

Planning Agreement

City of Parramatta Council

and

8 Phillip Street Pty Limited

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Planning Agreement

Date

Parties

City of Parramatta Council (formerly Parramatta City Council) (ABN 49 907 174 773)

of 126 Church Street, Parramatta NSW

(Council)

8 Phillip Street Pty Limited (ABN 90 615 637 057)

of Level 2, 66 Wentworth Avenue, Surry Hills, NSW

(Developer)

Recitals

- A. The Parramatta Local Environmental Plan (2011) applies to the Land.
 - B. The Developer is the registered proprietor of the Land.
 - C. The Developer wishes to carry out development on the Land and has lodged the Development Application.
 - D. The Developer has lodged the Planning Proposal with Council requesting an instrument change by way of an amendment to the Parramatta Local Environmental Plan 2011.
 - E. The Developer agrees to make the Monetary Contribution.
 - F. The Developer agrees to provide the Easement in favour of the Council and carry out the Developer Works on the Easement Land.
 - G. The Developer and the Council agree to enter into this Deed.
-

The parties agree, in consideration of, among other things, the mutual promises contained in this Deed as follows:

1. Planning Agreement under the Act

1.1 Planning agreement

The parties agree that this Deed is a Planning Agreement governed by subdivision 2 of Division 6 of Part 4 of the Act.

2. Application of Section 94, 94A and 94EF of the Act to the Development

2.1 Application

- (a) This Deed does not exclude the application of Section 94 of the Act to the Development.
- (b) This Deed does not exclude the application of Section 94A of the Act to the Development.
- (c) This Deed does not exclude the application of Section 94EF of the Act to the Development.

3. Scope and application of this Deed

3.1 Scope

This Deed binds the parties and applies to the Land.

4. Operation of this Deed

4.1 Operation

- (a) This Deed takes effect on execution of this Deed.
- (b) Until this Deed operates, this Deed constitutes an offer by the Developer to enter into this Deed in connection with the Instrument Change.
- (c) This Deed only operates if each of the following has occurred:
 - (i) the Instrument Change has been made and has commenced; and
 - (ii) the Developer and the Council have signed this Deed.
- (d) This Deed will remain in force until:

- (i) it is terminated by operation of law; or
- (ii) all obligations are performed or satisfied.

5. Developer's warranties as to capacity

5.1 Developer's warranties

In addition to and despite all other warranties, express or implied, in this Deed, the Developer warrants and covenants that:

- (a) it is empowered to enter into this Deed and to do all things that will be required by this Deed;
- (b) all things have been done or will be done as may be necessary to render this Deed legally enforceable in accordance with its terms and fully valid and binding on it; and
- (c) all authorisations by any Governmental Agency (whether in Australia or not) that are required or will be required in connection with the execution and delivery of, the performance of obligations under or the validity or enforceability of, this Deed have been obtained or effected and are or will be fully operative.

6. Definitions and interpretation

6.1 Definitions

In this Deed, the following definitions apply:

Act	means the <i>Environmental Planning and Assessment Act 1979</i> (NSW) (as amended) and includes any regulations made under that Act.
Approval	means any certificate, licence, consent, permit, approval or other requirement of any Authority or any variation to them having jurisdiction in connection with the activities contemplated by this Deed.
Authority	means any government, semi-government statutory or administrative, fiscal or judicial body, department, commission, authority, tribunal, public or other person.
Completion	means the stage in the construction of the Developer Works when, in accordance with clause 8.8, in the reasonable discretion

of the Council's Representative the Developer Works are complete except for minor omissions and minor defects which are non-essential and:

- which do not prevent the Developer Works from being reasonably capable of being used for their intended purposes;
- which the Council determines the Developer has reasonable grounds for not promptly rectifying; and
- the rectification of which will not prejudice the convenient use of the Developer Works.

Council's Representative	means the person specified in Item 2 of Schedule 1 who is duly authorised to give approval under this Deed.
CPI	means the All Groups Consumer Price Index applicable to Sydney published by the Australian Bureau of Statistics.
Defect Liability Period	means a period of 12 months from completion of the Developer Works.
Developer	means the entity described in Item 1 of Schedule 1.
Development	means the development proposed by the Development Application.
Development Application	means DA/1066/2016 lodged with the Council.
Development Consent	has the same meaning as in the Act.
Developer Works	means the work described in Item 5 of Schedule 1.
Easement	means the easement for access 3 metres wide limited in stratum in favour of the public and the City of Parramatta Council created over the Easement Land as shown on the plan in Annexure A and the easement of support in favour of the City of Parramatta created over the Easement Land as shown on the plan in Annexure A and upon the terms provided in Annexure B.

