

**Our Ref:** JRT:AR1:439610  
**Contact:** Justin Thornton  
**Contact Tel:** 4640 3633  
**Contact Email:** jthornton@marsdens.net.au

Randwick City Council

20 OCT 2022

Records Received

**Attention:** Frank Ko

BY EXPRESS POST

The General Manager  
Randwick City Council  
30 Frances Street  
RANDWICK NSW 2031

19 October 2022

Dear Frank

**Re: Advice on proposed Planning Agreement - Cedar Pacific - 177-197 Anzac Parade, Kensington**

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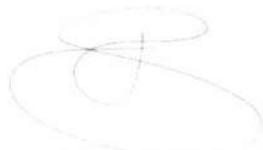
I refer to the above and all previous correspondence with you.

Please find **enclosed** the following documents for your records and safekeeping:

- (1) Original signed Form 11R.
- (2) Copy of registered Form 11R.

Should you have any questions, please do not hesitate to contact us.

Yours faithfully  
**MARSDENS LAW GROUP**



**J.R. THORNTON**  
**Partner**  
**Accredited Specialist Business Law**

Encl.

ABN 59 874 202 316

All correspondence to PO Box 291 Campbelltown NSW 2560

[www.marsdens.net.au](http://www.marsdens.net.au) | [email@marsdens.net.au](mailto:email@marsdens.net.au)

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# REQUEST

New South Wales  
Real Property Act 1900

Leave this space clear. Affix additional  
pages to the top left-hand corner.

**PRIVACY NOTE:** Section 31B of the Real Property Act 1900 (RP Act) authorises the Registrar General to collect the information required by this form for the establishment and maintenance of the Real Property Act Register. Section 96B RP Act requires that the Register is made available to any person for search upon payment of a fee, if any.

All Statutory Declarations and evidence that are lodged in support of land dealings will be treated as publicly accessible and will be disclosed to persons upon request.

**STAMP DUTY**

Insert Duties Assessment No. as issued by Revenue NSW Office.

Duties Assessment No.

**(B) TORRENS TITLE**

SP19239, B/410791, A/410791, 11/7/4761, 10/7/4761, SP15366

**(C) REGISTERED DEALING**

Number Torrens Title

**(D) LODGED BY**

Document Collection Box	Name, Address or DX, Telephone, and Customer Account Number if any Acc. No. 123418Y MARSDENS LAW GROUP DX 5107 Campbelltown Tel: (02) 4626 5077  570E	CODE
	Email:	
	Reference: JRT:RJM:439610	R

**(E) APPLICANT**

Randwick City Council (ABN 77 362 844 121)

**(F) NATURE OF REQUEST**

Registration of Planning Agreement pursuant to s 7.6 of the Environmental Planning and Assessment Act 1979

**(G) TEXT OF REQUEST**

THE APPLICANT HAS ENTERED INTO A PLANNING AGREEMENT PURSUANT TO SECTION 7.6 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 (NSW) WITH THE REGISTERED PROPRIETOR OF THE LAND COMPRISED IN MARGINAL NOTE (B) OF THIS REQUEST.

THE APPLICANT REQUESTS THAT THE PLANNING AGREEMENT ANNEXED TO THIS REQUEST AS ANNEXURE B AND COMPRISING OF FORTY (40) PAGES, BE REGISTERED OVER THE LAND COMPRISED IN MARGINAL NOTE (B) IN ACCORDANCE WITH THE PROVISIONS OF THE PLANNING AGREEMENT.

DATE

13 July 2022

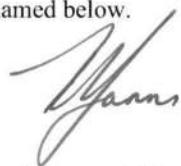
**(H)** I certify that I am an eligible witness and that an authorised officer of the applicant signed this dealing in my presence. [See note\* below].

Signature of witness:



Certified correct for the purposes of the Real Property Act 1900 by the authorised officer named below.

Signature of authorised officer:



Authorised officer's name: See Annexure A for execution  
Authority of officer:  
Signing on behalf of:

Name of witness: See Annexure A for execution  
Address of witness:

30 Frances St  
Randwick

**(I)** This section is to be completed where a notice of sale is required and the relevant data has been forwarded through eNOS.

The applicant certifies that the eNOS data relevant to this dealing has been submitted and stored under  
eNOS ID No. N/A Full name: N/A Signature:

\* s117 RP Act requires that you must have known the signatory for more than 12 months or have sighted identifying documentation.  
ALL HANDWRITING MUST BE IN BLOCK CAPITALS

**Annexure A to Request:** Execution page  
**Parties:** Randwick City Council and Cedar Pacific 1 Pty Ltd in its capacity as trustee of the Cedar Pacific Kensington Trust  
**Date:** 13 July 2022

**Execution by Applicant Planning Authority**

I certify that I am an eligible witness and that an authorised officer of the applicant signed this dealing in my presence [See note\* below].



Signature of witness

Kerry Kyriacos

Name of witness

30 Frances St Randwick

Address of witness

Certified correct for the purposes of the Real Property Act 1900 by the authorised officer named below.



Signature of authorised officer

Therese Manns

Authorised officer's name

GENERAL MANAGER (position) in

accordance with the authority under section 377 Local Government Act 1993

Authority of officer

Randwick City Council (ABN 77 362 844 121)

**Signing on behalf of**

\* s117 RP Act requires that you must have known the signatory for more than 12 months or have sighted identifying documentation

**Execution by Registered Proprietor**

Certified correct for the purposes of the Real Property Act 1900 and executed on behalf of the company named below by the authorised person(s) whose signature(s) appear(s) below pursuant to the authority specified.

Cedar Pacific 1 Pty Ltd (ACN 631 194 217) in its capacity as trustee for the Cedar Pacific Kensington Trust (ABN 64 282 818 206)

Company

Section 127 Corporations Act 2001

Authority



Signature of authorised person



Signature of authorised person

Bernard Anstis

Name of authorised person

Paul Fell

Name of authorised person

Director

Director

Office held

Office held

## **Planning Agreement**

### **177-197 Anzac Parade, Kensington**

---

Randwick City Council (ABN 77 362 844 121) (**Council**)

Cedar Pacific 1 Pty Ltd (ACN 631 194 217) in its capacity as trustee for the Cedar Pacific Kensington Trust (ABN 64 282 818 206) (**Developer**)

Prepared by:

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 **marsdens**  
LAW GROUP

13533268\_2

*Powell*

*Reeves*

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# Planning Agreement

## 177-197 Anzac Parade, Kensington

### Parties

<b>Council</b>	<b>Name</b>	Randwick City Council
	<b>Address</b>	30 Frances Street Randwick NSW 2031
	<b>ABN</b>	77 362 844 121
<b>Developer</b>	<b>Name</b>	Cedar Pacific 1 Pty Ltd (ACN 631 194 217) in its capacity as trustee for the Cedar Pacific Kensington Trust
	<b>Address</b>	PO Box 15145, City East 4002
	<b>ABN</b>	64 282 818 206

### Background

- A** The Developer owns the Land.
- B** The Developer wishes to carry out the Development.
- C** The Developer has obtained the Development Consent.
- D** The Developer has agreed to make the Contributions on and subject to the terms of this document.

### Operative Provisions

#### 1 Agreement

The agreement of the parties is set out in the Operative Provisions of this document, in consideration of, among other things, the mutual promises contained in this document.

#### 2 Definitions and interpretation

##### 2.1 Defined Terms

In this document, words beginning with a capital letter that are defined in Part 1 of **Schedule 2** have the meaning ascribed to them in that schedule.

##### 2.2 Interpretation

The interpretational rules contained in Part 2 of **Schedule 2** apply in the interpretation of this document.

### **3 Application and operation of document**

---

#### **3.1 Planning Agreement**

Subject to clause 3.3, this document is a planning agreement:

- (1) within the meaning set out in s7.4 of the Act; and
- (2) governed by Subdivision 2 of Part 7 of the Act.

#### **3.2 Application**

This document is made in respect of the Development and applies to both the Land and the Development.

#### **3.3 Operation**

This document operates:

- (1) as a deed from the date that it is executed by both parties; and
- (2) as a planning agreement for the purpose of the Act from the date that the Development Consent becomes operative.

### **4 Application of s7.11 and s7.12**

---

#### **4.1 Application**

This document does not exclude the application of section 7.11 or section 7.12 of the Act to the Development.

#### **4.2 Section 7.24**

This document does not exclude the application of s7.24 of the Act to the Development.

### **5 Provision of Contributions**

---

#### **5.1 Affordable Housing Levy Contribution**

- (1) The Developer must pay the Affordable Housing Levy Contribution to Council in accordance with **Schedule 3**.
- (2) The Affordable Housing Levy Contribution is made for the purposes of this document when Council receives the full amount of the Affordable Housing Levy Contribution payable under this document:
  - (a) in cash;
  - (b) by unendorsed bank cheque; or
  - (c) by the deposit by means of electronic funds transfer of cleared funds into a bank account nominated by Council.

#### **5.2 CIC Monetary Contribution**

- (1) The Developer must pay the CIC Monetary Contribution in accordance with **Schedule 3**.

(2) The CIC Monetary Contribution is made for the purposes of this document when Council receives the full amount of the CIC Monetary Contribution payable under this document:

- (a) in cash;
- (b) by unendorsed bank cheque; or
- (c) by the deposit by means of electronic funds transfer of cleared funds into a bank account nominated by Council.

### 5.3 CIC Works

- (1) The Developer must Complete the CIC Works in accordance with this document and in particular **Schedule 4**.
- (2) The Developer acknowledges and agrees that:
  - (a) Council, at any time prior to the approval of the detailed design of the CIC Works under clause 5.7 and for any reason, may provide written notice to the Developer that it no longer agrees with the CIC Works being carried out; or
  - (b) if the parties are not able to agree on the detailed design of the CIC Works in accordance with clause 5.7, then the Developer may serve written notice on Council advising that it will no longer undertake the CIC Works.
- (3) Upon either event referred to in paragraph (2) occurring, the provisions of paragraphs (4) and (5) below have no effect and the Developer is required to pay the Contribution Value for the CIC Works as a Monetary Contribution under this document in lieu of carrying out the CIC Works (and for the purpose of clarity the CIC Works are no longer required to be provided as a work).
- (4) Prior to Completion of the CIC Works the Developer must (at its own cost) submit to Council a report from a Quantity Surveyor confirming the value of the CIC Works (**CIC Works Value**).
- (5) The parties agree that the report provided by the Quantity Surveyor under paragraph 5.3 is final and binding on the parties, subject to any manifest error.
- (6) Upon Completion of the CIC Works, if the CIC Works Value is less than the Contribution Value for the CIC Works, the Developer must pay the difference between the CIC Works Value and the Contribution Value for the CIC Works to Council as a Monetary Contribution.
- (7) For the purpose of paragraphs (3) and (6), the relevant Monetary Contribution must be paid by the time by which the CIC Works were required to be Completed.

### 5.4 Section 7.12 Off-Set Works

- (1) The Developer must Complete the Section 7.12 Off-Set Works In accordance with this document and in particular **Schedule 4**.
- (2) Prior to Completion of the Section 7.12 Off-Set Works, the Developer must (at its own cost), submit to Council a report from a Quantity Surveyor confirming the GST exclusive cost of the Completed Section 7.12 Off-Set Works (**Off-Set Value**).
- (3) The parties agree that the report provided by the Quantity Surveyor under paragraph (1) is final and binding on the parties, subject to any manifest error.

(4) Upon Completion of the Section 7.12 Off-Set Works, Council will off-set the Off-Set Value against the monetary contributions required to be paid by the Developer under condition 15 of the Development Consent, up to a maximum amount of \$340,000.

