



LEGACYPROPERTY

14 April 2022

General Manager
Penrith City Council
PO Box 60
PENRITH NSW 2751

Attention: Natalie Stanowski

Dear Natalie,

**LETTER OF OFFER TO ENTER INTO A PLANNING AGREEMENT WITH PENRITH CITY COUNCIL –
ORCHARD HILLS NSW**

LegPro Orchard Hills Pty Ltd as trustee for LegPro Orchard Hills Unit Trust (**Legacy**) offers to enter into a Voluntary Planning Agreement (**VPA**) with Penrith City Council (**Council**) under section 7.4 of the *Environmental Planning and Assessment Act 1979* (**EP&A Act**) in accordance with the terms of this Letter of Offer (**Offer**).

The Offer supersedes Legacy's previous offer dated 25 February 2022.

1 Application

The VPA will be entered into in connection with the Orchard Hills North Planning Proposal (PP_2018_PENRI_006_00) (**Planning Proposal**).

The Planning Proposal seeks to amend *Penrith Local Environmental Plan 2010* to rezone approximately 151.9ha of land in the Orchard Hills North area from RU4 Primary Production Small Lots to R1 General Residential, B2 Local Centre, RE1 Public Recreation, E2 Environmental Conservation and E3 Environmental Management.

2 The Land

The VPA will apply to the Land identified in Schedule A (**Land**).

Where not already owned, Legacy controls the Land under legally binding option agreements. Each option is unable to be exercised until the date on which the relevant amended *Penrith Local Environmental Plan 2010* is published on the NSW Legislation website to give effect to the Planning Proposal (**Option Date**).

Completion (i.e. settlement) of the Land is structured such that it is expected to occur six months following the Option Date.



3 Sections 7.11 Contributions

Legacy agrees to provide dedication of land, monetary contributions and/or embellishment works as identified in Schedule B.

These contributions are applicable to the Land in accordance with the Orchard Hills North – ‘Area A’ Development Contributions Plan 2022 dated 13 April 2022, or as determined by IPART.

The contributions have been calculated based on forecast yields. The monetary component will ultimately be adjusted to reflect the final yield approved through development applications.

4 Additional Public Benefits

Legacy agrees to provide the Additional Public Benefits set out in Schedule C subject to the Planning Proposal being made in the form as submitted to Council. Legacy reserves the right to amend this Offer should the Planning Proposal be amended prior to its finalisation.

5 Operation

The VPA will operate on and from the date that Legacy becomes the registered proprietor of all of the Land, being six months following the Option Date.

6 Enforcement and security

Security will be provided through:

- registration of the VPA on title of the Land;
- inclusion of a clause allowing Council to compulsorily acquire land to be dedicated for \$1;
- restriction on the issue of relevant certificates under Part 6 of the EP&A Act prior to the relevant obligation(s) being satisfied.

7 Registration

On execution of the VPA Legacy will register the VPA on those titles of the Land that it is the registered proprietor.

The VPA will subsequently be registered on the titles of the balance of the Land within 10 days of Legacy becoming the registered proprietor.

The VPA is to include a mechanism which allows for the VPA to be released from the Land in stages as relevant obligations under the VPA are satisfied.



8 Infrastructure delivery capability

Legacy has a successful track record of delivering public infrastructure in a range of projects across Sydney. This includes the completion of infrastructure and open space works of a similar nature delivered through a Voluntary Planning Agreement with Penrith City Council for the adjoining Caddens development.

Legacy has both the technical capability and financial capacity to deliver the public benefits proposed in this Offer.

9 Section 7.11, 7.12 and 7.24 Contributions

The VPA will exclude the application of sections 7.11 and 7.12 of the EP&A Act from the Land and any subsequent development of the Land.

Section 7.24 of the Act is not proposed to be excluded from operation by the VPA.

10 Summary of requirements referred to in section 7.4 of the EP&A Act

Schedule D provides a summary of those matters referenced at section 7.4 of the EP&A Act and how these are to be addressed in the VPA.