Easement Land	means the area hatched shown on the plan in Annexure A.
Gateway determination	means the determination by Department of Planning and Environment on 17 June 2016.
Governmental Agency	means any government or semi government authority (whether federal, state or local) and any other person, authority, instrumentality or body having jurisdiction, rights, powers, duties or responsibilities over all or any part of any authorisations required for the execution and delivery of, the performance of obligations under or the validity or enforceability of, this Deed.
GST	has the same meaning as in the GST Law.
GST Law	has the meaning given to that term in <i>A New Tax System (Goods and Services Tax) Act 1999</i> (Cth) and any other Act or regulation relating to the imposition or administration of the GST.
Instrument Change	means an amendment to the Parramatta Local Environmental Plan 2011 substantially in accordance with the Planning Proposal which amends the planning controls applicable to the Land as set out in Item 4 of Schedule 1.
LPI	means Land and Property Information New South Wales.
Land	means the land identified in Item 3 of Schedule 1, comprising the land the subject of the Planning Proposal.
Law	means: <ul style="list-style-type: none"> (a) any law applicable including the common law and principles of equity, legislation, ordinances, regulations, by-laws and other subordinate legislation; and (b) any Approval, including any condition or requirement under it.
Loss	means any loss, claim, action, liability, damage, demands, cost, charge, which Council, its employees, officers, agents, contractors and workmen sustains, pays, suffers or incurs or is liable for arising from the performance by the Developer of any obligation under this Deed, including (but not limited to) reasonable legal and other expenses incurred in connection with

investigating or defending any claim or action, whether or not resulting in any liability, and all amounts reasonably paid in settlement of any claim or action.

Occupation Certificate means an interim or final occupation certificate and has the same meaning as in the Act.

Party means a party to this Deed, and includes their successors and assigns.

Planning Proposal means the planning proposal described in Item 4 of Schedule 1.

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

6.2 Interpretation

In the interpretation of this Deed, the following provisions apply unless the context otherwise requires:

- (a) Headings are inserted for convenience only and do not affect the interpretation of this Deed.
- (b) A reference in this Deed to a business day means a day other than a Saturday or Sunday on which banks are open for business generally in Sydney.
- (c) A reference in this Deed to dollars means Australian dollars and all amounts payable under this Deed are payable in Australian dollars.
- (d) A reference in this Deed to any law, legislation or legislative provision includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision.
- (e) A reference to a clause, part, schedule or attachment is a reference to a clause, part, schedule or attachment of or to this Deed.
- (f) A word which denotes the singular denotes the plural, a word which denotes the plural denotes the singular.
- (g) References to the word 'include' or 'including' are to be construed without limitation.
- (h) Reference to a party to this Deed includes a reference to the servants, agents and contractors of the party, and the party's successors and assigns.
- (i) Any schedules and attachments form part of this Deed.
- (j) A word defined in the Act has the same meaning in this Deed.

7. Contributions to be made under this Deed

7.1 Monetary Contribution

- (a) The Developer will pay to Council a monetary contribution of \$1,384,200 or an amount calculated in accordance with the following formula, whichever is the greater:

\$1,384,200	x	The CPI at the time of payment
		The CPI at the date of this Deed

- (b) The monetary contribution must be paid to Council prior to the issue of the first Construction Certificate associated for the Development on the Land which is made permissible by the Instrument Change.
- (c) The Monetary Contribution must be paid by way of bank cheque in favour of Council or by deposit by means of electronic funds transfer into an account specified by Council.
- (d) The Monetary Contribution will be taken to have been made when the Council notifies the Developer in writing that the bank cheque has been received and cleared funds or electronic funds have been deposited in the Council's bank account.
- (e) The parties agree and acknowledge that the Monetary Contribution will be used by the Council for community infrastructure within the Parramatta CBD.
- (f) Despite clause 7.1(e), the Council may apply the monetary contribution made under this Deed towards another public purpose if the Council reasonably considers that it would be in the public interest to do so.