#### **5.5 Indexation of Amounts payable by Developer**

Each Contribution Value other than the CIC Monetary Contribution will be increased (with the calculation to be made as from the date the relevant Contribution is required to be provided to Council under this document) in accordance with the following formula:

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

where:

**A** = the indexed amount;

**B** = the relevant amount as set out in this document;

**C** = the Index most recently published before the date that the relevant payment or the calculation with respect to the relevant amount is to be made; and

**D** = the Index most recently published before the commencement date of this document.

If **A** is less than **B**, then the relevant Contribution Value will not change.

#### **5.6 Works**

The Developer, at its cost, must:

- (1) obtain development consent, and any other form of consent required by a relevant Authority, for the construction and use of the Works;
- (2) carry out and complete the Works to the satisfaction of the Council by the time specified in **Schedule 4**; and
- (3) carry out and complete the Works:
  - (a) in accordance with the specifications (if any) referred to in **Schedule 4** for the relevant item of Work or the design and specifications agreed or determined to apply to an item of Work under clause 5.7;
  - (b) in accordance with any relevant development consent;
  - (c) in accordance with the requirements of, or consents issued by, any Authority;
  - (d) ensuring that:
    - (i) all necessary measures are taken to protect people, property, and the environment;
    - (ii) unnecessary interference with the passage of people and vehicles is avoided;
    - (iii) nuisances and unreasonable noise and disturbances are prevented; and
    - (iv) all relevant laws and regulations with respect to water, air, noise and land pollution (including 'pollution incidents') as defined under the

*Protection of the Environment Operations Act 1997 (NSW) are complied with,*

- (e) in accordance with any Australian Standards applicable to works of the same nature as each aspect of the Works; and
- (f) in a proper and workmanlike manner complying with current industry practice and standards relating to each aspect of the Works.

## **5.7 Design and specification of Works**

- (1) The Developer must:
  - (a) consult with Council with respect to the development of the detailed design and specification with respect to each item of Works; and
  - (b) ensure that the relevant design is consistent with, and has regard to, any relevant policies of Council as identified in the Development Consent.
- (2) Before commencing construction of an item of Works, the Developer must submit to Council:
  - (a) for its approval, the detailed design and specification for that item of Works; and
  - (b) a report from a suitable qualified and experienced Quantity Surveyor which estimates the cost to complete the relevant item of Work in accordance with the detailed design.
- (3) The design and specification for the item of Works must be prepared by the Developer having specific regard to:
  - (a) the specification for that item of Works set out in column 3 of **Schedule 4**; and
  - (b) the Contribution Value of the relevant item of Works.
- (4) Within thirty (30) days of the date of the first submission referred to in paragraph (3), Council must do either of the following:
  - (a) Notify the Developer in writing of its approval of the design and specification. The Developer is then to carry out and complete the item of Works in accordance with that design and specification.
  - (b) Notify the Developer in writing that it does not approve of the design and specification and provide the Developer with reasons for this.
- (5) If Council notifies the Developer in writing that it does not approve of the design and specification, the Developer may:
  - (a) elect to amend the design and specification and submit to Council the amended design and specification in which case the approval process set out in this clause 5.7 applies to that amendment; or
  - (b) if the Developer does not agree with the modifications requested by Council, then, subject to clause 5.3, it may refer the relevant matter for dispute resolution in accordance with this document.

## **5.8 No credit or re-bursements**

If the Developer's actual cost of carrying out the Works are greater than the Contribution Value for those Works, the Developer is not entitled to claim credit or reimbursement, as the case may be, for the difference.

## **5.9 Access to the land and location of Works**

- (1) The Developer must permit the Council, its officers, employees, agents and contractors to enter the land upon which the Works are being carried out at any time, upon giving reasonable prior notice, in order to inspect, examine or test any of the Works.
- (2) Council must give the Developer prior reasonable notice before it enters the land upon which the Works are being carried out and ensure that the Council and its employees comply with all reasonable directions of the Developer and all site construction requirements including without limitation all workplace health and safety requirements and reporting to a site office or site superintendent.
- (3) The Developer acknowledges and agrees that:
  - (a) access to the land upon which the Works will be carried out is subject to any statutory approval or consent required, and also any applicable Council policy, to allow those Works to be carried out;
  - (b) the Developer must obtain any such approvals or consents before commencing the Works; and
  - (c) Council will consider any application for such approval or consent at the relevant time and is not bound to grant such approval or consent.

## **6 Completion of Works**

---

### **6.1 Completion**

For the purpose of this document an item of Works is Completed when:

- (1) the Works have been accepted as, or deemed to have been, Completed in accordance with this clause 6; and
- (2) any other obligation with respect to the relevant item of Works which must be discharged prior to the Completion of that item of Works in accordance with this document has been discharged.

### **6.2 Issue of Completion Notice**

If the Developer considers that any particular item of Works is complete it must serve a notice on Council which:

- (1) is in writing;
- (2) identifies the particular item of Works to which it relates; and
- (3) specifies the date on which the Developer believes the relevant item of Works was completed,

**(Completion Notice).**

### **6.3 Inspection by Council**

- (1) Council must inspect the Works set out in a Completion Notice within ten (10) business days of the receipt of that notice.
- (2) If Council fails to carry out an inspection required under paragraph (1) the Works referred to in the relevant Completion Notice will be deemed to be Complete and acceptable to Council.

### **6.4 Rectification Notice**

- (1) Within twenty (20) business days of inspecting the Works set out in a Completion Notice Council must provide notice in writing (**Rectification Notice**) to the Developer that the Works set out in the Completion Notice:
  - (a) have been Completed; or
  - (b) have not been Completed, in which case the notice must also detail:
    - (i) those aspects of the Works which have not been Completed; and
    - (ii) the work Council requires the Developer to carry out in order to rectify the deficiencies in those Works.
- (2) If Council does not provide the Developer with a Rectification Notice in accordance with paragraph (1), the Works set out in the Completion Notice will be deemed to have been Completed and acceptable to Council.
- (3) Where Council serves a Rectification Notice on the Developer, the Developer must:
  - (a) rectify the Works in accordance with that notice; or
  - (b) serve a notice on the Council that it disputes the matters set out in the notice.
- (4) Where the Developer:
  - (a) serves notice on Council in accordance with paragraph (3)(b), the dispute resolution provisions of this document apply; or
  - (b) rectifies the Works in accordance with paragraph (3)(a), it must serve upon the Council a new Completion Notice for the Works it has rectified.

### **6.5 Works-As-Executed-Plan**

Prior to Completion of an item of Work the Developer must provide to Council a full works-as-executed-plan in respect of the item of Work.

## **7 Defects Liability**

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### **7.1 Defects Notice**

- (1) Where any part of the Works has been Completed but those Works contain a material defect which:
  - (a) adversely affects the ordinary use and/or enjoyment of the relevant Works; or
  - (b) will require maintenance or rectification works to be performed on them at some time in the future as a result of the existence of the defect;

(Defect) Council may issue a defects notice (**Defects Notice**) concerning those Works but only within the Defects Liability Period.

- (2) A Defects Notice must contain the following information:
  - (a) the nature and extent of the Defect;
  - (b) the work Council requires the Developer to carry out in order to rectify the Defect; and
  - (c) the time within which the Defect must be rectified (which must be a reasonable time and not less than ten (10) business days).

#### **7.2 Developer to Rectify Defects**

- (1) The Developer must rectify the Defects contained within a Defects Notice as soon as practicable after receipt of the Defects Notice.
- (2) The Developer must follow the procedure set out in clause 6 in respect of the satisfaction of the Defects Notice.

#### **7.3 Right of Council to Step-In**

Council, at its absolute discretion, may satisfy the Defects Notice where the Developer has failed to comply with a Defects Notice but only after giving the Developer five (5) business days written notice of its intention to do so.

#### **7.4 Consequence of Step-In**

If Council elects to exercise the step-in rights granted to it under clause 7.3 then:

- (1) Council may:
  - (a) enter upon any part of the land upon which the relevant Works are being carried out that it requires access to in order to satisfy the obligations of the Developer in accordance with the Defects Notice; and
  - (b) rectify the relevant Defects in accordance with the Defects Notice; and
- (2) the Developer must not impede or interfere with Council in undertaking that work.

#### **7.5 Costs of Council**

Where Council exercises its step-in rights, it may call upon the Defects Security provided by the Developer and recover as a debt due in a court of competent jurisdiction any difference between the amount of the Defects Security and the costs incurred by the Council in rectifying the Defects.

### **8 Variation of scope or timing for provision of Works**

#### **8.1 Variation to the scope of an item of Work**

- (1) The Developer may request that Council approve in writing a variation to the scope of any item of Work.
- (2) The scope of an item of Work is not to be varied unless Council and the Developer agree in writing to the variation.

(3) Council may refuse to agree to a variation of an item of Work at its absolute discretion.

## **8.2 Deferral of the timing of Completion of an item of the Works**

(1) Notwithstanding any other provision of this document, if the Developer forms the view at any time, that:

(a) it is unable to Complete any item of Works by the time specified in **Schedule 4**; or

(b) it believes that there is a risk of damage to any item of the Works if they are delivered by the time required in **Schedule 4**,

(**Deferred Works**), then the Developer may seek Council's approval to defer the Completion of the relevant item of the Works by providing written notice to the Council:

(c) identifying the relevant item of Work that the Developer proposes to defer;

(d) specifying the reason for the request to defer the Completion of that item of the Works; and

(e) identifying the anticipated time for Completion of the relevant item of Work.

(2) The Council, acting reasonably, must give the Developer a written notice within thirty (30) business days of the date upon which the Developer serves written notice upon Council in accordance with paragraph (1) stating:

(a) whether or not it consents to the deferral of the Deferred Works;

(b) the revised date for Completion required by Council; and

(c) any reasonable conditions Council requires with respect to the deferral.

(3) The Developer acknowledges and agrees that:

(a) with respect to paragraph (2)(b), Council may require the relevant item of Works to be completed before the issue of a Construction Certificate or Occupation Certificate with respect to the Development; or

(b) Council may require additional Security on account of that deferral provided that the amount of any such security held by Council as a result does not exceed one hundred and twenty per cent (120%) of the then estimated cost to complete the relevant item of Works as determined by the Council.

(4) If the Council consents to the deferral of the Deferred Works, then the following applies:

(a) The Developer must comply with any conditions required by Council under paragraph (2)(c) above.

(b) Provided the Developer satisfies those conditions, the Developer will not be considered to be in breach of this document as a result of a failure to achieve Completion of the relevant Deferred Works by the time for Completion specified in this document.

(c) The time for completion of the Deferred Works under this document is the revised date for Completion approved by Council.

## **9 Developer Warranties and Indemnities**

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### **9.1 Warranties**

The Developer warrants to Council that:

- (1) it is legally and beneficially entitled to the Land;
- (2) it is able to fully comply with its obligations under this document;
- (3) it has full capacity to enter into this document; and
- (4) there is no legal impediment to it entering into this document, or performing the obligations imposed under it.

### **9.2 Indemnity**

The Developer indemnifies Council in respect of any Claim that may arise as a result of the conduct of the Works until such time as a Completion Notice is issued for that item of Work but only to the extent that any such Claim does not arise as a result of the negligent acts or omissions of Council.