11 Risks

Potential risks are identified in Schedule E.

12 Limitation of liability

The VPA will contain the limitation of liability clause contained in Schedule F.

Legacy anticipates preparing the full VPA document following confirmation that Council is generally satisfied with this Offer.

Legacy Property successfully delivered an extensive range of public benefits in our Caddens project under the VPA with Council, and we look forward to working with Council to continuing our contribution to the future success of Penrith through the Orchard Hills North project.

Yours sincerely,

Matthew Hyder
Chief Executive Officer



LEGACYPROPERTY

Schedule A: Land

Land currently owned by Legacy:

Address	Folio Identifier
132-138 Caddens Road, Orchard Hills	12/1344
7-11 Frogmore Road, Orchard Hills	7/857982

Land currently controlled by Legacy:

Address	Folio Identifier
2 Kingswood Road, Orchard Hills	6/1344
98-104 Caddens Road, Orchard Hills	8/1344
114-122 Caddens Road, Orchard Hills	100/700141
124-130 Caddens Road, Orchard Hills	101/700141
140-146 Caddens Road, Orchard Hills	13/1344
78-88 Castle Road, Orchard Hills	42/881960
126-164 Castle Road, Orchard Hills	1/239091
166-204 Castle Road, Orchard Hills	8/857982

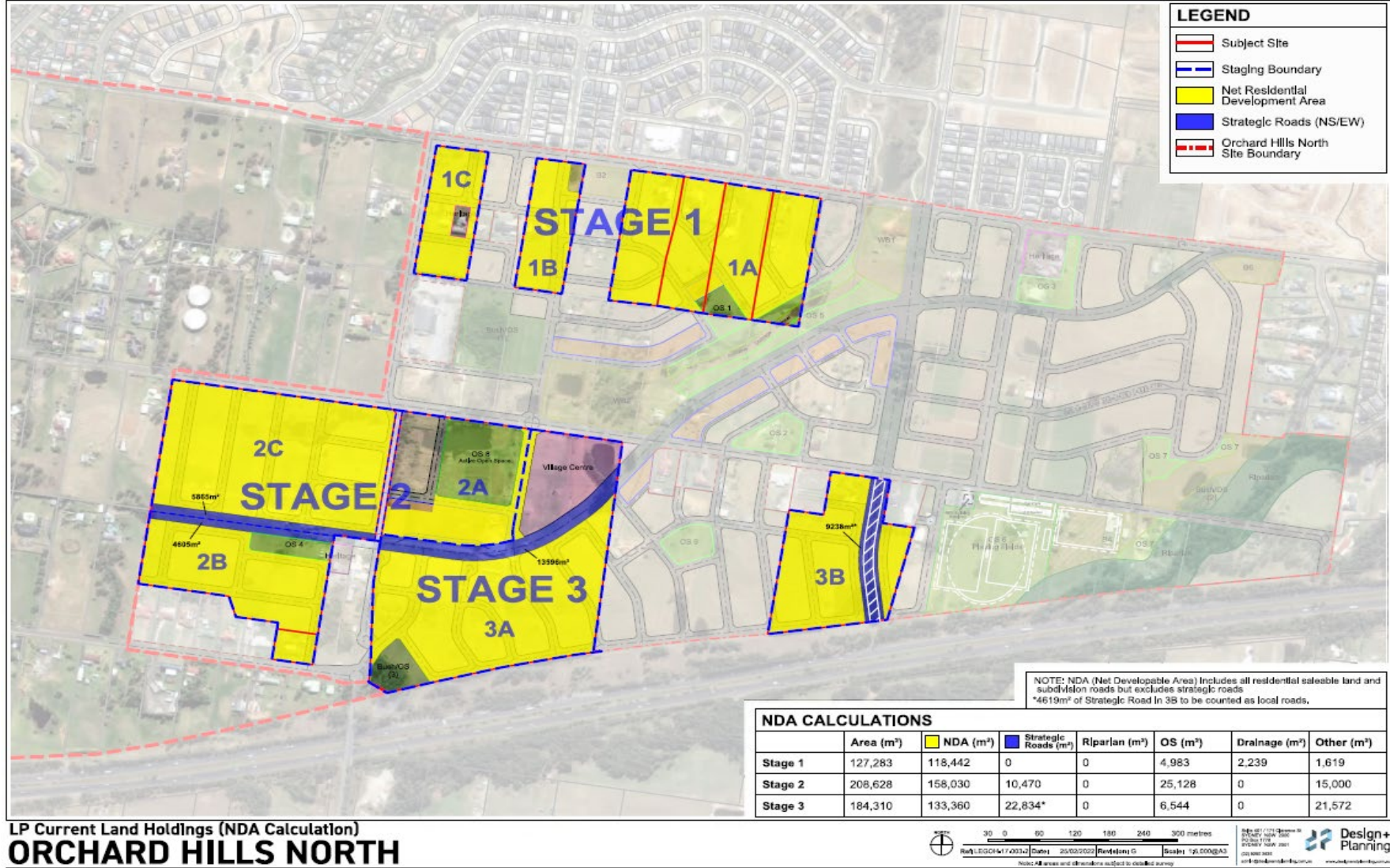
Schedule B: Contributions

Summary of Contributions

Stage	Indicative Lot Yield	Amount of Required Contributions*	Proposed Value of Land & Works	Proposed Monetary Contribution
1	222	\$22,421,568	\$3,594,478	\$18,827,090
2	266	\$27,573,939	\$25,065,860	\$2,508,079
3	293	\$28,597,077	\$10,198,100	\$18,398,977
	781	\$78,592,584	\$38,858,438	\$39,734,146

- Based on a contribution rate of \$77,578 per final lot/dwelling plus \$439,126 per hectare of net developable area.
- The contributions have been calculated based on forecast yields. The monetary component will ultimately be adjusted to reflect the final yield approved through development applications.