7.2 Creation of Easement

- (a) The Developer must at no cost to Council, do all things required to grant and register the Easement over the Easement Land in accordance with the plan attached in Annexure A and upon the terms set out in Annexure B prior to the issue of an Occupation Certificate for the Development.
- (b) The Developer's Contribution comprising the grant of the Easement to Council will be made when an instrument in registrable form under the Real Property Act 1900 is registered at the LPI thereby creating the Easement.

8. Developer Works

8.1 The Developer shall carry out the Developer Works described in Item 5 of Schedule 1 prior to the issue of an Occupation Certificate for the Development.

8.2 Definition of Scope of Works

- (a) The parties agree that the works described in Item 5 of Schedule 1 comprise the Developer Works for the purposes of this Agreement.
- (b) The parties acknowledge and agree that further design detail and refinement are necessary, taking into account any approvals or development consent granted in respect of the Developer Works and the provision for agreement of the scope of the Developer Works.
- (c) The Developer shall prepare and submit to the Council a detailed description including plans of the Developer Works for approval prior to commencement of construction of the Development.
- (d) The Council will promptly (and in any event within 40 days of submission) give the Developer notice whether or not the design drawings and description of the Developer Works referred to under clause 8.2(c) is satisfactory. If the design or description is not satisfactory, then the Council will identify the further information, or modifications, (as the case may be) which are required. The Developer must promptly amend the proposed design to take into account the comments made by the Council under this clause.

8.3 Preparation of the Plans and Specifications

The Developer must complete construction drawings in accordance with the design developed and approved by Council in accordance with clause 8.2.

8.4 Plans

The Developer shall carry out the Developer Works by itself or by a contractor in accordance with the plans and detailed designs prepared in accordance with this clause 8.

8.5 Approvals and consents

- (a) The Developer must (at its cost) obtain all relevant approvals and consents for the Developer Works whether from the Council or any other relevant government agency, including any necessary road opening permit.
- (b) Before commencing the Developer Works, the Developer must give to the Council copies of all approvals and consents for the Developer Works.

8.6 Insurance

The Developer must:

- (a) maintain public liability insurance, with an insurer approved by the Council, with the Council identified as an interested party, for an amount not less than \$20million covering all aspects of the Developer Works and submit a copy of the certificate of insurance to the Council before the commencement of the construction of the Developer's Work.

8.7 Construction Work

The Developer must (at its cost):

- (a) carry out and complete the Developer Works in accordance with all approvals and consents relating to the Developer Works (including the approval by Council of plans and any other information submitted under this Agreement) within the timeframe set out in Clause 8.1; and
- (b) ensure that all Developer Works are constructed in a good and workmanlike manner, in accordance with the plans approved under this Agreement so that they are structurally sound, fit for purpose, and suitable for their intended use.

8.8 Completion of Developer Works

When, in the opinion of the Developer, the Developer Works have reached Completion, the Developer must notify the Council's Representatives in writing and must include in that notice:

- (a) a statement that the Developer Works have reached completion;
- (b) copies of any certificates, warranties, guarantees, maintenance information or other material reasonably required for the ongoing repair, maintenance, or servicing (as the case may be) of any part of the Developer Works; and
- (c) at least three sets of the as built drawings of the Developer Works including one set in electronic format.

8.9 Defects in the Developer Works

If the Council notifies the Developer of a defect in the Developer Works within the Defects Liability Period, then the Developer must at the Developer's expense, remedy that defect to the reasonable satisfaction of the Council's Representative, within a reasonable period (having regard to the nature of the defect).

9. Registration of this Deed

9.1 Registration of Deed

The Developer must promptly:

- (a) obtain any necessary consents to the registration of this Deed on the title to the Land;
- (b) lodge the Deed for registration with the LPI;
- (c) promptly comply with any requisitions that may be raised with regard to registration of the Deed from the LPI;
- (d) produce to the Council within 35 business days of execution of this Deed, details of lodgement of this Deed with the LPI; and
- (e) following registration of this Deed, notify the Council of registration, enclosing a title search of the Land confirming the registration.