## **10 Security**

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### **10.1 Provision of Security**

- (1) The Developer must deliver to Council one (1) or more Bank Guarantees to the satisfaction of the Council:
  - (a) prior to the issue of a Construction Certificate in respect of the Development, for an amount equivalent to one hundred and twenty per cent (120%) of the Contribution Value for the Works (**Works Securities**)
  - (b) prior to the Completion of an item of Work, for an amount equivalent to ten per cent (10%) of the Contribution Value of that item of Work (**Defects Security**),(collectively referred to as the **Security**).
- (2) The Developer may satisfy its obligations (either in whole or in part), by directing Council to retain any Security held by Council which is required to be released by Council under this document.
- (3) If the parties have agreed that the Developer is to pay Council a Monetary Contribution in lieu of carrying out any item of Work then no Security will be payable for that item of Work.

### **10.2 Replacement of Security**

- (1) The Developer may replace any Security provided by it at any time, provided that the amount of that replacement is not less than that which is required to be provided under this document.
- (2) On receipt of a replacement Security, Council must immediately release the Security being replaced and return it to the Developer.

### **10.3 Council may call on Security**

- (1) If the Developer commits an Event of Default then Council, without limiting any other remedies available to it, may call on any Security provided by the Developer.
- (2) If Council calls on any Security, it may use the amount so paid to it in satisfaction of any costs incurred by it in remedying the Event of Default.

### **10.4 Top up of Security**

If Council calls on the Security, Council, by notice in writing to the Developer, may require the Developer to provide a further or replacement Security in an amount that, when added to any unused portion of any Security then held by Council, does not exceed the amount of the Security Council is entitled to hold at that time under this document.

### **10.5 Release of Works Securities**

Unless:

- (1) Council has made or intends to make a demand against any Security provided by the Developer;
- (2) the Contributions on account of which that Security was provided have not been made;
- (3) Council is not receipt of the Defects Security for the item of Work to which the Works Securities relates; or
- (4) the Developer is in breach of this document at the relevant time,

Council, upon a written request being made by the Developer, must return the Security within ten (10) business days of such a request being made.

### **10.6 Release of Defects Security**

Council must release and return the Defects Security or any unused part of it to the Developer no later than ten (10) business days after the last to occur of:

- (1) if no Defects Notice has been issued, the end of the Defects Liability Period; or
- (2) if one (1) or more Defects Notices have been issued, the date that all Defects have been rectified to the reasonable satisfaction of the Council in accordance with this document.

### **10.7 Council may withhold Construction Certificate**

- (1) The Developer may only make, or cause, suffer or permit the making of, an application for a Construction Certificate in respect of the Development if, at the date of the application, the Developer is not in breach of an obligation to make a Contribution under this document that is required to be made before that Construction Certificate can be issued.
- (2) Any such Construction Certificate must not be issued until such time as:
  - (a) the breach is rectified; or
  - (b) Council calls upon the Security provided by the Developer in respect of the Contribution to which the breach relates.

### **10.8 Council may withhold Occupation Certificate**

- (1) The Developer may only make, or cause, suffer or permit the making of, an application for an Occupation Certificate in respect of the Development if, at the date of the

application, the Developer is not in breach of an obligation to make a Contribution under this document that is required to be made before that Occupation Certificate can be issued.

- (2) Any such Occupation Certificate must not be issued until such time as:
  - (a) the breach is rectified; or
  - (b) Council calls upon the Security provided by the Developer in respect of the Contribution to which the breach relates.

## **11 Registration of this document**

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### **11.1 Registration of this document**

The Developer acknowledges and agrees that:

- (1) this document must be registered on the title to the Land pursuant to section 7.6 of the Act; and
- (2) subject to clause 11.2, Council will undertake that registration at the cost of the Developer.

### **11.2 Obligations of Developer**

- (1) The Developer, at its own expense, will promptly after this document comes into operation, and before the issue of any Construction Certificate for the Development, take all necessary and practical steps, and otherwise do anything that the Council reasonably requires, to procure:
  - (a) the consent of each person who:
    - (i) has an estate or interest in the Land; or
    - (ii) is seized or possessed of an estate or interest in the Land;
  - (b) the execution of any documents; and
  - (c) the production of the relevant:
    - (i) certificate(s) of title; or
    - (ii) Control of the Right to Deal (CoRD) Holder Consent(s),to enable the registration of this document in accordance with clause 11.1.
- (2) The Developer, at its own expense, will take all necessary and practical steps, and otherwise do anything that the Council reasonably requires:
  - (a) to allow the lodgement of this document with the Registrar-General as soon as reasonably practicable after this document comes into operation but in any event, no later than thirty (30) business days after that date; and
  - (b) to allow the registration of this document by the Registrar-General in the relevant folios of the Register for the Land as soon as reasonably practicable after this document is lodged for registration.

### **11.3 Prompt Registration**

Provided that the Developer has complied with clause 11.2, Council must promptly thereafter lodge this document for registration by the Registrar-General in the relevant folios of the Register of the Land.

### **11.4 Discharge from the Register**

The Council will provide a release and discharge of this document so that it may be removed from the folios of the Register for the Land (or any part of it) when:

- (1) the Developer's obligations under this document having been performed to Council's satisfaction; or
- (2) if this document is terminated or otherwise comes to an end for any other reason.

## **12 Assignment**

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### **12.1 Application**

This clause 12 only applies during any period when this document is not registered on the title of the Land.

### **12.2 Restriction on Assignment**

Other than in accordance with this clause 12 the Developer may not:

- (1) Assign any part of the Land; and/or
- (2) Assign their rights or obligations under this document.

### **12.3 Procedure for Assignment**

- (1) If the Developer:

- (a) wishes to Assign any part of the Land; and/or
  - (b) wishes to Assign its rights or obligations under this document,

then the Developer must:

- (c) provide a written request to Council for the consent of Council to the relevant Assignment;
  - (d) provide Council with any evidence required by Council, acting reasonably, to satisfy Council that the third party in whose favour the Assignment is to be made (**Assignee**) is reasonably capable of performing the obligations under this document that are to be Assigned to it; and
  - (e) obtain written consent of Council to the relevant Assignment; and
  - (f) at no cost to Council, procure:
    - (i) the execution by the Assignee of an appropriate deed where the Assignee agrees to be bound by the terms of this document; and
    - (ii) the provision of all Security to Council by the Assignee that the Developer is required to provide under this document (and any

additional securities if required by Council acting reasonably) at the same time as, or prior to, entering into that deed.

- (2) As soon as reasonably practicable (or promptly following any Council meeting which may be required to consider the proposed assignment), Council must confirm whether Council consents to the proposed assignment to the Assignee.
- (3) Council is under no obligation to consider granting its consent to any request made by the Developer under paragraph (1)(c) if, at the time the request is made, the Developer is in breach of this document.

## **13 Dispute Resolution**

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### **13.1 Notice of dispute**

- (1) If a dispute or lack of certainty between the parties arises in connection with this document or its subject matter (**Dispute**), then either party (**First Party**) must give to the other (**Second Party**) a notice which:
  - (a) is in writing;
  - (b) adequately identifies and provides details of the Dispute;
  - (c) stipulates what the First Party believes will resolve the Dispute; and
  - (d) designates its representative (**Representative**) to negotiate the Dispute.
- (2) The Second Party must, within five (5) business days of service of the notice of dispute, provide a notice to the First Party designating as its representative a person to negotiate the Dispute (the representatives designated by the parties being together, the **Representatives**).

### **13.2 Conduct pending resolution**

The parties must continue to perform their respective obligations under this document if there is a Dispute but will not be required to complete the matter the subject of the Dispute, unless the appropriate party indemnifies the other parties against costs, damages and all losses suffered in completing the disputed matter if the Dispute is not resolved in favour of the indemnifying party.

### **13.3 Further steps required before proceedings**

Subject to clauses 13.14 and 13.15 and except as otherwise expressly provided in this document, any Dispute must, as a condition precedent to the commencement of litigation, mediation under clause 13.5 or determination by an expert under clause 13.6, first be referred to the Representatives. The Representatives must endeavour to resolve the dispute within five (5) business days of the date a notice under clause 13.1(2) is served.

### **13.4 Disputes for mediation or expert determination**

If the Representatives have not been able to resolve the Dispute, then the parties must agree within five (5) business days to refer the matter to mediation under clause 13.5.

### **13.5 Disputes for mediation**

- (1) Mediation must be conducted by a mediator agreed by the parties and, if the parties cannot agree within five (5) business days, then by a mediator appointed by the President of the Law Society of New South Wales for the time being.

(2) If the mediation referred to in paragraph (1) has not resulted in settlement of the Dispute and has been terminated, the parties may agree to have the matter determined by expert determination under clause 13.6.

### **13.6 Choice of expert**

(1) If the Dispute is to be determined by expert determination, this clause 13.6 applies.

(2) The Dispute must be determined by an independent expert in the relevant field:

- (a) agreed between and appointed jointly by the parties; or
- (b) in the absence of agreement within five (5) business days after the date that the matter is required to be determined by expert determination, appointed by the President of the Law Society of New South Wales for the time being.

(3) If the parties fail to agree as to the relevant field within five (5) business days after the date that the matter is required to be determined by expert determination, either party may refer the matter to the President of the Law Society of New South Wales for the time being whose decision as to the relevant field is final and binding on the parties.

(4) The expert appointed to determine a Dispute:

- (a) must have a technical understanding of the issues in dispute;
- (b) must not have a significantly greater understanding of one party's business, functions or operations which might allow the other side to construe this greater understanding as a bias; and
- (c) must inform the parties before being appointed of the extent of the expert's understanding of each party's business or operations and, if that information indicates a possible bias, then that expert must not be appointed except with the written approval of the parties.

(5) The parties must promptly enter into a document with the expert appointed under this clause 13.6 setting out the terms of the expert's determination and the fees payable to the expert.

### **13.7 Directions to expert**

(1) In reaching a determination in respect of a dispute under clause 13.6, the independent expert must give effect to the intent of the parties entering into this document and the purposes of this document.

(2) The expert must:

- (a) act as an expert and not as an arbitrator;
- (b) proceed in any manner as the expert thinks fit without being bound to observe the rules of natural justice or the rules of evidence;
- (c) not accept verbal submissions unless both parties are present;
- (d) on receipt of a written submission from one party, ensure that a copy of that submission is given promptly to the other party;

- (e) take into consideration all documents, information and other material which the parties give the expert which the expert in its absolute discretion considers relevant to the determination of the Dispute;
- (f) not be expected or required to obtain or refer to any other documents, information or material (but may do so if the expert so wishes);
- (g) issue a draft certificate stating the expert's intended determination (together with written reasons), giving each party ten (10) business days to make further submissions;
- (h) issue a final certificate stating the expert's determination (together with written reasons); and
- (i) act with expedition with a view to issuing the final certificate as soon as practicable.

(3) The parties must comply with all directions given by the expert in relation to the resolution of the Dispute and must within the time period specified by the expert, give the expert:

- (a) a short statement of facts;
- (b) a description of the Dispute; and
- (c) any other documents, records or information which the expert requests.

### **13.8 Expert may commission reports**

- (1) Subject to paragraph (2):
- (a) the expert may commission the expert's own advisers or consultants (including lawyers, accountants, bankers, engineers, surveyors or other technical consultants) to provide information to assist the expert in making a determination; and
- (b) the parties must indemnify the expert for the cost of those advisers or consultants in accordance with clause 13.6(5) of this deed.

(2) The parties must approve the costs of those advisers or consultants in writing prior to the expert engaging those advisers or consultants.

