

Draft Deed of Novation for 61-79 Henry Street Voluntary Planning Agreement

Penrith City Council

The Australian Foundation for Disability

Harrington Penrith Pty Ltd

Explanatory Note

Clause 205 of the *Environmental Planning and Assessment Regulation 2021*

1 Summary

This Explanatory Note aims to provide a plain English summary to support the notification of a draft Deed of Novation for an existing Voluntary Planning Agreement (**VPA**) and why it is acceptable and in the public interest under s7.4 of the *Environmental Planning and Assessment Act 1979*.

This Explanatory Note is not to be used to assist in construing the Deed of Novation.

This Explanatory Note supports the public notification and exhibition of the Draft Deed of Novation as required by section 7.5(2) of the *Environmental Planning and Assessment Act 1979* (NSW) (**Act**) and section 204(1) of the *Environmental Planning and Assessment Regulation 2021* (NSW) (**Regulation**).

This Explanatory Note has been prepared jointly between the parties as section 205 of the Regulation requires.

2 Parties

The parties to the Deed of Novation are:

Council	Penrith City Council ABN 43 794 422 563 of 601 High Street, Penrith, NSW 2750
Landowner	The Australian Foundation for Disability ABN 99 000 112 749 of 3-7 Marianne Place, Minchinbury, NSW 2770
Purchaser	Harrington Penrith Pty Ltd as trustee for the Penrith Unit Trust ACN 673 442 558 of 3A Macquarie Street, Sydney, NSW 2000

3 Description of the Land to which the Draft Deed of Novation applies

The Draft Deed of Novation applies to the land comprising Lot 1 DP 771927, known as 61-79 Henry Street, Penrith NSW 2750 (the **Land**).

4 Introduction and Background

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- (1) On 23 October 2023 Council entered into a VPA with AFFORD in respect of the Land at 61-79 Henry Street, Penrith known as Lot 1 DP 771927.
- (2) The VPA was in support of a Planning Proposal relating to the Land.
- (3) The VPA sets out mechanisms for the timing and delivery of certain infrastructure attributable to the Planning Proposal, including affordable and diverse housing, public open space and traffic infrastructure works. The infrastructure items within the VPA include Road and Infrastructure upgrades, dedication of land, public open space and affordable and diverse Housing. The total value of the items within the VPA equates to approximately \$10,000,000.

5 Summary of the Deed of Novation

- (1) The Deed of Novation is a legal mechanism to transfer the rights and obligations within the VPA from the current landowner (AFFORD) to the proposed purchaser (Harrington Penrith Pty Ltd).
- (2) AFFORD and Harrington Penrith Pty Ltd have exchanged contracts for the sale of the Land. AFFORD wishes to transfer its rights and obligations under the VPA to Harrington Penrith Pty Ltd.
- (3) Once the Deed of Novation is in effect, AFFORD is released and discharged from all obligations and liabilities, and from all claims (whether for costs, damages, fees, expenses or otherwise), arising under the VPA. Accordingly, Harrington Penrith Pty Ltd will be bound by the VPA and assume all of AFFORD's rights and obligations under the VPA.

6 Assessment of the Merits of the Planning Agreement and Impact on the Public

The Deed of Novation to the existing VPA will provide material public benefit by securing social infrastructure and transport infrastructure which are necessary to support future development on the Land.