9.2 Removal of Deed

Provided the Council is satisfied the Developer has duly fulfilled its obligations under this Deed and is not otherwise in default of any of the obligations under this Deed the Council will promptly execute any form and supply such other information and do anything as reasonably required by the Developer to enable the removal of this Deed from the title of the common property comprised within any Strata Plan registered over the Land.

10. Dispute Resolution

10.1 Reference to dispute

If a dispute arises between the parties in relation to this Deed, then either party may seek to resolve in accordance with this clause 10 provided that nothing in this clause prevents either party from seeking urgent interlocutory relief in relation to a breach of this Deed.

10.2 Notice of dispute

The party wishing to commence dispute resolution processes must notify the other of:

- (a) the nature, or subject matter, of the dispute, including a summary of any efforts made to resolve latter than by way of this clause 10;
- (b) the intent to involve this clause 10; and
- (c) (if practicable) the outcomes which the notifying party wishes to achieve.

The contents of a notice issued under this clause 10.2 are deemed to be confidential. The party issuing the notice may (but is not obliged) to assert legal professional privilege in respect of the contents.

10.3 Principals of parties to meet

The principals of the parties (and in the case of the Council, the principal may include the person acting in the role of General Manager as defined in the Local Government Act, or such person as is nominated by that officer in writing) must promptly (and in any event within 10 business days of written notice) meet in good faith to attempt to resolve the notified dispute. The parties may, without limitation:

- (a) resolve the dispute during the course of that meeting;
- (b) agree that further material, expert opinion, or consideration is needed to effectively resolve the dispute (in which event the parties will in good faith agree to a timetable for resolution); and
- (c) agree that the parties are unlikely to resolve the dispute and in good faith agree to a form of alternative dispute resolution (including expert determination, arbitration, or mediation) which is appropriate for the resolution of the relevant dispute.

10.4 Neither party may constrain

If:

- (a) at least one meeting has been held in accordance with clause 10.3;
- (b) the parties have been unable to reach an outcome identified in clause 10.2(a) to 10.2(c); and
- (c) either of the parties (acting in good faith) forms the view that the dispute is reasonably unlikely to be resolved in accordance with a process agreed under clause 10.3,

then that party may, by 14 days' notice to the other, terminate the dispute resolution process in respect of that dispute. The termination of the process set out in this clause 10 does not of itself amount to a breach of the Deed.

11. Notices

11.1 Service of Notice

Any notice, consent, information, application or request that must or may be given or made to a Party under this Deed is only given or made if it is in writing and sent in one of the following ways:

- (a) delivered or posted to that Party at its address set out in Item 6 of Schedule 1;
or
- (b) faxed to that Party at its fax number set out in Item 6 of Schedule 1.

11.2 Change of address

If a Party gives the other Party 10 business days' notice of a change of its address or fax number, any notice, consent, information, application or request is only given or made by that other Party if it is delivered, posted or faxed to the latest address or fax number.

11.3 Time of service of Notice

Any notice, consent, information, application or request is to be treated as given or made at the following time:

- (a) if it is delivered, when it is left at the relevant address;
- (b) if it is sent by post, two business days after it is posted; and
- (c) if it is sent by fax, as soon as the sender receives from the sender's fax machine a report of an error free transmission to the correct fax number.

11.4 Service after hours, on weekends and holidays

If any notice, consent, information, application or request is delivered, or an error free transmission report in relation to it is received, on a day that is not a business day, or if on a business day, after 5.00 pm on that day in the place of the Party to whom it is sent, it is to be treated as having been given or made at the beginning of the next business day.

12. Approvals and consent

12.1 Approval and consent

Except as otherwise set out in this Deed, and subject to any statutory obligations, a party may give or withhold an Approval or consent to be given under this Deed in that Party's absolute discretion and subject to any conditions determined by the Party. A

Party is not obliged to give its reasons for giving consent or for giving consent subject to conditions.

13. Variation of Deed

13.1 Variation

The parties may agree to vary the terms of this Deed. Any such variation shall be evidenced by a written variation executed by the Parties and must comply with the provisions of Section 93G of the Act.

14. Costs

14.1 Legal and administrative costs

- (a) The Developer must pay the Council's legal and administration costs with respect to the negotiation, preparation and execution of this Deed.
- (b) The Developer must pay on demand all legal costs (assessed on an indemnity basis) and out of pocket disbursements incurred by the Council of and incidental to:
 - (i) the giving effect to this Deed; and
 - (ii) any enforcement of the rights under this Deed.