### **13.9 Expert may convene meetings**

- (1) The expert must hold a meeting with all of the parties present to discuss the Dispute. The meeting must be conducted in a manner which the expert considers appropriate. The meeting may be adjourned to, and resumed at, a later time in the expert's discretion.
- (2) The parties agree that a meeting under paragraph (1) is not a hearing and is not an arbitration.

### **13.10 Other courses of action**

If the mediation referred to in clause 13.5 has not resulted in settlement of the dispute, the mediation has been terminated and the parties have not agreed to refer the matter to expert determination within five (5) business days after termination of the mediation, then either party

may take whatever course of action it deems appropriate for the purpose of resolving the Dispute.

### **13.11 Confidentiality of information provided in dispute resolution process**

- (1) The parties agree, and must procure that the mediator and the expert agree as a condition of his or her appointment:
  - (a) subject to paragraph (2), to keep confidential all documents, information and other material disclosed to them during or in relation to the mediation or expert determination;
  - (b) not to disclose any confidential documents, information and other material except:
    - (i) to a party or adviser or consultant who has signed a confidentiality undertaking; or
    - (ii) if required by Law or any Authority to do so; and
  - (c) not to use confidential documents, information or other material disclosed to them during or in relation to the mediation or expert determination for a purpose other than the mediation or expert determination.
- (2) The parties must keep confidential and must not disclose or rely upon or make the subject of a subpoena to give evidence or produce documents in any arbitral, judicial or other proceedings:
  - (a) views expressed or proposals or suggestions made by a party or the mediator or the expert during the expert determination or mediation relating to a possible settlement of the Dispute;
  - (b) admissions or concessions made by a party during the mediation or expert determination in relation to the Dispute; and
  - (c) information, documents or other material concerning the dispute which are disclosed by a party during the mediation or expert determination unless such information, documents or facts would be discoverable in judicial or arbitral proceedings.

### **13.12 Final determination of expert**

The parties agree that the final determination by an expert will be final and binding upon them except in the case of fraud or misfeasance by the expert.

### **13.13 Costs**

- (1) Each party must contribute equally to the costs of any mediator appointed under clause 13.5.
- (2) If any independent expert does not award costs, each party must contribute equally to the expert's costs in making the determination.

### **13.14 Remedies available under the Act**

This clause 13 does not operate to limit the availability of any remedies available to Council under the Act.

### **13.15 Urgent relief**

This clause 13 does not prevent a party from seeking urgent injunctive or declaratory relief concerning any matter arising out of this document.

## **14 Breach of this document**

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### **14.1 Breach Notice**

If the Developer breaches this document, Council may serve a notice on the Developer (**Breach Notice**) specifying:

- (1) the nature and extent of the alleged breach;
- (2) if:
  - (a) the breach is capable of being rectified other than by the payment of compensation, what Council requires the Developer to do in order to rectify the breach; or
  - (b) the breach is not capable of being rectified other than by payment of compensation, the amount of compensation Council requires the Developer to pay in order to rectify the breach, and
- (3) the time within which Council requires the breach to be rectified, which must be a reasonable time of not less than forty (40) business days.

### **14.2 Events of Default**

The Developer commits an **Event of Default** if it:

- (1) fails to comply with a Breach Notice; or
- (2) becomes subject to an Insolvency Event.

### **14.3 Consequences of Events of default**

Where the Developer commits an Event of Default, Council may, in addition to any rights it has at Law:

- (1) exercise the Step in Rights so as to carry out any work specified in the relevant Breach Notice; or
- (2) call on the Security to the extent of any compensation claimed in a Breach Notice and not paid by the Developer.

## **15 Termination, Rescission or Determination**

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### **15.1 Termination**

This document terminates in the following events:

- (1) The parties agree in writing to terminate the operation of this document at any time.
- (2) The Development Consent lapses.

### **15.2 Consequence of termination**

Upon termination of this document:

- (1) all future rights and obligations of the parties are discharged; and
- (2) all pre-existing rights and obligations of the parties continue to subsist.

### **15.3 Determination**

This document will determine upon the Developer satisfying all of the obligations imposed on it in full.

## **16 Position of Council**

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### **16.1 Consent authority**

The parties acknowledge that Council is a consent authority with statutory rights and obligations pursuant to the terms of the Planning Legislation.

### **16.2 Document does not fetter discretion**

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

- (1) the power of Council to make any Law; or
- (2) the exercise by Council of any statutory power or discretion,  
**(Discretion).**

### **16.3 Severance of provisions**

- (1) No provision of this document is intended to, or does, constitute any unlawful fetter on any Discretion. If, contrary to the operation of this clause, any provision of this document is held by a court of competent jurisdiction to constitute an unlawful 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 16 is substantially satisfied; and
  - (b) in the event that paragraph (1)(a) cannot be achieved without giving rise to an unlawful fetter on a Discretion, the relevant provision is to be severed and the remainder of this document has full force and effect; and
  - (c) to endeavour to satisfy the common objectives of the parties on relation to the provision of this document which is held to be an unlawful fetter to the extent that it is possible having regard to the relevant court judgment.
- (2) Where the Law permits Council to contract out of a provision of that Law or gives Council power to exercise a Discretion, then if Council has in this document contracted out of a provision or exercised a Discretion under this document, then to the extent of this document is not to be taken to be inconsistent with the Law.

### **16.4 No Obligations**

Nothing in this document will be deemed to impose any obligation on Council to exercise any of its functions under the Act in relation to the Development Consent, the Land or the Development in a certain manner.

## **17 Confidentiality**

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### **17.1 Document not Confidential**

The terms of this document are not confidential and this document may be treated as a public document and exhibited or reported without restriction by any party.

### **17.2 Other Confidential Information**

- (1) The parties acknowledge that:
  - (a) Confidential Information may have been supplied to some or all of the parties in the negotiations leading up to the making of this document; and
  - (b) The parties may disclose to each other further Confidential Information in connection with the subject matter of this document.
  - (c) Subject to paragraphs (2) and (3), each party agrees:
    - (i) not to disclose any Confidential document received before or after the making of this document to any person without the prior written consent of the party who supplied the Confidential Information; or
    - (ii) to take all reasonable steps to ensure all Confidential Information received before or after the making of this document is kept confidential and protected against unauthorised use and access.
- (2) A party may disclose Confidential Information in the following circumstances:
  - (a) in order to comply with the Law, or the requirements of any Authority; or
  - (b) to any of their employees, consultants, advisers, financiers or contractors to whom it is considered necessary to disclose the information, if the employees, consultants, advisers, financiers or contractors undertake to keep the information confidential.
- (3) The obligations of confidentiality under this clause do not extend to information which is public knowledge other than as a result of a breach of this clause.

## **18 GST**

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### **18.1 Defined GST Terms**

Defined terms used in this clause 18 have the meaning ascribed to them in the GST Law.

### **18.2 GST to be Added to Amounts Payable**

- (1) If GST is payable on a Taxable Supply made under, by reference to or in connection with this document, the party providing the Consideration for that Taxable Supply must also pay the GST Amount as additional Consideration.
- (2) This clause does not apply to the extent that the Consideration for the Taxable Supply is expressly agreed to be GST inclusive.
- (3) Unless otherwise expressly stated, prices or other sums payable or Consideration to be provided under or in accordance with this document are exclusive of GST.

### **18.3 GST Obligations to Survive Termination**

This clause 18 will continue to apply after expiration of termination of this document.

## **19 General**

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### **19.1 Obligation to act in good faith**

The parties must at all times:

- (1) cooperate and use their best endeavours to profitably and professionally give effect to their rights and obligations set out in this document;
- (2) not unreasonably delay any action, approval, direction, determination or decision which is required of them;
- (3) make approvals or decisions that are required of them in good faith and in a manner consistent with the completion of the transactions set out in this document; and
- (4) be just and faithful in their activities and dealings with the other parties.

### **19.2 Legal costs**

The Developer agrees to:

- (1) pay or reimburse the reasonable legal costs and disbursements of Council in the negotiation, preparation, execution, exhibition, registration and stamping of this document; and
- (2) pay or reimburse the legal costs and disbursements of Council arising from the enforcement of this document including any breach or default by the Developer of its obligations under this document, provided that any such costs are reasonably incurred,

within seven (7) business days of receipt of a Tax Invoice from Council.

## **20 Administrative provisions**

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### **20.1 Notices**

- (1) Any notice, consent or other communication under this document must be in writing and signed by or on behalf of the person giving it, addressed to the person to whom it is to be given and:
  - (a) delivered to that person's address;
  - (b) sent by pre-paid mail to that person's address; or
  - (c) transmitted by e-mail to that person's e-mail address.
- (2) A notice given to a person in accordance with this clause is treated as having been given and received:
  - (a) if delivered to a person's address, on the day of delivery if a business day, otherwise on the next business day;
  - (b) if sent by pre-paid mail, on the third business day after posting; and

- (c) if transmitted by e-mail to a person's e-mail address and a correct and complete confirmation of receipt is received, on the day of transmission if a business day, otherwise on the next business day.
- (3) For the purpose of this clause the address of a person is the address set out in this document or another address of which that person may from time to time give notice to each other person.

#### **20.2 Entire agreement**

This document is the entire agreement of the parties on the subject matter. All representations, communications and prior agreements in relation to the subject matter are merged in and superseded by this document.

#### **20.3 Waiver**

The non-exercise of or delay in exercising any power or right of a party does not operate as a waiver of that power or right, nor does any single exercise of a power or right preclude any other or further exercise of it or the exercise of any other power or right. A power or right may only be waived in writing, signed by the parties to be bound by the waiver.

#### **20.4 Cooperation**

Each party must sign, execute and deliver all agreements, documents, instruments and act reasonably and effectively to carry out and give full effect to this document and the rights and obligations of the parties under it.

#### **20.5 Counterparts**

This document may be executed in any number of counterparts and all of those counterparts taken together constitute one and the same instrument. A party who has executed a counterpart of this document may exchange it with another party by emailing a pdf (portable document format) copy of, the executed counterpart to that other party, and if requested by that other party, will promptly deliver the original by hand or post. Failure to make that delivery will not affect the validity and enforceability of this document.

#### **20.6 Amendment**

This document may only be amended or supplemented in writing signed by the parties.

#### **20.7 Unenforceability**

Any provision of this document which is invalid or unenforceable in any jurisdiction is to be read down for the purposes of that jurisdiction, if possible, so as to be valid or enforceable, and is otherwise capable of being severed to the extent of the invalidity or enforceability, without affecting the remaining provisions of this document or affecting the validity or enforceability of that provision in any other jurisdiction.

#### **20.8 Power of Attorney**

Each attorney who executes this document on behalf of a party declares that the attorney has no notice of:

- (1) the revocation or suspension of the power of attorney by the grantor; or
- (2) the death of the grantor.

## 20.9 Governing law

The law in force in the State of New South Wales governs this document. The parties:

- (1) submit to the exclusive jurisdiction of the courts of New South Wales and any courts that may hear appeal from those courts in respect of any proceedings in connection with this document; and
- (2) may not seek to have any proceedings removed from the jurisdiction of New South Wales on the grounds of *forum non conveniens*.

## 21 Trust limitation of liability

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### 21.1 Trust

The Developer enters into this document only in its capacity as trustee of the Cedar Pacific Kensington Trust (**Developer Trust**) and in no other capacity.

### 21.2 Limitation of liability

Subject to clause 21.4, a liability arising under or in connection with this document is limited to and can be enforced against the Developer only to the extent to which it can be satisfied out of property of the Developer Trust out of which the Developer is actually indemnified for the liability. This limitation of the Developer's liability applies despite any other provision of this document and extends to all liabilities and obligations of the Developer in any way connected with any representation, warranty, conduct, omission, agreement or transaction related to this document.

