bank Guarantee**) in an amount calculated in accordance with the following:

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

Where:

A is the amount of the replacement Bank Guarantee,

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

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

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

provided A is greater than B.

- (d) On receipt of a replacement Bank Guarantee provided under clause 10.210.2(c), the Council must release and return to the Developer, as directed, the Bank Guarantee that has been replaced.
- (e) At any time following the provision of a Bank Guarantee under this clause, the Developer may provide the Council with one or more replacement Bank Guarantees totalling the amount of all Bank Guarantees required to be provided under this clause for the time being. On receipt of such replacement Bank

Guarantees, the Council must release and return to the Developer, as directed, the Bank Guarantees which it holds that have been replaced.

- (f) The Council may apply the proceeds of a Bank Guarantee provided under this clause in satisfaction of:
  - (i) any obligation of the Developer under this agreement to pay the Monetary Contribution, and
  - (ii) any associated liability, loss, cost, charge or expense directly or indirectly incurred by the Council because of the failure of the Developer to pay the Monetary Contribution.
- (g) The Council must return a Bank Guarantee provided under this clause if requested by the Developer and the Developer have duly fulfilled the obligation under this agreement to pay the Monetary Contribution in respect of the Childcare Facility.
- (h) Nothing in this clause 10.1 prevents or restricts the Council from taking any enforcement action in relation to:
  - (i) any obligation of the Developer under this agreement; or
  - (ii) any associated liability, loss, cost, charge or expense directly or indirectly incurred by the Council because of the failure by the Developer to comply with this agreement,that is not or cannot be satisfied by calling on a Bank Guarantee.
- (i) Nothing in this clause 10.21 prevents or restricts the Council from taking any enforcement action in relation to:
  - (i) any obligation of the Developer under this agreement; or
  - (ii) any associated liability, loss, cost, charge or expense directly or indirectly incurred by the Council because of the failure by the Developer to comply with this agreement,that is not or cannot be satisfied by calling on a Bank Guarantee.

## 10.2 *Bank Guarantee – Monetary Contribution for Community Infrastructure Project*

- (a) On the same date that the Developer receives a Construction Certificate for the Stage 2 Development the Developer must provide to the Council a Bank Guarantee or Bank Guarantees in the amount of \$800,000.00 in respect of the Monetary Contribution for the Community Infrastructure Project.
- (b) The Council may call on a Bank Guarantee provided under this clause if the Developer is in material or substantial breach of the obligation to pay the Monetary Contribution under this agreement and has failed to rectify the breach after having been given reasonable notice (which must not be less than 10 Business Days) in writing to do so.

- (c) Within 20 Business Days of each anniversary of a Bank Guarantee provided under clause 10.1(a), the Developer must provide Council with one or more replacement Bank Guarantees (**replacement Bank Guarantee**) in an amount calculated in accordance with the following:

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

Where:

A is the amount of the replacement Bank Guarantee,

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

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

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

provided A is greater than B.

- (d) On receipt of a replacement Bank Guarantee provided under clause 10.2(c), the Council must release and return to the Developer, as directed, the Bank Guarantee that has been replaced.
- (e) At any time following the provision of a Bank Guarantee under this clause, the Developer may provide the Council with one or more replacement Bank Guarantees totalling the amount of all Bank Guarantees required to be provided under this clause for the time being. On receipt of such replacement Bank Guarantees, the Council must release and return to the Developer, as directed, the Bank Guarantees which it holds that have been replaced.
- (f) The Council may apply the proceeds of a Bank Guarantee provided under this clause in satisfaction of:
- (i) any obligation of the Developer under this agreement to pay the Monetary Contribution, and
  - (ii) any associated liability, loss, cost, charge or expense directly or indirectly incurred by the Council because of the failure of the Developer to pay the Monetary Contribution.
- (g) The Council must return a Bank Guarantee provided under this clause if requested by the Developer and the Developer have duly fulfilled the obligation under this agreement to pay the Monetary Contribution.
- (h) Nothing in this clause 10.2 prevents or restricts the Council from taking any enforcement action in relation to:
- (i) any obligation of the Developer under this agreement; or
  - (ii) any associated liability, loss, cost, charge or expense directly or indirectly incurred by the Council because of the failure by the Developer to comply with this agreement,

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

### 10.3 *Restriction on the issue of Certificates*

- (a) Prior to the issue of the final occupation certificate for the Stage 2 Development the Principal Certifying Authority must obtain written advice from Council that all the deliverables required under this Agreement have been delivered to the satisfaction of Council.