14.2 Stamp duty

The Developer is liable for and must pay all stamp duty (including any fine or penalty except where it arises from default by any other party) on or relating to this Deed, any document executed under it or any dutiable transaction evidenced or effected by it.

15. Entire Deed

15.1 Entire Deed

This Deed contains everything to which the Parties have agreed in relation to the matters it deals with. No Party can rely on an earlier document, or anything said or done by another Party, or by a director, officer, agent or employee of that Party, before this Deed was executed, except as permitted by law.

16. Further acts

16.1 Further acts

Each Party must promptly execute all documents and do all things that another Party from time to time reasonably requests to affect, perfect or complete this Deed and all transactions incidental to it.

17. Governing law and jurisdiction

17.1 Governing law

This Deed is governed by the law of New South Wales. The Parties submit to the jurisdiction of the courts of that state.

18. Joint and several liability

18.1 Joint and several

Any Deed, covenant, representation or warranty under this Deed by two or more persons binds them jointly and each of them individually.

19. No fetter

19.1 No fetter

Nothing in this Deed will be construed as limiting or fettering in any way the exercise by Council of any statutory discretion or duty.

20. Representations and warranties

20.1 Representations

The Parties represent and warrant that they have power to enter into this Deed and that entry into this Deed will not result in the breach of any law.

21. Severability

21.1 Severability

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

22. Modification

22.1 Modification

Subject to clause 13 of this Deed no modification of this Deed will be of any force or effect unless it is in writing and signed by the parties to this Deed.

23. Waiver

23.1 Waiver

A waiver by either Party is only effective if it is given in writing, and that waiver will only relate to the particular obligation or breach (as the case may be) identified in that communication.

24. GST

24.1 GST

- (a) In this clause terms used have the meaning given to them by the GST Law as defined in Section 195-1 of the *A New Tax System (Goods and Services Tax) Act 1999* (the 'GST Act').
- (b) If a party to this Deed (the 'Supplier') makes a supply under or in connection with this Deed and is liable by law to pay GST on that supply, then the consideration otherwise payable by the recipient of the supply will be increased by an amount equal to the GST paid or payable by the Supplier.
- (c) If this Deed requires a party to pay for, or reimburse any expense, loss or outgoing (reimbursable expense) suffered or incurred by another party, the amount required to be paid, or reimbursed by the first party is the amount of the reimbursable expense net of any input tax credit or reduced input tax credit to which the other party is entitled in respect of the reimbursable expense.

- (d) If a party to this Deed has the benefit of an indemnity for a cost, expense, loss or outgoing (indemnified cost) under this Deed, the indemnity is for the indemnified cost net of any input tax credit or reduced input tax credit to which that party is entitled in respect of the indemnified cost.
- (e) Each Party agrees to do all things, including providing tax invoices and other documentation that may be necessary or desirable to enable or assist the other party to claim any input tax credit, set-off, rebate or refund in relation to any amount of GST paid or payable in respect of any supply under this Deed.
- (f) Subject to the operation of this clause, and unless otherwise expressly stated amounts in this Deed are GST exclusive.

25. Counterparts

25.1 Counterparts

- (a) This Deed may be executed in any number of counterparts.
- (b) All counterparts taken together will be taken to constitute one Deed.

26. Assignment and Transfer

26.1 Assignment constraint

Unless the matters specified in clause 26.2 are satisfied, the Developer must not do any of the following:

- (a) transfer or assign the Land to any person, or
- (b) assign, transfer dispose or novate to any person the Developer's rights or obligations under this Deed.

26.2 Matters to be satisfied

The matters required to be satisfied for the purposes of clause 26.1 are as follows:

- (a) the Developer has, at no cost to the Council, first procured the execution by the person to whom the Developer's rights or obligations under this Deed are to be assigned or novated, of an Deed in favour of the Council on terms satisfactory to the Council acting reasonable;
- (b) the Council, by notice in writing to the Developer, has stated that evidence satisfactory to the Council has been produced to show that the assignee or novatee, is reasonably capable of performing its obligations under the Deed;
- (c) the Developer is not in breach of this Deed; and

- (d) the Council otherwise consents to the transfer, assignment or novation in writing.