### 21.3 Claims against Developer

Subject to clause 21.4, the parties other than the Developer may not sue the Developer in any capacity other than as trustee of the Developer Trust, including seeking the appointment of a receiver (except in relation to the property of the Developer Trust), a liquidator, an administrator or any similar person to the Developer or prove in any liquidation, administration or arrangement of or affecting the Developer (except in relation to the property of the Developer Trust).

### 21.4 Exceptions to limitation

The provisions of this clause will not apply to any obligation or liability of the Developer to the extent that it is not satisfied because under the trust deed establishing the Developer Trust, or by operation of law, there is a reduction in the extent of the Developer's indemnification out of the assets of the Developer Trust, as a result of the Developer's fraud, negligence, breach of trust or breach of duty.

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## Schedule 1– Requirements under s7.4

REQUIREMENT UNDER THE ACT	THIS PLANNING AGREEMENT
<b>Planning instrument and/or development application – (Section 7.4(1))</b> The Developer has: <ul style="list-style-type: none"> <li>(a) sought a change to an environmental planning instrument.</li> <li>(b) made, or proposes to make, a Development Application.</li> <li>(c) entered into an agreement with, or is otherwise associated with, a person, to whom paragraph (a) or (b) applies.</li> </ul>	<ul style="list-style-type: none"> <li>(a) No</li> <li>(b) Yes</li> <li>(c) Not applicable</li> </ul>
<b>Description of land to which this agreement applies – (Section 7.4(3)(a))</b>	<ul style="list-style-type: none"> <li>(1) SP19239.</li> <li>(2) B/410791.</li> <li>(3) A/410791.</li> <li>(4) 11/7/4761.</li> <li>(5) 10/7/4761.</li> <li>(6) SP15366.</li> </ul>
<b>Description of change to the environmental planning instrument to which this agreement applies – (Section 7.4(3)(b))</b>	Not applicable
<b>Application of section 7.11 of the Act – (Section 7.4(3)(d))</b>	Applies
<b>Applicability of section 7.12 of the Act – (Section 7.4(3)(d))</b>	Applies.
<b>Consideration of benefits under this agreement if section 7.11 applies – (Section 7.4(3)(e))</b>	Applies. See clause 4.
<b>Mechanism for Dispute resolution – (Section 7.4(3)(f))</b>	See clause 13.
<b>Enforcement of this agreement (Section 7.4(3)(g))</b>	See clause 10.
<b>No obligation to grant consent or exercise functions – (Section 7.4(3)(9))</b>	See clause 16.

## Schedule 2 – Defined terms and Interpretation

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### Part 1 - Definitions

---

<b>Act</b>	means the <i>Environmental Planning and Assessment Act 1979</i> (NSW).
<b>Affordable Housing Levy Contribution</b>	means the Contribution so described in <b>Schedule 3</b> .
<b>Assign</b>	as the context requires refers to any assignment, sale, transfer, disposition, declaration of trust over or other assignment of a legal and/or beneficial interest.
<b>Authority</b>	means (as appropriate) any:
	(1) federal, state or local government;
	(2) department of any federal, state or local government;
	(3) any court or administrative tribunal; or
	(4) statutory corporation or regulatory body.
<b>Bank Guarantee</b>	means an irrevocable and unconditional undertaking without any expiry or end date by one of the following trading banks:
	(1) Australia and New Zealand Banking Group Limited.
	(2) Commonwealth Bank of Australia.
	(3) Macquarie Bank.
	(4) National Australia Bank Limited.
	(5) St George Bank Limited.
	(6) Westpac Banking Corporation.
	(7) Any other financial institution approved by the Council, in its absolute discretion, in response to a request from the Developer.
<b>Business Day</b>	means a day which is not a Saturday, Sunday or a public holiday in New South Wales.
<b>CIC Monetary Contribution</b>	means the Contribution so described in <b>Schedule 3</b> .
<b>CIC Works</b>	means the Contribution so described in <b>Schedule 4</b> .
<b>Claim</b>	against any person any allegation, action, demand, cause of action, suit, proceeding, judgement, debt, damage, loss, cost, expense or liability howsoever arising and whether present or future, fixed or unascertained, actual or contingent whether at law, in equity, under statute or otherwise.
<b>Completed</b>	means completed in accordance with the requirements of this document.
<b>Completion Notice</b>	has the meaning ascribed in clause 6.2.

<b>Confidential Information</b>	means any information and all other knowledge at any time disclosed (whether in writing and orally) by the parties to each other, or acquired by the parties in relation to the other's activities or services which is not already in the public domain and which:
	(1) is by its nature confidential;
	(2) is designated, or marked, or stipulated by either party as confidential (whether in writing or otherwise);
	(3) any party knows or ought to know is confidential;
	(4) is information which may be reasonably considered to be of a confidential nature.
<b>Construction Certificate</b>	has the same meaning as in section 6.4(d) of the Act.
<b>Contributions</b>	means the Works and the Monetary Contributions.
<b>Contribution Value</b>	means the amount specified in <b>Schedules 3</b> and <b>Schedule 4</b> in the column headed "contribution value" for each item of the Contributions as indexed in accordance with this document.
<b>Defect</b>	has the meaning ascribed to it in clause 7.1.
<b>Defects Notice</b>	has the meaning ascribed to it in clause 7.1.
<b>Defects Liability Period</b>	means with respect to an item of Work, a period of twelve (12) months commencing on the date of Completion of the relevant item of Work.
<b>Defects Security</b>	has the meaning ascribed to it in clause 10.1(1)(b).
<b>Development</b>	means the development permitted to be undertaken in accordance with the Development Consent, consisting of the construction of a nine (9) storey mixed-use development comprising basement car parking, ground floor retail premises, a boarding house to be used for student accommodation containing 604 rooms, erection of building and tenancy signage and associated landscaping and civil works at 177-197 Anzac Parade, and the road reserve on the Anzac Parade frontage, Kensington.
<b>Development Application</b>	means an application for the Development Consent.
<b>Development Consent</b>	means the development consent issued for development application No DA/20/2021.
<b>Dispute</b>	has the meaning ascribed to it in clause 13.1.
<b>Encumbrance</b>	means an interest or power:
	(1) reserved in or over an interest in any asset;
	(2) arising under, or with respect to, a Bio-Banking Agreement;

- (3) created or otherwise arising in or over any interest in any asset under any mortgage, charge (whether fixed or floating), pledge, lien, hypothecation, title retention, conditional sale agreement, hire or hire purchase agreement, option, restriction as to transfer, use or possession, easement, covenant, lease, subordination to any right of any other person and any other encumbrance or security interest, trust or bill of sale; or

- (4) by way of security for the payment of a debt or other monetary obligation or the performance of any obligation.

**Encumber** means to grant an Encumbrance.

**Final Occupation Certificate**

means an Occupation Certificate that is not an interim Occupation Certificate.

**GST Law**

means *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.

**Index**

Means the Consumer Price Index, All Groups, Sydney as published by the ABS in respect of the quarter ending immediately prior to the date of payment.

**Insolvency Event**

means the happening of any of the following events:

- (1) Application which is not withdrawn or dismissed within fourteen (14) days is made to a court for an order or an order is made that a body corporate be wound up.
- (2) An application which is not withdrawn or dismissed within fourteen (14) days is made to a court for an order appointing a liquidator or provisional liquidator in respect of a body corporate or one of them is appointed, whether or not under an order.
- (3) Except to reconstruct or amalgamate while solvent, a body corporate enters into, or resolves to enter into, a scheme of arrangement, agreement of company arrangement or composition with, or assignment for the benefit of, all or any class of its creditors, or it proposes a reorganisation, moratorium or other administration involving any of them.
- (4) A body corporate resolves to wind itself up, or otherwise dissolve itself, or gives notice of intention to do so, except to reconstruct or amalgamate while solvent or is otherwise wound up or dissolved.
- (5) A body corporate is or states that it is insolvent.
- (6) As a result of the operation of section 459F(1) of the *Corporations Act 2001* (Cth) (**Corporations Act**), a body corporate is taken to have failed to comply with a statutory demand;
- (7) A body corporate is or makes a statement from which it may be reasonably deduced that the body corporate is, the subject of an event described in section 459C(2)(b) or section 585 of the Corporations Act.
- (8) A body corporate takes any step to obtain protection or is granted protection from its creditors, under any

	applicable legislation or an administrator is appointed to a body corporate.
(9)	A person becomes an insolvent under administration as defined in section 9 of the Corporations Act or action is taken which could result in that event.
(10)	A receiver, manager or receiver and manager is appointed to the Company.
(11)	A claim is filed in a court against a person that is not defended, released or otherwise settled within twenty eight (28) days of the date of its filing at the court.
(12)	Anything analogous or having a substantially similar effect to any of the events specified above happens under the law of any applicable jurisdiction.
<b>Land</b>	means the "Land" set out in <b>Schedule 1</b> .
<b>Laneway</b>	means the existing laneway between Anzac Parade and Roma Avenue, known as Roma Lane.
<b>Law</b>	means all legislation, regulations, by-laws, common law and other binding order made by any Authority.
<b>Location Plan</b>	means the plan that is attached as <b>Annexure 1</b> .
<b>Monetary Contributions</b>	means the monetary contributions specified or described in <b>Schedule 3</b> .
<b>Occupation Certificate</b>	has the same meaning as in section 6.4(c) of the Act.
<b>Planning Legislation</b>	means the Act, the <i>Local Government Act 1993</i> (NSW) and the <i>Roads Act 1993</i> (NSW).
<b>Quantity Surveyor</b>	means a person appointed by the Developer and approved by the Council who: <ul style="list-style-type: none"> <li>(1) is a member of their respective professional organisation and has been for at least five (5) years;</li> <li>(2) practises as a quantity surveyor for works of the same nature as the relevant Works;</li> <li>(3) is active as a quantity surveyor at the time of his appointment;</li> <li>(4) has at least three (3) years experience in valuing works of the same nature as the relevant Works; and</li> <li>(5) undertakes to act fairly and promptly in accordance with the requirements of this document.</li> </ul>
<b>Rectification Notice</b>	has the meaning ascribed to it in clause 6.4.
<b>Section 7.12 Off-Set Works</b>	means the Contribution so described in <b>Schedule 4</b> .
<b>Security</b>	means collectively the Works Securities and the Defects Security.

**Works** means the works specified or described in **Schedule 4**.

**Works Securities** has the meaning ascribed to it in clause 10.1(1)(a).

#### **Part 2 - Interpretational Rules**

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<b>clauses, annexures and schedules</b>	a clause, annexure or schedule is a reference to a clause in or annexure or schedule to this document.
<b>reference to statutes</b>	a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them.
<b>singular includes plural</b>	the singular includes the plural and vice versa.
<b>Person</b>	the word "person" includes an individual, a firm, a body corporate, a partnership, joint venture, an unincorporated body or association or any government agency.
<b>executors, administrators, successors</b>	a particular person includes a reference to the person's executors, administrators, successors, substitutes (including persons taking by novation) and assigns.
<b>Dollars</b>	Australian dollars, dollars, \$ or A\$ is a reference to the lawful currency of Australia.
<b>calculation of time</b>	if a period of time dates from a given day or the day of an act or event, it is to be calculated exclusive of that day.
<b>reference to a day</b>	a day is to be interpreted as the period of time commencing at midnight and ending 24 hours later.
<b>accounting terms</b>	an accounting term is a reference to that term as it is used in accounting standards under the Corporations Act or, if not inconsistent with those standards, in accounting principles and practices generally accepted in Australia.
<b>reference to a group of persons</b>	a group of persons or things is a reference to any two or more of them jointly and to each of them individually.
<b>meaning not limited</b>	the words "include", "including", "for example" or "such as" are not used as, nor are they to be interpreted as, words of limitation, and, when introducing an example, do not limit the meaning of the words to which the example relates to that example or examples of a similar kind.
<b>next day</b>	if an act under this document to be done by a party on or by a given day is done after 4.30pm on that day, it is taken to be done on the next day.
<b>next business day</b>	if an event must occur on a stipulated day which is not a business day then the stipulated day will be taken to be the next business day.
<b>time of day</b>	time is a reference to Sydney time.