### 10.4 *General Enforcement*

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

## 11 Review

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

## 12 Assignment and Transfer

- (a) The parties must not assign or otherwise transfer their rights under this agreement without the prior written consent of the other party.
- (b) The Developer must not assign, transfer or dispose of any right, title or interest in the Land to another person or entity (**Transferee**) unless:
  - (i) the Developer satisfy Council that the proposed Transferee is financially capable of complying with the Developer' obligations under this agreement;
  - (ii) the Developer satisfy Council that the rights of the Council will not be diminished or fettered in any way;
  - (iii) the Transferee delivers to the Council a novation deed signed by the Transferee in a form and of such substance as is acceptable to the Council containing provisions under which the Transferee agrees to comply with all the outstanding obligations of the Developer under this agreement;
  - (iv) any default by the Developer under any provisions of this agreement have been remedied by the Developer or waived by the Council on such conditions as the Council may determine; and



- (v) the Developer and the Transferee pay the Council's reasonable costs in relation to the novation deed and the assignment.

## 13 No fetter

### 13.1 Discretion

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

### 13.2 No fetter

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

- (a) they will take all practical steps, including the execution of any further documents to ensure the objective of this clause is substantially satisfied;
- (b) in the event that (a) cannot be achieved without giving rise to a fetter on the exercise of a Discretion, the relevant provision is to be severed and the remainder of this agreement has full force and effect; and
- (c) to endeavour to satisfy the common objectives of the parties in relation to the provision of this agreement which is to be held to be a fetter to the extent that is possible having regard to the relevant court judgment.

## 14 Notices

### 14.1 Notices

Subject to clause 14.2, any notice given under or in connection with this agreement (**Notice**):

- (a) must be in writing and signed by a person duly authorised by the sender;
- (b) must be addressed as follows and delivered to the intended recipient by hand, by prepaid post or by fax at the Address or Fax Number below, or at the Address or Fax Number last notified by the intended recipient to the sender after the date of this agreement:

- (i) to City of Parramatta Council  
PO Box 32, Parramatta NSW 2124  
Fax: 02 9806 5917  
Attention: Interim General Manager;
- (ii) to Castle Hill RSL:  
77 Castle Street, Castle Hill NSW 2154  
Fax: 02 8858 4822  
Attention: David O'Neil

- (c) is taken to be given and made:





- (i) when the sender receives an email acknowledgement from the recipient's information system showing the Notice has been delivered to the email address stated above;
  - (ii) when the Notice enters an information system controlled by the recipient;  
or
  - (iii) when the Notice is first opened or read by the recipient,  
whichever occurs first.
- (b) If under clause (a) a Notice would be taken to be given or made on a day that is not a Business Day in the place to which the Notice is sent, or later than 4 pm (local time), it will be taken to have been given or made at the start of business on the next Business Day in that place.

## 15 General

### 15.1 *Relationship between parties*

- (a) Nothing in this agreement:
  - (i) constitutes a partnership between the parties; or
  - (ii) except as expressly provided, makes a party an agent of another party for any purpose.
- (b) A party cannot in any way or for any purpose:
  - (i) bind another party; or
  - (ii) contract in the name of another party.
- (c) If a party must fulfil an obligation and that party is dependent on another party, then that other party must do each thing reasonably within its power to assist the other in the performance of that obligation.

### 15.2 *Time for doing acts*

- (a) If the time for doing any act or thing required to be done or a notice period specified in this agreement expires on a day other than a Business Day, the time for doing that act or thing or the expiration of that notice period is extended until the following Business Day.
- (b) If any act or thing required to be done is done after 5pm on the specified day, it is taken to have been done on the following Business Day.

### 15.3 *Further assurances*

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

### 15.4 *Joint and individual liability and benefits*

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

### 15.5 Variation

A provision of this agreement can only be varied by a later written document executed by or on behalf of all parties.

### 15.6 Counterparts

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

### 15.7 Legal expenses

The Developer must pay the Council's legal costs and disbursements in connection with the negotiation, preparation, execution, carrying into effect and release and discharge of this agreement.

### 15.8 Entire agreement

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

### 15.9 Invalidity

- (a) A word or provision must be read down if:
  - (i) this agreement is void, voidable, or unenforceable if it is not read down;
  - (ii) this agreement will not be void, voidable or unenforceable if it is read down; and
  - (iii) the provision is capable of being read down.
- (b) A word or provision must be severed if:
  - (i) despite the operation of clause (a), the provision is void, voidable or unenforceable if it is not severed; and
  - (ii) this agreement will be void, voidable or unenforceable if it is not severed.
- (c) The remainder of this agreement has full effect even if clause 15.9(b)(i) or (ii) applies.

### 15.10 Waiver

A right or remedy created by this agreement cannot be waived except in writing signed by the party entitled to that right. Delay by a party in exercising a right or remedy does not constitute a waiver of that right or remedy, nor does a waiver (either wholly or in part) by a party of a right operate as a subsequent waiver of the same right or of any other right of that party.

### 15.11 Governing law and jurisdiction

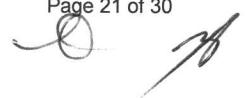
- (a) The Laws applicable in New South Wales govern this agreement.
- (b) The parties submit to the non-exclusive jurisdiction of the courts of New South Wales and any courts competent to hear appeals from those courts.