26.3 No effect

Any purported dealing in breach of this clause 26.2 is of no effect.

	<p>Developer</p> <p>Developer Name: 8 Phillip Street Pty Limited</p> <p>Address: Level 2, 66 Wentworth Avenue, Surry Hills, NSW 2010</p> <p>Attention: Development Manager</p> <p>Telephone: (02) 8316 9100</p> <p>Facsimile:</p> <p>Email:</p>
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Signing page

Executed as an Deed

Executed for and on behalf of **City of Parramatta Council** by its representative in the presence of:



Signature of witness



Signature of representative

Mari Gordon

Full name of witness (print)

SUSAN LOUISE COLEMAN

Full name of representative (print)

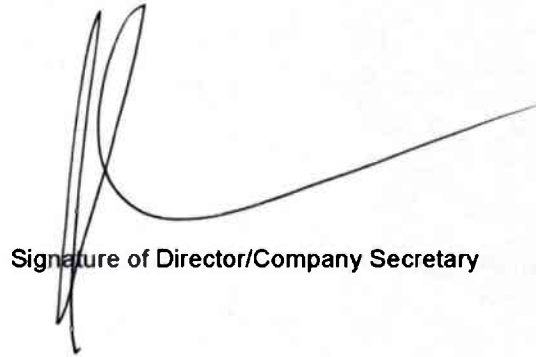
126 Church Street Parramatta

Address of witness (print)

Executed by 8 Phillip Street Pty Limited in accordance with section 127(1) of the Corporations Act 2001 (Cth) by:



Signature of Director



Signature of Director/Company Secretary

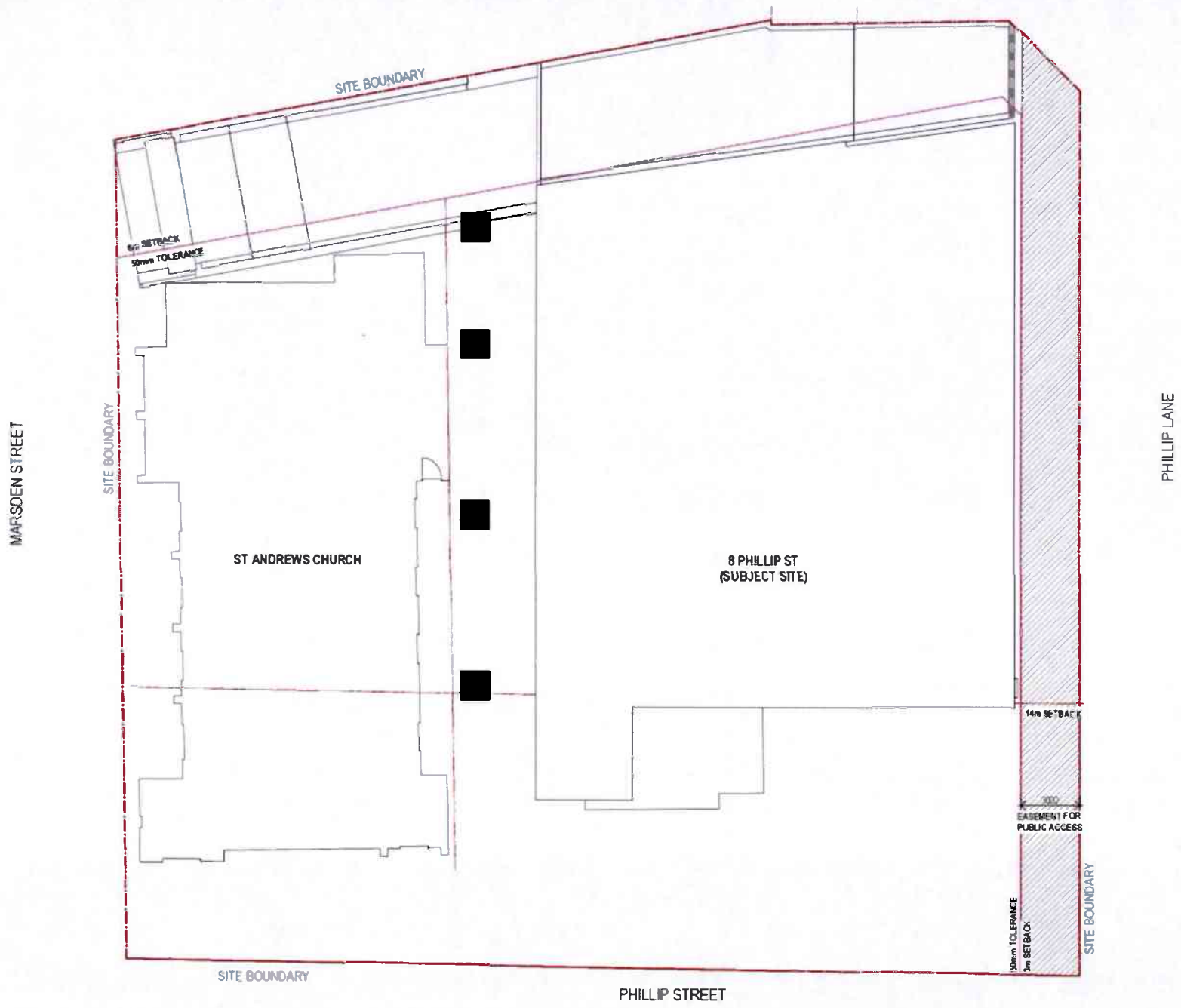
Full name (print)