<b>Headings</b>	headings (including those in brackets at the beginning of paragraphs) are for convenience only and do not affect the interpretation of this document.
<b>Agreement</b>	a reference to any agreement, document or instrument includes the same as varied, supplemented, novated or replaced from time to time.
<b>Gender</b>	a reference to one gender extends and applies to the other and neuter gender.

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### Schedule 3 – Monetary Contributions

Item	Contributions	Timing	Contribution Value
1	Affordable Housing Contribution	Prior to the issue of the Final Occupation Certificate in respect of the Development.	<p>The amount of the contribution must be calculated at the time that it is required to be paid in accordance with Clause 6.18 of the <i>Randwick Local Environmental Plan 2012, the Kensington and Kingsford Town Centres - Affordable Housing Plan</i> adopted by the Council on 10 December 2019 and will be calculated using:</p> <p>(1) the relevant indexed Affordable Housing Contribution Rate (being an amount of \$370.86 per square metre as at the date of this document); and</p> <p>(2) the area of residential floor space determined on the basis of the final design of the Development.</p> <p>The Affordable Housing Contribution Rate is indexed twice a year, being the first day of January and July, with reference to the most recently published median strata dwelling price in Randwick City Local Government Area.</p> <p><b>As at the date of this document, the Contribution Value is estimated to be \$4,647,392.26 (being 14,327 square metres of residential floor space payable at a rate of \$370.86/sqm)</b></p>
2	CIC Monetary Contribution	Prior to the issue of the first Occupation Certificate in respect of the Development.	<p>The amount of the contribution will be calculated at the time that it is required to be paid in accordance with Clause 6.17 of the <i>Randwick Local Environmental Plan 2012, the Kensington and Kingsford Town Centres – Community Infrastructure Contributions Plan</i> adopted by the Council on 10 December 2019 and will be calculated (which includes for the sake of clarity any indexation required under the abovementioned Contributions Plans using:</p> <p>(1) the relevant Community Infrastructure Contribution Rate (being an amount of \$475.00 per square metre as at the date of this document); and</p> <p>(2) the area of additional residential floor space within the Development above the maximum building height plane allowable under clause 4.3 of the RLEP determined on the basis of the final design of the Development.</p> <p><b>As at the date of this document, the Contribution Value is estimated to be \$1,417,400 (being 2,984 square metres of floor space payable at a rate of \$475/sqm).</b></p>



## Schedule 4 – Works

Item	Item of Works	Time for Completion	Contribution Value
<b>CIC Works</b>			
1	Inground street planting and associated works abutting Anzac Parade as identified as area '01' on the Location Plan.	Prior to the issue of the first Occupation Certificate in respect of the Development.	\$270,000.00
2	Construction of the Laneway as identified as area '02' on the Location Plan.		
3	WSUD works as identified as area '03' on the Location Plan.		
4	Heritage seating along the Laneway as identified as area '04' on the Location Plan.		
<b>Section 7.12 Off-Set Works</b>			
5	Upgrade to Laneway and associated public domain works	Prior to the issue of the first Occupation Certificate in respect of the Development.	\$340,000.00

## **Annexure 1 – Location Plan**

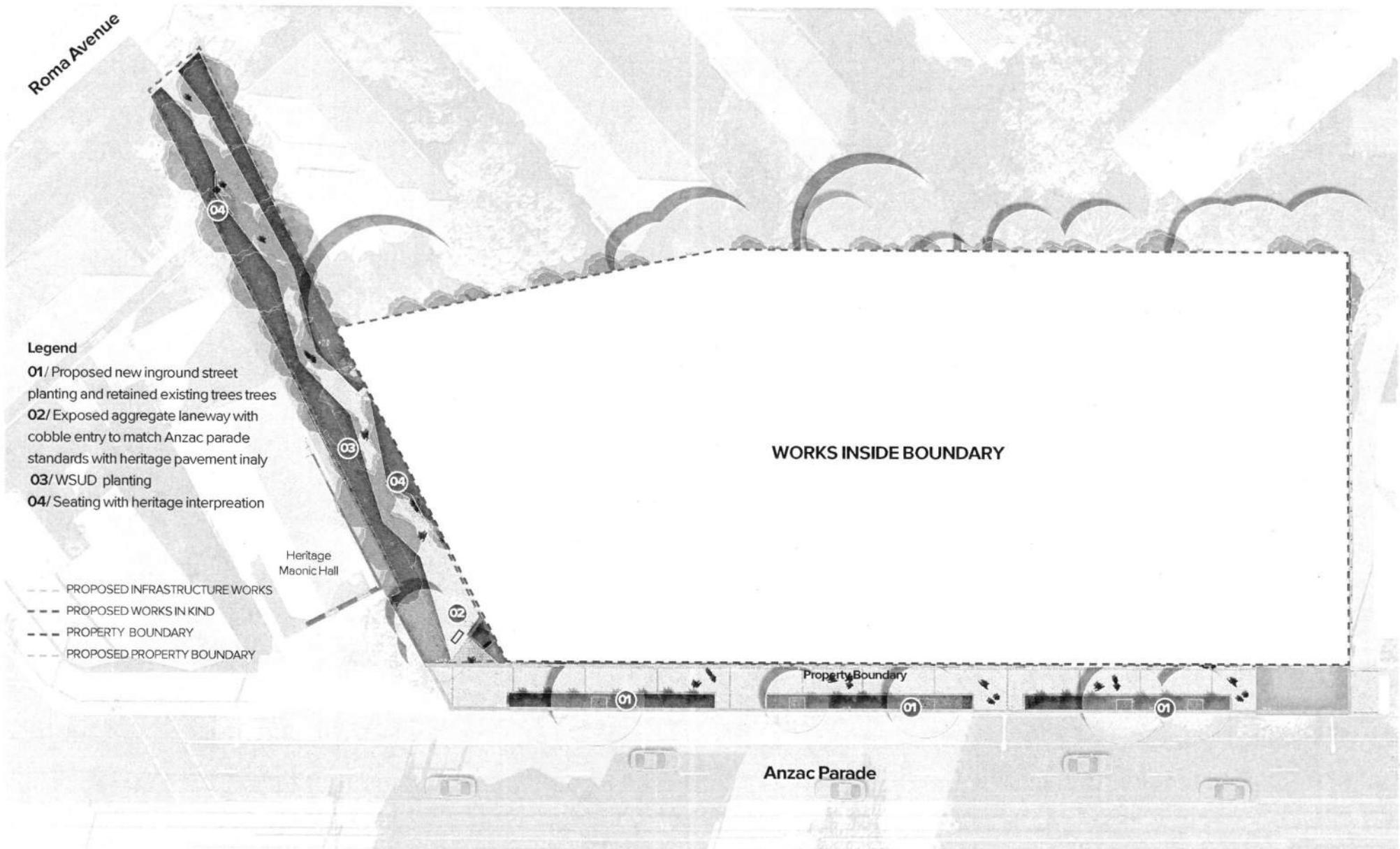
---

*Paul Will* *Riab*

# VPA OFFER

Placer

Pauline Dell



## Execution page

Executed as a deed

Dated:

13 July 2022

Signed, sealed and delivered by Randwick City Council by its General Manager in the presence of the witness whose signature appears below and in accordance with resolution dated

28 June 2022



Witness (Signature)



General Manager (Signature)

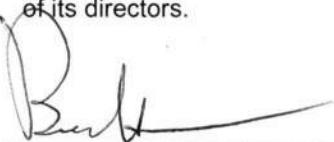
Kerry Kyriacou

Name of Witness (Print Name)

MERSEY MANN

Name of General Manager (Print Name)

Signed, sealed and delivered by Cedar Pacific 1 Pty Ltd as trustee for the Cedar Pacific Kensington Trust in accordance with section 127(1) of the Corporations Act 2001 (Cth) by authority of its directors.



Director/Secretary (Signature)



Director (Signature)

EDWARD KUNSTHORN

Name of Director/Secretary (Print Name)



Name of Director (Print Name)

Annexure C to Request: Lots contained in SP19239 and SP15366

Parties: Randwick City Council and Cedar Pacific 1 Pty Ltd in its capacity as trustee of the Cedar Pacific Kensington Trust

Date: 13 July 2022

1/SP19239  
2/SP19239  
3/SP19239  
4/SP19239  
5/SP19239  
6/SP19239  
7/SP19239  
8/SP19239  
9/SP19239  
10/SP19239  
11/SP19239  
12/SP19239

1/SP15366  
2/SP15366  
3/SP15366  
4/SP15366  
5/SP15366  
6/SP15366  
7/SP15366  
8/SP15366

Paul W. Fall

Beni A. Au

John



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SERVICES

## Title Search

InfoTrack

NEW SOUTH WALES LAND REGISTRY SERVICES - TITLE SEARCH

FOLIO: 1/SP15366

SEARCH DATE	TIME	EDITION NO	DATE
6/7/2022	5:32 PM	10	16/11/2020

LAND

LOT 1 IN STRATA PLAN 15366  
AT KENSINGTON  
LOCAL GOVERNMENT AREA RANDWICK

FIRST SCHEDULE

CEDAR PACIFIC 1 PTY LTD (T AQ509257)

SECOND SCHEDULE (2 NOTIFICATIONS)

1 INTERESTS RECORDED ON REGISTER FOLIO CP/SP15366  
2 AQ560167 MORTGAGE TO CREDIT SUISSE AG

NOTATIONS

UNREGISTERED DEALINGS: NIL

\*\*\* END OF SEARCH \*\*\*

121004069-005

PRINTED ON 6/7/2022

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NEW SOUTH WALES LAND REGISTRY SERVICES - TITLE SEARCH

FOLIO: 2/SP15366

SEARCH DATE	TIME	EDITION NO	DATE
6/7/2022	5:32 PM	6	16/11/2020

LAND

LOT 2 IN STRATA PLAN 15366  
AT KENSINGTON  
LOCAL GOVERNMENT AREA RANDWICK

FIRST SCHEDULE

CEDAR PACIFIC 1 PTY LTD (T AQ509261)

SECOND SCHEDULE (2 NOTIFICATIONS)

1 INTERESTS RECORDED ON REGISTER FOLIO CP/SP15366  
2 AQ560167 MORTGAGE TO CREDIT SUISSE AG

NOTATIONS

UNREGISTERED DEALINGS: NIL

\*\*\* END OF SEARCH \*\*\*

121004069-005

PRINTED ON 6/7/2022

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NEW SOUTH WALES LAND REGISTRY SERVICES - TITLE SEARCH

FOLIO: 3/SP15366

SEARCH DATE	TIME	EDITION NO	DATE
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6/7/2022	5:32 PM	5	16/11/2020

LAND

LOT 3 IN STRATA PLAN 15366  
AT KENSINGTON  
LOCAL GOVERNMENT AREA RANDWICK

FIRST SCHEDULE

CEDAR PACIFIC 1 PTY LTD (T AQ509266)