**15.12 GST**

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

**15.13 Representations and warranties**

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



Schedule 1

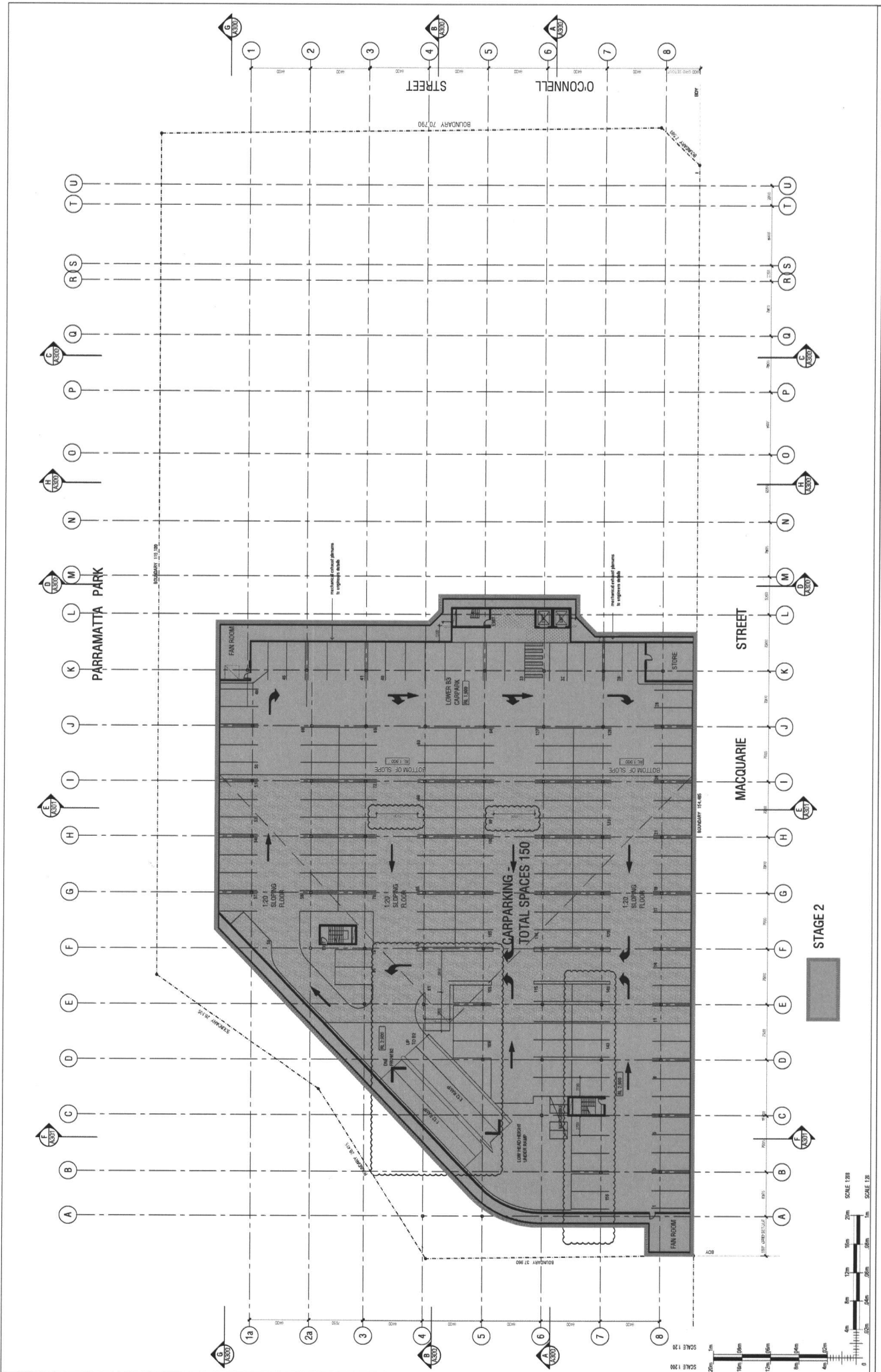
Column 1: Purpose of Development Contribution	Column 2: Development Contribution	Column 3: Date for payment of Development Contribution
Improvements to the Childcare Facility	\$500,000.00 (total)	<p>The first instalment of \$100,000 is to be paid within five (5) Business Days of a Construction Certificate being issued for the works which are to be undertaken at the Childcare Facility.</p> <p>The remaining \$400,000 is to be paid within five (5) Business Days of the first Occupation Certificate being issued for the Childcare Facility.</p> <p>The Monetary Contribution in respect of the Childcare Facility will be subject to CPI indexation in accordance with this Agreement</p>
Contribution towards a Community Infrastructure Project	\$1,000,000.00 (total)	<p>The first instalment of \$200,000 is to be paid prior to the issue of the first Construction Certificate for construction of the approved Stage 2 Development in accordance with the Development Consent.</p> <p>The remaining \$800,000 is to be paid prior to the issue of the first Occupation Certificate for the approved Stage 2 Development.</p> <p>The Monetary Contribution in respect of the Community Infrastructure Project will be subject to CPI indexation in accordance with this Agreement.</p>