GEORGE SAHYOUN

Full name (print)

JOSEPH NAHAS

Annexure A Plan of Easement



<p>Project name: 8 PHILLIP STREET</p> <p>Client: CORONATION</p> <p>Date: 12/01/2024</p>	<p>Project location: 8 PHILLIP STREET, PHILLIP STREET, PHILLIP STREET</p> <p>Project description: 8 PHILLIP STREET, PHILLIP STREET, PHILLIP STREET</p>
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<p>Project: 8 PHILLIP STREET</p> <p>Client: CORONATION</p>	<p>Scale: 1:200</p> <p>Project number: 120026</p> <p>Checked: [initials]</p> <p>Approved: [initials]</p>	<p>Drawn by: [initials]</p> <p>Site number: DA 1107</p> <p>Revision: A</p> <p>Date: 12/01/2024</p> <p>Project: DEVELOPMENT APPLICATION</p>
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Annexure B Terms of Easement

Definitions

For the purposes of this Instrument, the following words have the following meanings:

Easement means the Easement created by this Instrument.

Owner of the Lot Burdened means the registered proprietor of the Lot Burdened from time to time.

Council means the City of Parramatta Council and its successors.

Lot Burdened means that part of the land having the burden of the Easement which the Plan indicates is the site of the Easement having a width of 3 metres over 10 Phillip Street Parramatta NSW 2150).

Plan means the plan to which this Instrument relates.

1. *Easement for Access 3 wide limited in Stratum (A)*

Terms of Easement

- 1.1 Full right for the public at all times to enter, pass and repass over the Lot Burdened but only within the site of the Easement.
- 1.2 Full right for the Council and the servants, agents and contractors of the Council at all times to enter, pass and repass over the Lot Burdened (in common with the public) but only in the site of the easement with or without vehicles, plant and equipment and to remain on but only in the site of the easement for so long as may be necessary for the purpose of performing the Council's rights under clause 1.4 and the Council's obligations under clause 1.5.
- 1.3 The Owner of the Lot Burdened must at all times at its expense, keep:
 - (a) the Lot Burdened (including any services in, on or under the Lot Burdened) in good repair and condition;
 - (b) the Lot Burdened clean and free from rubbish;
 - (c) the Lot Burdened free from any structures; and
 - (d) the Lot Burdened free from any chairs and tables unless the consent of Council is first obtained, such consent is at the absolute discretion of the Council.
- 1.4 If the Owner of the Lot Burdened does not perform any obligation under clause 1.3, the Council may undertake the required work and recover the costs of all such work from the Owner of the Lot Burdened as a liquidated debt.
- 1.5 The Council 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 Lot Burdened arising from any exercise of the rights under clauses 1.1, 1.2 and 1.4 and/or performance of any of the obligations under clause 1.5.
- 1.6 If the Council does not rectify any damage under clause 1.5, then the Owner of the Lot Burdened may undertake the required work and recover the costs of all such work from the Council as a liquidated debt.