SECOND SCHEDULE (2 NOTIFICATIONS)

1 INTERESTS RECORDED ON REGISTER FOLIO CP/SP15366  
2 AQ560167 MORTGAGE TO CREDIT SUISSE AG

NOTATIONS

UNREGISTERED DEALINGS: NIL

\*\*\* END OF SEARCH \*\*\*

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FOLIO: 4/SP15366

SEARCH DATE	TIME	EDITION NO	DATE
6/7/2022	5:32 PM	10	16/11/2020

LAND

LOT 4 IN STRATA PLAN 15366  
AT KENSINGTON  
LOCAL GOVERNMENT AREA RANDWICK

FIRST SCHEDULE

CEDAR PACIFIC 1 PTY LTD (T AQ509263)

SECOND SCHEDULE (2 NOTIFICATIONS)

1 INTERESTS RECORDED ON REGISTER FOLIO CP/SP15366  
2 AQ560167 MORTGAGE TO CREDIT SUISSE AG

NOTATIONS

UNREGISTERED DEALINGS: NIL

\*\*\* END OF SEARCH \*\*\*

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FOLIO: 5/SP15366

SEARCH DATE	TIME	EDITION NO	DATE
6/7/2022	5:32 PM	9	16/11/2020

LAND

LOT 5 IN STRATA PLAN 15366  
AT KENSINGTON  
LOCAL GOVERNMENT AREA RANDWICK

FIRST SCHEDULE

CEDAR PACIFIC 1 PTY LTD (T AQ509259)

SECOND SCHEDULE (2 NOTIFICATIONS)

1 INTERESTS RECORDED ON REGISTER FOLIO CP/SP15366  
2 AQ560167 MORTGAGE TO CREDIT SUISSE AG

NOTATIONS

UNREGISTERED DEALINGS: NIL

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FOLIO: 6/SP15366

SEARCH DATE	TIME	EDITION NO	DATE
6/7/2022	5:32 PM	9	16/11/2020

LAND

LOT 6 IN STRATA PLAN 15366  
AT KENSINGTON  
LOCAL GOVERNMENT AREA RANDWICK

FIRST SCHEDULE

CEDAR PACIFIC 1 PTY LTD (T AQ509268)

SECOND SCHEDULE (2 NOTIFICATIONS)

1 INTERESTS RECORDED ON REGISTER FOLIO CP/SP15366  
2 AQ560167 MORTGAGE TO CREDIT SUISSE AG

NOTATIONS

UNREGISTERED DEALINGS: NIL

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NEW SOUTH WALES LAND REGISTRY SERVICES - TITLE SEARCH

FOLIO: 7/SP15366

SEARCH DATE	TIME	EDITION NO	DATE
6/7/2022	5:32 PM	3	16/11/2020

LAND

LOT 7 IN STRATA PLAN 15366  
AT KENSINGTON  
LOCAL GOVERNMENT AREA RANDWICK

FIRST SCHEDULE

CEDAR PACIFIC 1 PTY LTD (T AQ509269)

SECOND SCHEDULE (2 NOTIFICATIONS)

1 INTERESTS RECORDED ON REGISTER FOLIO CP/SP15366  
2 AQ560167 MORTGAGE TO CREDIT SUISSE AG

NOTATIONS

UNREGISTERED DEALINGS: NIL

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SERVICES

## Title Search



NEW SOUTH WALES LAND REGISTRY SERVICES - TITLE SEARCH

FOLIO: 8/SP15366

SEARCH DATE	TIME	EDITION NO	DATE
6/7/2022	5:32 PM	7	16/11/2020

LAND

LOT 8 IN STRATA PLAN 15366  
AT KENSINGTON  
LOCAL GOVERNMENT AREA RANDWICK

FIRST SCHEDULE

CEDAR PACIFIC 1 PTY LTD (T AQ509265)

SECOND SCHEDULE (2 NOTIFICATIONS)

- 1 INTERESTS RECORDED ON REGISTER FOLIO CP/SP15366
- 2 AQ560090 MORTGAGE TO CREDIT SUISSE AG

NOTATIONS

UNREGISTERED DEALINGS: NIL

\*\*\* END OF SEARCH \*\*\*

121004069-005

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## Title Search



NEW SOUTH WALES LAND REGISTRY SERVICES - TITLE SEARCH

FOLIO: 1/SP19239

SEARCH DATE	TIME	EDITION NO	DATE
6/7/2022	5:32 PM	15	16/11/2020

LAND

LOT 1 IN STRATA PLAN 19239  
AT KENSINGTON  
LOCAL GOVERNMENT AREA RANDWICK

FIRST SCHEDULE

CEDAR PACIFIC 1 PTY LTD (T AQ509773)

SECOND SCHEDULE (2 NOTIFICATIONS)

1 INTERESTS RECORDED ON REGISTER FOLIO CP/SP19239  
2 AQ560167 MORTGAGE TO CREDIT SUISSE AG

NOTATIONS

UNREGISTERED DEALINGS: NIL

\*\*\* END OF SEARCH \*\*\*

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## Title Search



NEW SOUTH WALES LAND REGISTRY SERVICES - TITLE SEARCH

FOLIO: 2/SP19239

SEARCH DATE	TIME	EDITION NO	DATE
6/7/2022	5:32 PM	12	16/11/2020

LAND

LOT 2 IN STRATA PLAN 19239  
AT KENSINGTON  
LOCAL GOVERNMENT AREA RANDWICK

FIRST SCHEDULE

CEDAR PACIFIC 1 PTY LTD (T AQ509755)

SECOND SCHEDULE (2 NOTIFICATIONS)

1 INTERESTS RECORDED ON REGISTER FOLIO CP/SP19239  
2 AQ560167 MORTGAGE TO CREDIT SUISSE AG

NOTATIONS

UNREGISTERED DEALINGS: NIL

\*\*\* END OF SEARCH \*\*\*

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NEW SOUTH WALES LAND REGISTRY SERVICES - TITLE SEARCH

FOLIO: 3/SP19239

SEARCH DATE	TIME	EDITION NO	DATE
6/7/2022	5:32 PM	9	16/11/2020

LAND

LOT 3 IN STRATA PLAN 19239  
AT KENSINGTON  
LOCAL GOVERNMENT AREA RANDWICK

FIRST SCHEDULE

CEDAR PACIFIC 1 PTY LTD (T AQ509771)

SECOND SCHEDULE (2 NOTIFICATIONS)

1 INTERESTS RECORDED ON REGISTER FOLIO CP/SP19239  
2 AQ560167 MORTGAGE TO CREDIT SUISSE AG

NOTATIONS

UNREGISTERED DEALINGS: NIL

\*\*\* END OF SEARCH \*\*\*

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## Title Search

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NEW SOUTH WALES LAND REGISTRY SERVICES - TITLE SEARCH

FOLIO: 4/SP19239

SEARCH DATE	TIME	EDITION NO	DATE
6/7/2022	5:32 PM	9	16/11/2020

LAND

LOT 4 IN STRATA PLAN 19239  
AT KENSINGTON  
LOCAL GOVERNMENT AREA RANDWICK

FIRST SCHEDULE

CEDAR PACIFIC 1 PTY LTD (T AQ509769)

SECOND SCHEDULE (2 NOTIFICATIONS)

1 INTERESTS RECORDED ON REGISTER FOLIO CP/SP19239  
2 AQ560167 MORTGAGE TO CREDIT SUISSE AG

NOTATIONS

UNREGISTERED DEALINGS: NIL

\*\*\* END OF SEARCH \*\*\*

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## Title Search

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NEW SOUTH WALES LAND REGISTRY SERVICES - TITLE SEARCH

FOLIO: 5/SP19239

SEARCH DATE	TIME	EDITION NO	DATE
6/7/2022	5:32 PM	9	16/11/2020

LAND

LOT 5 IN STRATA PLAN 19239  
AT KENSINGTON  
LOCAL GOVERNMENT AREA RANDWICK

FIRST SCHEDULE

CEDAR PACIFIC 1 PTY LTD (T AQ509765)

SECOND SCHEDULE (2 NOTIFICATIONS)

1 INTERESTS RECORDED ON REGISTER FOLIO CP/SP19239  
2 AQ560167 MORTGAGE TO CREDIT SUISSE AG

NOTATIONS

UNREGISTERED DEALINGS: NIL

\*\*\* END OF SEARCH \*\*\*

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## Title Search



NEW SOUTH WALES LAND REGISTRY SERVICES - TITLE SEARCH

FOLIO: 6/SP19239

SEARCH DATE	TIME	EDITION NO	DATE
6/7/2022	5:32 PM	11	16/11/2020

LAND

LOT 6 IN STRATA PLAN 19239  
AT KENSINGTON  
LOCAL GOVERNMENT AREA RANDWICK

FIRST SCHEDULE

CEDAR PACIFIC 1 PTY LTD (T AQ509775)

SECOND SCHEDULE (2 NOTIFICATIONS)

1 INTERESTS RECORDED ON REGISTER FOLIO CP/SP19239  
2 AQ560167 MORTGAGE TO CREDIT SUISSE AG

NOTATIONS

UNREGISTERED DEALINGS: NIL

\*\*\* END OF SEARCH \*\*\*

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## Title Search



NEW SOUTH WALES LAND REGISTRY SERVICES - TITLE SEARCH

FOLIO: 7/SP19239

SEARCH DATE	TIME	EDITION NO	DATE
6/7/2022	5:32 PM	8	16/11/2020

LAND

LOT 7 IN STRATA PLAN 19239  
AT KENSINGTON  
LOCAL GOVERNMENT AREA RANDWICK

FIRST SCHEDULE

CEDAR PACIFIC 1 PTY LTD (T AQ509767)

SECOND SCHEDULE (2 NOTIFICATIONS)

- 1 INTERESTS RECORDED ON REGISTER FOLIO CP/SP19239
- 2 AQ560167 MORTGAGE TO CREDIT SUISSE AG

NOTATIONS

UNREGISTERED DEALINGS: NIL

\*\*\* END OF SEARCH \*\*\*

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NEW SOUTH WALES LAND REGISTRY SERVICES - TITLE SEARCH

FOLIO: 8/SP19239

SEARCH DATE	TIME	EDITION NO	DATE
6/7/2022	5:32 PM	7	16/11/2020

LAND

LOT 8 IN STRATA PLAN 19239  
AT KENSINGTON  
LOCAL GOVERNMENT AREA RANDWICK

FIRST SCHEDULE

CEDAR PACIFIC 1 PTY LTD (T AQ509753)

SECOND SCHEDULE (2 NOTIFICATIONS)

1 INTERESTS RECORDED ON REGISTER FOLIO CP/SP19239  
2 AQ560167 MORTGAGE TO CREDIT SUISSE AG

NOTATIONS

UNREGISTERED DEALINGS: NIL

\*\*\* END OF SEARCH \*\*\*

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## Title Search

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NEW SOUTH WALES LAND REGISTRY SERVICES - TITLE SEARCH

FOLIO: 9/SP19239

SEARCH DATE	TIME	EDITION NO	DATE
6/7/2022	5:33 PM	9	16/11/2020

LAND

LOT 9 IN STRATA PLAN 19239  
AT KENSINGTON  
LOCAL GOVERNMENT AREA RANDWICK

FIRST SCHEDULE

CEDAR PACIFIC 1 PTY LTD (T AQ509761)

SECOND SCHEDULE (2 NOTIFICATIONS)