## Schedule 2

Relevant Drawings of Stage 2 Development



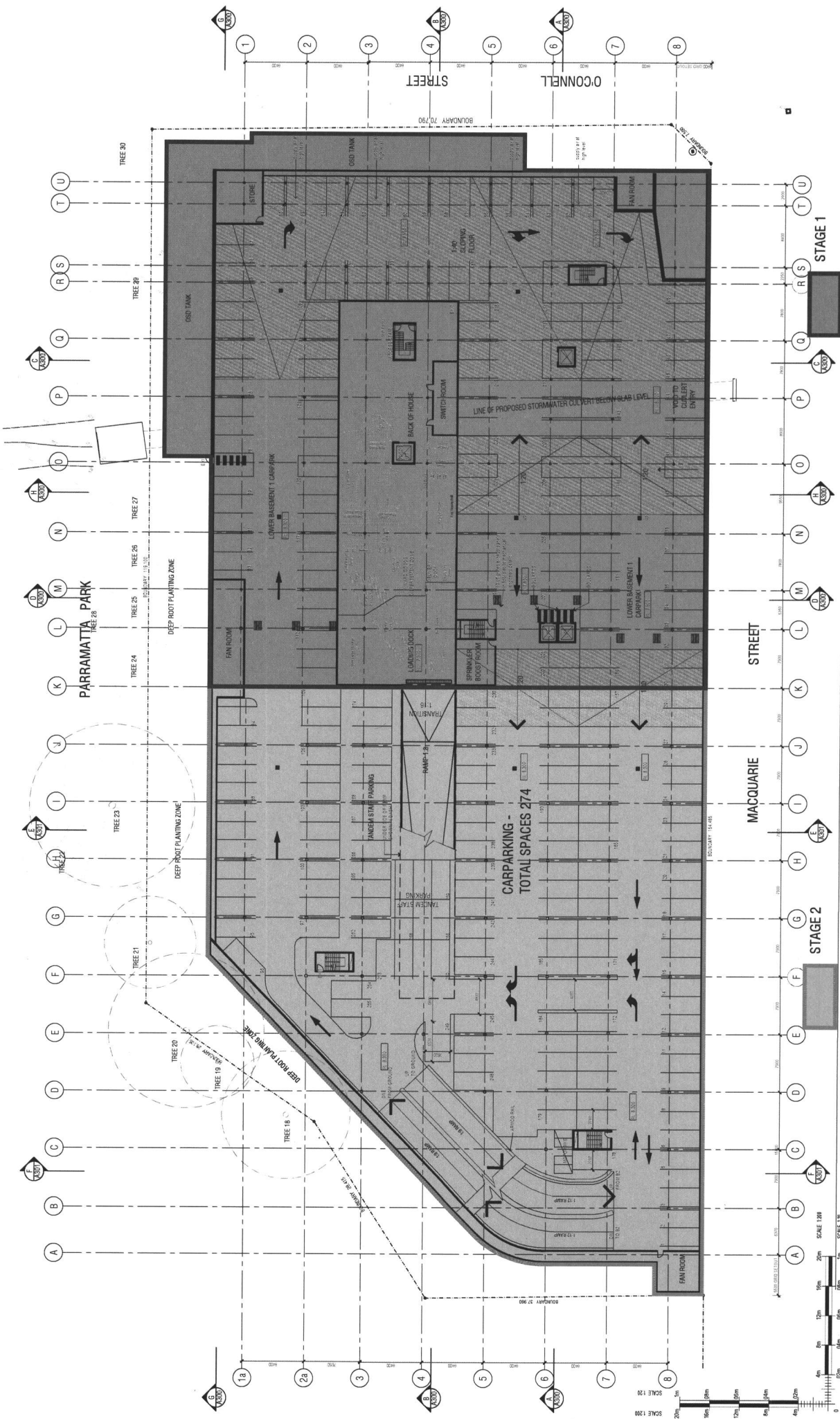


		PROJECT NO: 1358 DRAWING NO: 8 BF DATE: 20/08/2024 DRAWN BY: J. BARRIE CHECKED BY: J. BARRIE PROJECT NAME: NEW HOSPITALITY VENUE PARRAMATTA FOR CASTLE HILLS CLUB SHEET NO: 07 TITLE: BASEMENT 3 PLAN
1. DATE ISSUED 2. DATE REVISION 3. DATE REVISION 4. DATE REVISION 5. DATE REVISION 6. DATE REVISION 7. DATE REVISION 8. DATE REVISION 9. DATE REVISION 10. DATE REVISION	1. NAME OF CLIENT 2. NAME OF ARCHITECT 3. NAME OF ENGINEER 4. NAME OF SURVEYOR 5. NAME OF LANDSCAPE ARCHITECT 6. NAME OF STRUCTURAL ENGINEER 7. NAME OF ELECTRICAL ENGINEER 8. NAME OF MECHANICAL ENGINEER 9. NAME OF PLUMBING ENGINEER 10. NAME OF CIVIL ENGINEER	1. NAME OF CONTRACTOR 2. NAME OF SUB-CONTRACTOR 3. NAME OF SUB-CONTRACTOR 4. NAME OF SUB-CONTRACTOR 5. NAME OF SUB-CONTRACTOR 6. NAME OF SUB-CONTRACTOR 7. NAME OF SUB-CONTRACTOR 8. NAME OF SUB-CONTRACTOR 9. NAME OF SUB-CONTRACTOR 10. NAME OF SUB-CONTRACTOR

NOTES:  
 1. ALL WORKS TO BE COMPLETED IN ACCORDANCE WITH THE 2019 NCC.  
 2. THIS DRAWING IS THE PROPERTY OF THE ARCHITECT AND IS NOT TO BE REPRODUCED OR COPIED IN ANY MANNER WITHOUT THE WRITTEN PERMISSION OF THE ARCHITECT.  
 3. THE ARCHITECT ACCEPTS NO LIABILITY FOR ANY DAMAGE OR LOSS OF ANY KIND ARISING FROM THE USE OF THIS DRAWING.  
 4. THE ARCHITECT'S LIABILITY IS LIMITED TO THE PROFESSIONAL SERVICES PROVIDED BY HIMSELF OR HIS EMPLOYEES OR AGENTS.  
 5. THE ARCHITECT'S LIABILITY IS LIMITED TO THE PROFESSIONAL SERVICES PROVIDED BY HIMSELF OR HIS EMPLOYEES OR AGENTS.  
 6. THE ARCHITECT'S LIABILITY IS LIMITED TO THE PROFESSIONAL SERVICES PROVIDED BY HIMSELF OR HIS EMPLOYEES OR AGENTS.