- 1.7 (The Council must at its expense, effect and maintain in force at all times, a public liability or broadform liability policy of insurance for \$20,000,000 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 Lot Burdened arising from any exercise of the rights under clauses 1.1, 1.2 and 1.4 and/or performance of any of the obligations under clause 1.5.
- 1.8 The Council is solely empowered to release the Easement.
- 1.9 The Easement may only be varied by written agreement between the Council and the Owner of the Lot Burdened.

2. Easement for Support, limited in stratum

2.1 Definitions

For the purpose of clause 2 of this Instrument, the following words have the following meanings:

Accessway means the part of the Lot Benefitted 3 wide limited in stratum which is used as public accessway.

Council means the City of Parramatta Council and its successors.

Easement means the Easement created in accordance with clause 2 of this Instrument.

Lot Benefitted means the part of the land having the benefit of the Easement which the Plan includes is the site of the Easement.

Lot Burdened means that part of the land having the burden of the Easement which the Plan indicates is the site of the Easement.

Owner of the Lot Burdened means the registered proprietor of the Lot Burdened from time to time.

Plan means the plan to which this Instrument relates.

2.2 Terms of Easement

Full right for Council to require the Accessway to be fully supported by the Lot Burdened at all times.

- 2.3 (a) The Owner of the Lot Burdened must at all times at its expense:
- (1) provide and maintain support of the Accessway;
 - (2) promptly comply with all reasonable directions by the Council in relation to providing and maintaining support of the Accessway; and
 - (3) maintain appropriate insurance in the name of the Owner of the Lot Burdened and noting the Council's interest against damage and destruction of any structure which forms part of the Accessway for the full replacement value.

- 2.4 If the Owner of the Lot Burdened does not perform any obligation under clause 2.3(a), the Council may undertake the required work and recover the costs of all such work from the Owner of the Lot Burdened as a liquidated debt.
- 2.5 The Council 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 Lot Burdened arising from any exercise of the Council's rights under clause 2.4.
- 2.6 If the Council does not rectify any damage under clause 2.5, then the Owner of the Lot Burdened may undertake the required work and recover the costs of such work from the Council as a liquidated debt.
- 2.7 **Release and Variation of Easement**
- (a) The Council is solely empowered to release the Easement.
- (b) The Easement may only be varied by written agreement between the Council and the Owner of the Lot Burdened.

Our Ref: JEH:672271

22 May 2018

Chief Executive Officer
City of Parramatta Council
PO Box 32
PARRAMATTA NSW 2124

Attention: Paul Kennedy - Legal Services Team

Attachment

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Email: PKennedy@cityofparramatta.nsw.gov.au

This document, including any attachments, may contain privileged and confidential information intended only for the addressee named above. If you are not the intended recipient please notify us. Any unauthorised use, distribution or reproduction of the content of this document is expressly forbidden.

Dear Paul

Planning Agreement: 2-10 Philip Street, Parramatta (The Land)

We refer to your email of 15 May 2018.

We confirm that the attached Planning Agreement has been drafted in accordance with Council's instructions provided to us in this matter and that the Agreement addresses all potential risk for Council.

The Planning Agreement relates to DA 1066/2016 and a planning proposal to alter the height and FSR that relates to The Land.

The Planning Agreement provides for the Developer to:

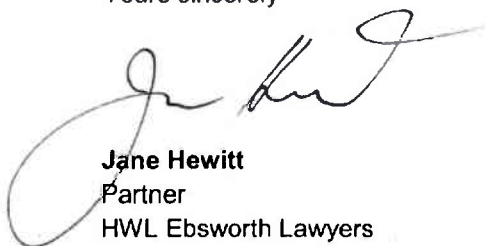
- carry out Developers Works being the construction of a footpath on the easement land designed to integrate with Philip Lane; and
- pay a monetary contribution of \$1,384,200 (subject to indexation) to Council.
- grant to Council an easement for public access having a width of 3 metres over 10 Phillip Street Parramatta, limited in stratum.

We certify that the attached Agreement is appropriate for execution on behalf of Council.

Adelaide
Brisbane
Canberra
Darwin
Hobart
Melbourne
Norwest
Perth
Sydney

Please do not hesitate to contact us if you have any query regarding the attached Agreement.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Jane Hewitt', written in a cursive style.

Jane Hewitt
Partner
HWL Ebsworth Lawyers

+61 2 9334 8639
jhewitt@hwle.com.au