1 INTERESTS RECORDED ON REGISTER FOLIO CP/SP19239  
2 AQ560167 MORTGAGE TO CREDIT SUISSE AG

NOTATIONS

UNREGISTERED DEALINGS: NIL

\*\*\* END OF SEARCH \*\*\*

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## Title Search

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NEW SOUTH WALES LAND REGISTRY SERVICES - TITLE SEARCH

FOLIO: 10/SP19239

SEARCH DATE	TIME	EDITION NO	DATE
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6/7/2022	5:33 PM	9	16/11/2020

LAND

LOT 10 IN STRATA PLAN 19239  
AT KENSINGTON  
LOCAL GOVERNMENT AREA RANDWICK

FIRST SCHEDULE

CEDAR PACIFIC 1 PTY LTD (T AQ509760)

SECOND SCHEDULE (2 NOTIFICATIONS)

1 INTERESTS RECORDED ON REGISTER FOLIO CP/SP19239  
2 AQ560167 MORTGAGE TO CREDIT SUISSE AG

NOTATIONS

UNREGISTERED DEALINGS: NIL

\*\*\* END OF SEARCH \*\*\*

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## Title Search



NEW SOUTH WALES LAND REGISTRY SERVICES - TITLE SEARCH

FOLIO: 11/SP19239

SEARCH DATE	TIME	EDITION NO	DATE
6/7/2022	5:33 PM	11	16/11/2020

LAND

LOT 11 IN STRATA PLAN 19239  
AT KENSINGTON  
LOCAL GOVERNMENT AREA RANDWICK

FIRST SCHEDULE

CEDAR PACIFIC 1 PTY LTD (T AQ509763)

SECOND SCHEDULE (2 NOTIFICATIONS)

1 INTERESTS RECORDED ON REGISTER FOLIO CP/SP19239  
2 AQ560167 MORTGAGE TO CREDIT SUISSE AG

NOTATIONS

UNREGISTERED DEALINGS: NIL

\*\*\* END OF SEARCH \*\*\*

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## Title Search

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NEW SOUTH WALES LAND REGISTRY SERVICES - TITLE SEARCH

FOLIO: 12/SP19239

SEARCH DATE	TIME	EDITION NO	DATE
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6/7/2022	5:33 PM	10	16/11/2020

LAND

LOT 12 IN STRATA PLAN 19239  
AT KENSINGTON  
LOCAL GOVERNMENT AREA RANDWICK

FIRST SCHEDULE

CEDAR PACIFIC 1 PTY LTD (T AQ509757)

SECOND SCHEDULE (2 NOTIFICATIONS)

- 1 INTERESTS RECORDED ON REGISTER FOLIO CP/SP19239
- 2 AQ560167 MORTGAGE TO CREDIT SUISSE AG

NOTATIONS

UNREGISTERED DEALINGS: NIL

\*\*\* END OF SEARCH \*\*\*

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## Title Search



NEW SOUTH WALES LAND REGISTRY SERVICES - TITLE SEARCH

FOLIO: B/410791

SEARCH DATE	TIME	EDITION NO	DATE
6/7/2022	5:33 PM	9	21/6/2022

LAND

LOT B IN DEPOSITED PLAN 410791  
AT KENSINGTON  
LOCAL GOVERNMENT AREA RANDWICK  
PARISH OF ALEXANDRIA COUNTY OF CUMBERLAND  
TITLE DIAGRAM DP410791

FIRST SCHEDULE

CEDAR PACIFIC 1 PTY LTD (T AQ509545)

SECOND SCHEDULE (6 NOTIFICATIONS)

- 1 RESERVATIONS AND CONDITIONS IN THE CROWN GRANT(S)
- 2 604279 LAND EXCLUDES MINERALS
- 3 604279 COVENANT
- 4 609504 RIGHT OF WAY APPURtenant TO THE LAND ABOVE  
DESCRIBED AFFECTING THE LAND SHOWN SO BURDENED IN VOL  
7803 FOL 182
- 5 H177311 CROSS EASEMENTS (S181 B CONVEYANCING ACT, 1919)  
AFFECTING THE PARTY WALL(S) SHOWN ON THE COMMON  
BOUNDARY OF LOTS B & A IN DP410791
- 6 AQ560090 MORTGAGE TO CREDIT SUISSE AG

NOTATIONS

UNREGISTERED DEALINGS: PP DP1283482.

\*\*\* END OF SEARCH \*\*\*

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## Title Search



NEW SOUTH WALES LAND REGISTRY SERVICES - TITLE SEARCH

FOLIO: A/410791

SEARCH DATE	TIME	EDITION NO	DATE
6/7/2022	5:33 PM	7	16/11/2020

LAND

LOT A IN DEPOSITED PLAN 410791  
AT KENSINGTON  
LOCAL GOVERNMENT AREA RANDWICK  
PARISH OF ALEXANDRIA COUNTY OF CUMBERLAND  
TITLE DIAGRAM DP410791

FIRST SCHEDULE

CEDAR PACIFIC 1 PTY LTD (T AQ509497)

SECOND SCHEDULE (7 NOTIFICATIONS)

- 1 RESERVATIONS AND CONDITIONS IN THE CROWN GRANT(S)
- 2 604279 LAND EXCLUDES MINERALS
- 3 604279 COVENANT
- 4 609504 RIGHT OF WAY APPURTENANT TO THE LAND ABOVE  
DESCRIBED AFFECTING THE LAND SHOWN SO BURDENED IN VOL  
7803 FOL 183
- 5 609504 RIGHT OF WAY AFFECTING THE PART OF THE LAND ABOVE  
DESCRIBED SHOWN SO BURDENED IN VOL 7803 FOL 183
- 6 H177311 CROSS EASEMENTS (S181 B CONVEYANCING ACT, 1919)  
AFFECTING THE PARTY WALL(S) SHOWN ON THE COMMON  
BOUNDARY OF LOTS A & B IN DP410791
- 7 AQ560090 MORTGAGE TO CREDIT SUISSE AG

NOTATIONS

UNREGISTERED DEALINGS: PP DP1283482.

\*\*\* END OF SEARCH \*\*\*

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## Title Search

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NEW SOUTH WALES LAND REGISTRY SERVICES - TITLE SEARCH

FOLIO: 11/7/4761

SEARCH DATE	TIME	EDITION NO	DATE
6/7/2022	5:33 PM	4	16/11/2020

LAND

LOT 11 OF SECTION 7 IN DEPOSITED PLAN 4761  
AT KENSINGTON  
LOCAL GOVERNMENT AREA RANDWICK  
PARISH OF ALEXANDRIA COUNTY OF CUMBERLAND  
TITLE DIAGRAM DP4761

FIRST SCHEDULE

CEDAR PACIFIC 1 PTY LTD (T AQ509509)

SECOND SCHEDULE (6 NOTIFICATIONS)

- 1 RESERVATIONS AND CONDITIONS IN THE CROWN GRANT(S)
- 2 554093 LAND EXCLUDES MINERALS
- 3 554093 COVENANT
- 4 609504 RIGHT OF WAY APPURTENANT TO THE LAND WITHIN  
DESCRIBED AFFECTING THE LAND SHOWN SO BURDENED IN VOL  
2154 FOL 83
- 5 609504 RIGHT OF WAY AFFECTING THE PART OF LAND WITHIN  
DESCRIBED SHOWN SO BURDENED IN VOL 2154 FOL 83
- 6 AQ560090 MORTGAGE TO CREDIT SUISSE AG

NOTATIONS

UNREGISTERED DEALINGS: PP DP1283482.

\*\*\* END OF SEARCH \*\*\*

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## Title Search



NEW SOUTH WALES LAND REGISTRY SERVICES - TITLE SEARCH

FOLIO: 10/7/4761

SEARCH DATE	TIME	EDITION NO	DATE
6/7/2022	5:33 PM	7	16/11/2020

LAND

LOT 10 OF SECTION 7 IN DEPOSITED PLAN 4761  
AT KENSINGTON  
LOCAL GOVERNMENT AREA RANDWICK  
PARISH OF ALEXANDRIA COUNTY OF CUMBERLAND  
TITLE DIAGRAM DP4761

FIRST SCHEDULE

CEDAR PACIFIC 1 PTY LTD (T AQ509537)

SECOND SCHEDULE (4 NOTIFICATIONS)

- 1 RESERVATIONS AND CONDITIONS IN THE CROWN GRANT(S)
- 2 562302 LAND EXCLUDES MINERALS
- 3 562302 COVENANT
- 4 AQ560090 MORTGAGE TO CREDIT SUISSE AG

NOTATIONS

UNREGISTERED DEALINGS: PP DP1283482.

\*\*\* END OF SEARCH \*\*\*

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CREDIT SUISSE AG  
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#03-01 One Raffles Link  
Singapore 039393

Phone +65 6212 2000  
[www.credit-suisse.com](http://www.credit-suisse.com)

The Registrar-General  
NSW Land Registry Services  
1 Prince Albert Road  
SYDNEY NSW 2000

25 May 2022

Dear Registrar-General,

**RE: Registration of Planning Agreement**

Credit Suisse AG, Singapore Branch (incorporated in Switzerland with limited liability) (SPG number 101715997) (**Mortgagee**) is mortgagee in respect of mortgage AQ560090 registered over Lot 8 in SP15366, Lot 10 Section 7 in DP 4761, Lot 11 Section 7 in DP 4761, Lot A in DP 410791 and Lot B in DP410791 (**Land**).

Cedar Pacific 1 Pty Ltd (ACN 631 194 217) in its capacity as trustee for the Cedar Pacific Kensington Trust as registered proprietor of the Land is to register the Voluntary Planning Agreement (**Agreement**) on the title to the Land.

Pursuant to section 7.6 of the *Environmental Planning & Assessment Act 1979 (NSW)*, the Mortgagee consents to the registration of the Agreement on the title to the Land.

For and on behalf of

**Credit Suisse AG, Singapore Branch as Mortgagee**

Constance Jung  
Vice President  
General Counsel Division

David Leung  
Managing Director



CREDIT SUISSE AG  
1 Raffles Link  
#03-01 One Raffles Link  
Singapore 039393

Phone +65 6212 2000  
[www.credit-suisse.com](http://www.credit-suisse.com)

The Registrar-General  
NSW Land Registry Services  
1 Prince Albert Road  
SYDNEY NSW 2000

25 May 2022

Dear Registrar-General,

**RE: Registration of Planning Agreement**

---

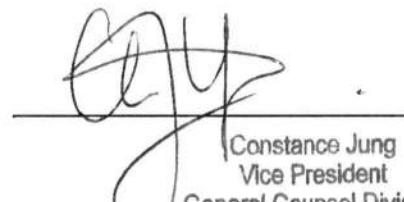
Credit Suisse AG, Singapore Branch (incorporated in Switzerland with limited liability) (SPG number 101715997) (**Mortgagee**) is mortgagee in respect of mortgage AQ560167 registered over Lots 1-12 in SP19239 and Lots 1-7 in SP15366 (**Land**).

Cedar Pacific 1 Pty Ltd (ACN 631 194 217) in its capacity as trustee for the Cedar Pacific Kensington Trust as registered proprietor of the Land is to register the Voluntary Planning Agreement (**Agreement**) on the title to the Land.

Pursuant to section 7.6 of the *Environmental Planning & Assessment Act 1979 (NSW)*, the Mortgagee consents to the registration of the Agreement on the title to the Land.

For and on behalf of

**Credit Suisse AG, Singapore Branch as Mortgagee**



---

Constance Jung  
Vice President  
General Counsel Division



---

David Leung  
Managing Director