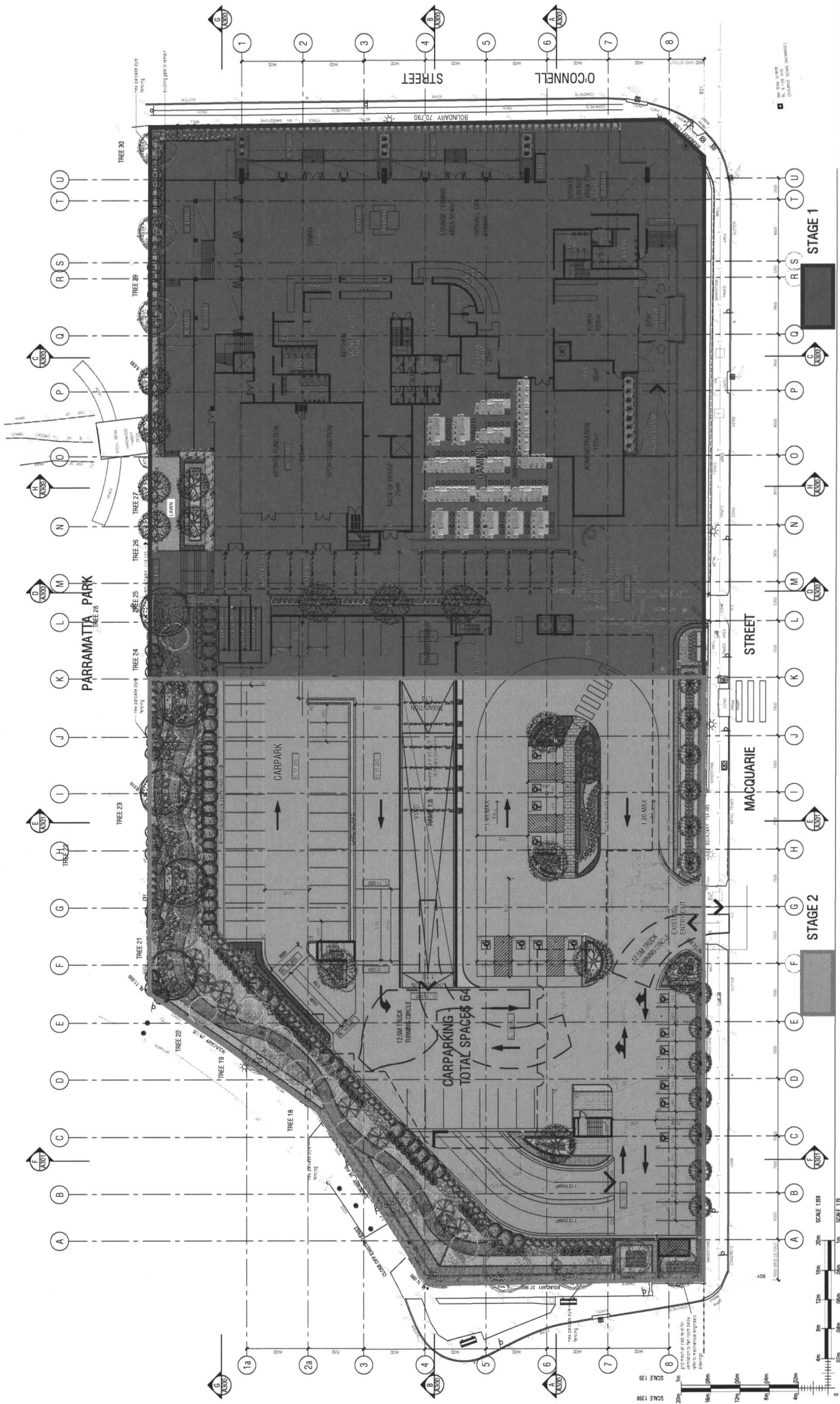




		<b>NEW HOSPITALITY VENUE PARRAMATTA FOR CASTLE HILL RSL CLUB</b>	
PROJECT NO.	1001	DATE	DA142 06
CLIENT	CASTLE HILL RSL CLUB	SCALE	AS SHOWN
DESIGNER	SSS SAVILLER DIXON	DATE	10/10/14
ARCHITECT	SSS SAVILLER DIXON	DATE	10/10/14
ENGINEER	SSS SAVILLER DIXON	DATE	10/10/14
STRUCTURAL ENGINEER	SSS SAVILLER DIXON	DATE	10/10/14
MECHANICAL ENGINEER	SSS SAVILLER DIXON	DATE	10/10/14
ELECTRICAL ENGINEER	SSS SAVILLER DIXON	DATE	10/10/14
CIVIL ENGINEER	SSS SAVILLER DIXON	DATE	10/10/14
LANDSCAPE ARCHITECT	SSS SAVILLER DIXON	DATE	10/10/14
PLANNING	SSS SAVILLER DIXON	DATE	10/10/14
CONTRACTOR	SSS SAVILLER DIXON	DATE	10/10/14
DATE	10/10/14	SCALE	AS SHOWN
<b>BASEMENT 1 PLAN</b>		<b>CTL 0303</b>	

NOTES

1. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.
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PROJECT	NEW HOSPITALITY VENUE PARRAMATTA FOR CASTLE HILL RSL CLUB
DATE	GROUND FLOOR PLAN
SCALE	CTL 0303
NO.	DA143 08

DATE	NO.	DESCRIPTION



DATE	NO.	DESCRIPTION

DATE	NO.	DESCRIPTION

DATE	NO.	DESCRIPTION

DATE	NO.	DESCRIPTION

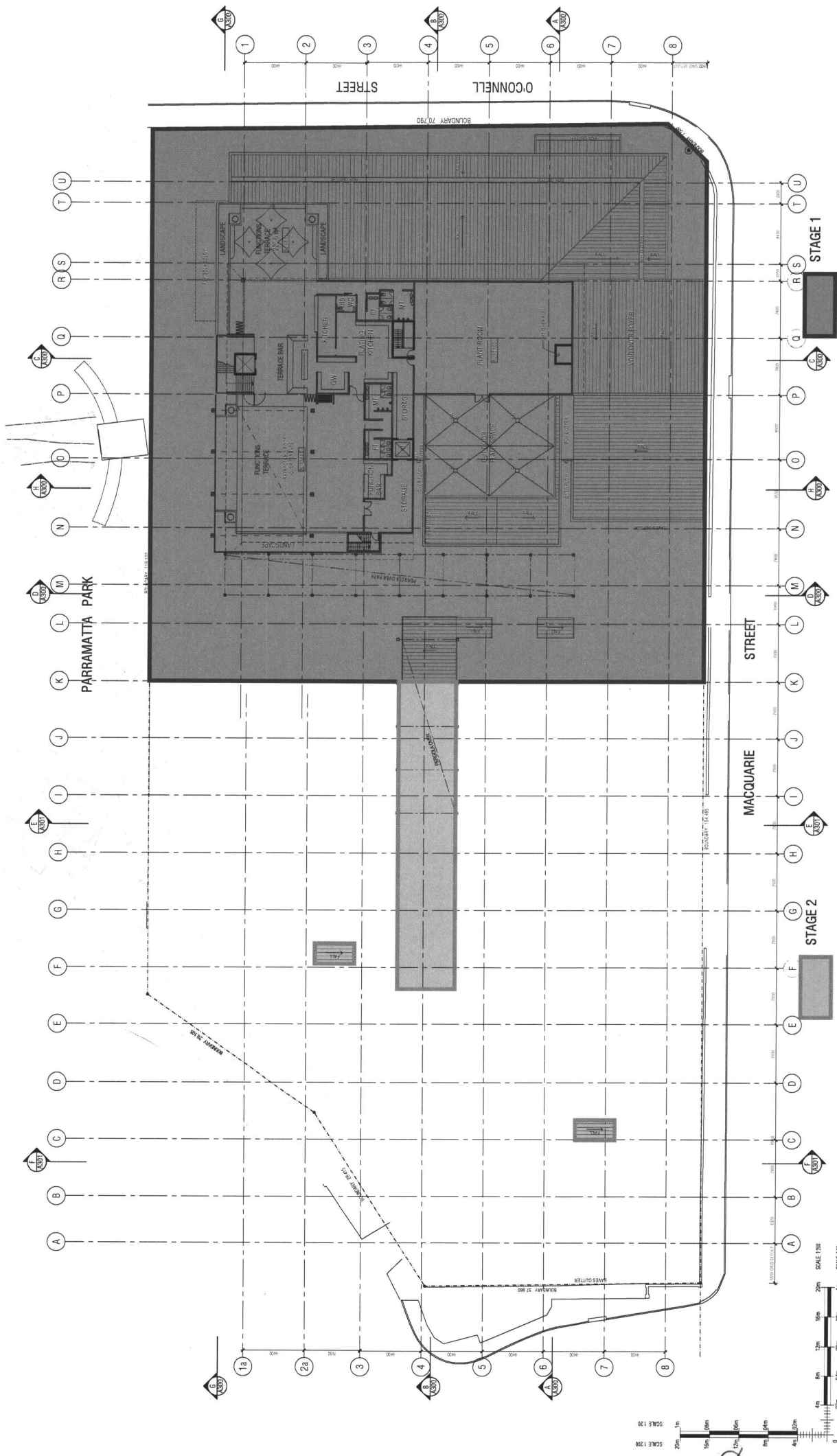
DATE	NO.	DESCRIPTION

DATE	NO.	DESCRIPTION

NOTES

1. ALL DIMENSIONS ARE IN METERS UNLESS OTHERWISE SPECIFIED.
2. THE CLIENT HAS ADVISED THAT THE SITE IS FREE OF CONTAMINATION AND IS SUITABLE FOR DEVELOPMENT.
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PROJECT	NEW HOSPITALITY VENUE PARRAMATTA FOR CASTLE HILL RES CLUB
CLIENT	CASTLE HILL RES CLUB
DATE	20/11/2024
SCALE	1:100
NO.	DA144 06
DESCRIPTION	PLANT ROOM PLAN

**533 SPATIAL DESIGN**  
 ARCHITECTURE  
 11/11/2024  
 11/11/2024  
 11/11/2024  
 11/11/2024

NO.	DATE	DESCRIPTION

NO.	DATE	DESCRIPTION

**NOTES**

1. ALL DIMENSIONS ARE TO FACE UNLESS SPECIFIED OTHERWISE.

2. REFER TO THE ARCHITECTURAL DRAWINGS FOR MATERIALS AND FINISHES.

3. REFER TO THE MECHANICAL DRAWINGS FOR EQUIPMENT SIZES AND LOCATIONS.

4. REFER TO THE ELECTRICAL DRAWINGS FOR EQUIPMENT SIZES AND LOCATIONS.

5. REFER TO THE PLUMBING DRAWINGS FOR EQUIPMENT SIZES AND LOCATIONS.

6. REFER TO THE SANITARY DRAWINGS FOR EQUIPMENT SIZES AND LOCATIONS.

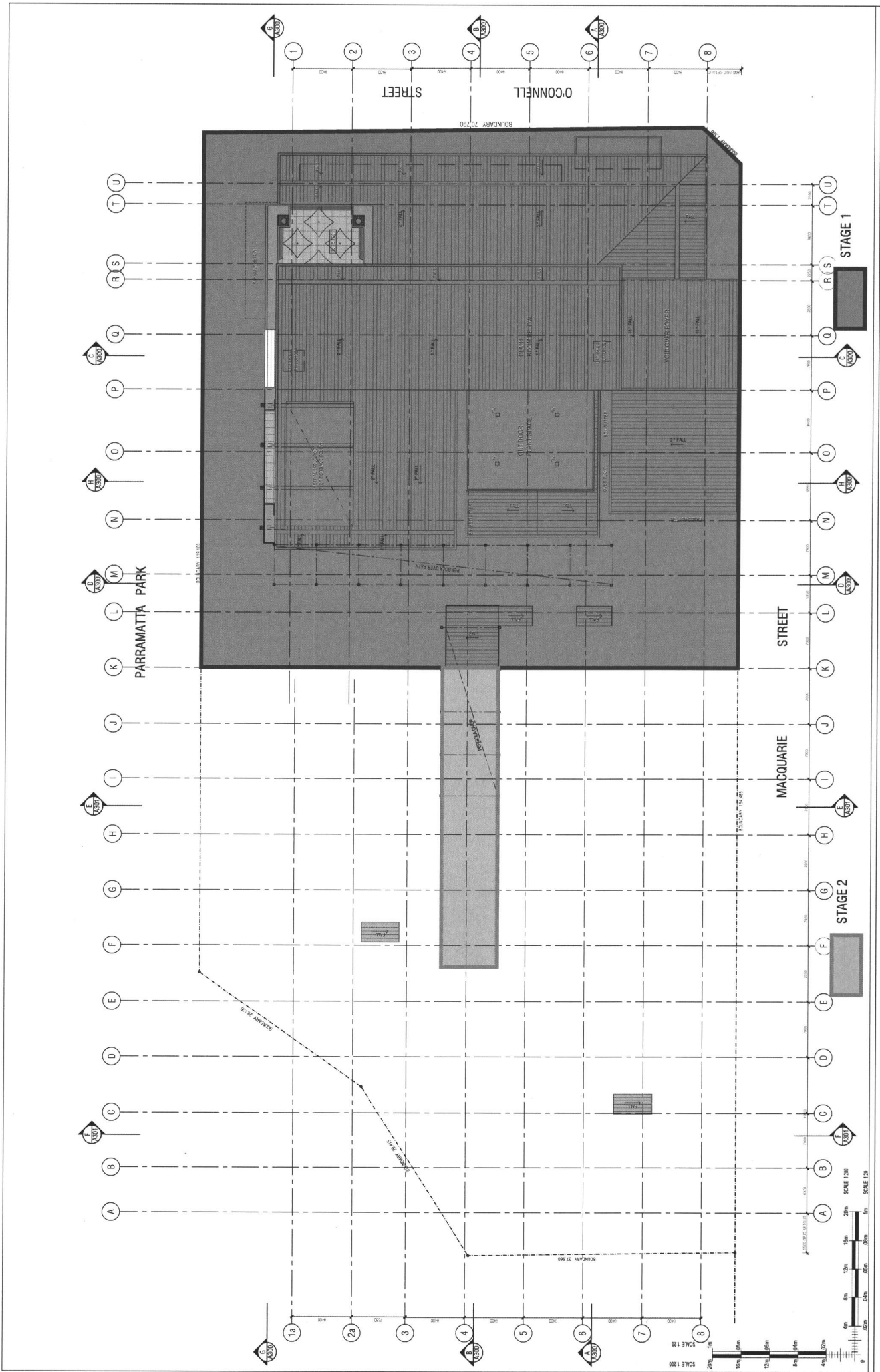
7. REFER TO THE STRUCTURAL DRAWINGS FOR EQUIPMENT SIZES AND LOCATIONS.

8. REFER TO THE LANDSCAPE DRAWINGS FOR EQUIPMENT SIZES AND LOCATIONS.



*[Handwritten signature]*

*[Handwritten signature]*

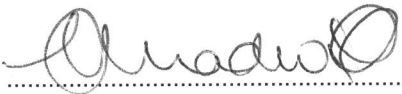


		PROJECT NO: 1907 DATE: 07/07/2019
NEW HOSPITALITY VENUE PARRAMATTA FOR CASTLE HILL RSL CLUB		CLIENT: PARRAMATTA RSL CLUB ARCHITECT: SSS PAVILION DESIGN
TITLE: ROOF PLAN	DRAWING NO: CTL 0303	SHEET NO: DA145 05
NOTES: 1. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED. 2. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED. 3. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED. 4. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.		

*[Handwritten signatures and initials]*

Executed as an agreement

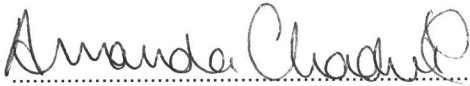
Signed for and on behalf of **City of Parramatta Council** in accordance with a resolution of the Council dated 29 March 2016. )  
)  
)



Signature of Administrator



Signature of Interim General Manager



Print name of Administrator



Print name of Interim General Manager

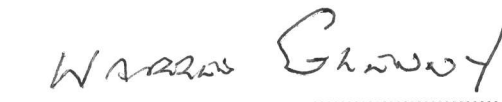
1. Executed by **Castle Hill RSL Club Ltd** ACN 166 728 669 in accordance with section 127 of the *Corporations Act 2001* (Cth) by: )  
)  
)  
)  
)



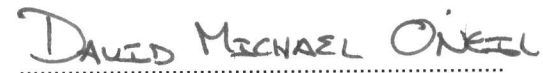
Signature of Director



Signature of ~~Director~~ / Secretary



Print name of Director



Print name of ~~Director~~ / Secretary