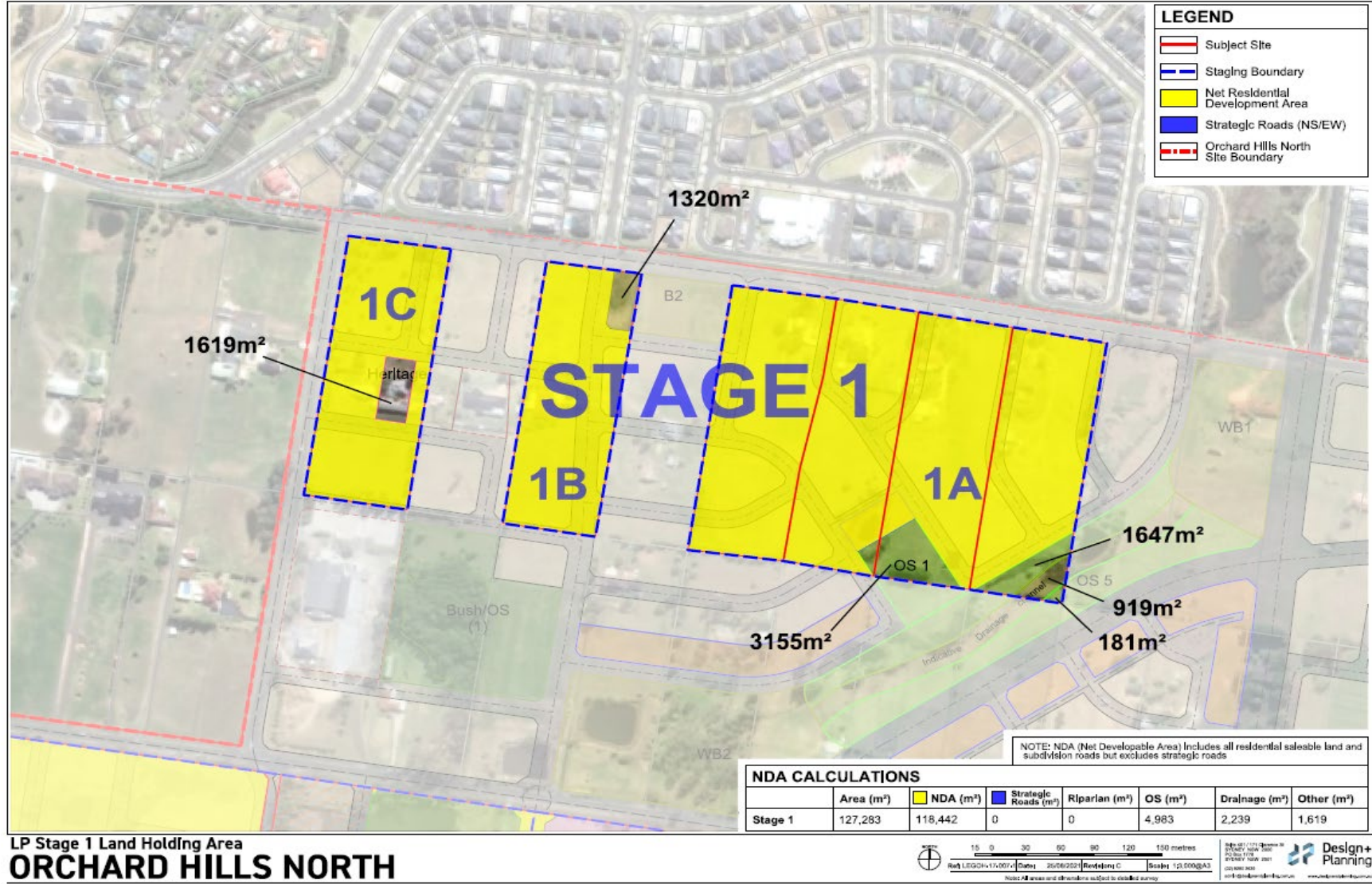
Overall Plan



Stage 1: Proposed Land & Works Contributions

Item	Description/Public Purpose	Values		Timing
		Land	Works	
Plan Administration	Costs involved in preparation of Local Contributions Plan and supporting technical studies	n/a	\$475,000	Not applicable – cost already incurred
District Park OS1	Dedication of a minimum 3,155sqm of land being Part of Lot 12 DP1344 and Lot 101 DP700141	\$1,262,000	n/a	Prior to or in conjunction with the Subdivision Certificate for any Final Lots within Stage 1A.
Water Cycle Management Facility	Dedication of a minimum 919sqm of land for drainage channel being Part of Lot 13 DP1344	\$50,545	n/a	Dedication of land prior to or in conjunction with Subdivision Certificate for any Final Lots within Stage 1B.
Basin B2 Riparian Land	Dedication of a minimum 1,320sqm of land for Basin B2 being Part of Lot 13 DP1344	\$72,600	n/a	Dedication of land prior to or in conjunction with Subdivision Certificate for any Final Lots within Stage 1A.
Informal Recreation OS5	Dedication of a minimum 1,828sqm of land for drainage channel being Part of Lot 13 DP1344	\$731,200	n/a	Dedication of land prior to or in conjunction with Subdivision Certificate for any Final Lots within Stage 1A.
Traffic & Transport Management Facilities	Concept Design for E/W Road through entire Estate (The Northern Road to Caddens Road)	n/a	\$675,160	Prior to or in conjunction with Subdivision Certificate for 200th Final Lot within Stage 1
Traffic & Transport Management Facilities	Concept Design for N/W Road through entire Estate (The Northern Road to Caddens Road)	n/a	\$327,973	Prior to or in conjunction with Subdivision Certificate for 200th Final Lot within Stage 1
Stage 1 Sub-total		\$2,116,345	\$1,478,133	TOTAL = \$3,594,478

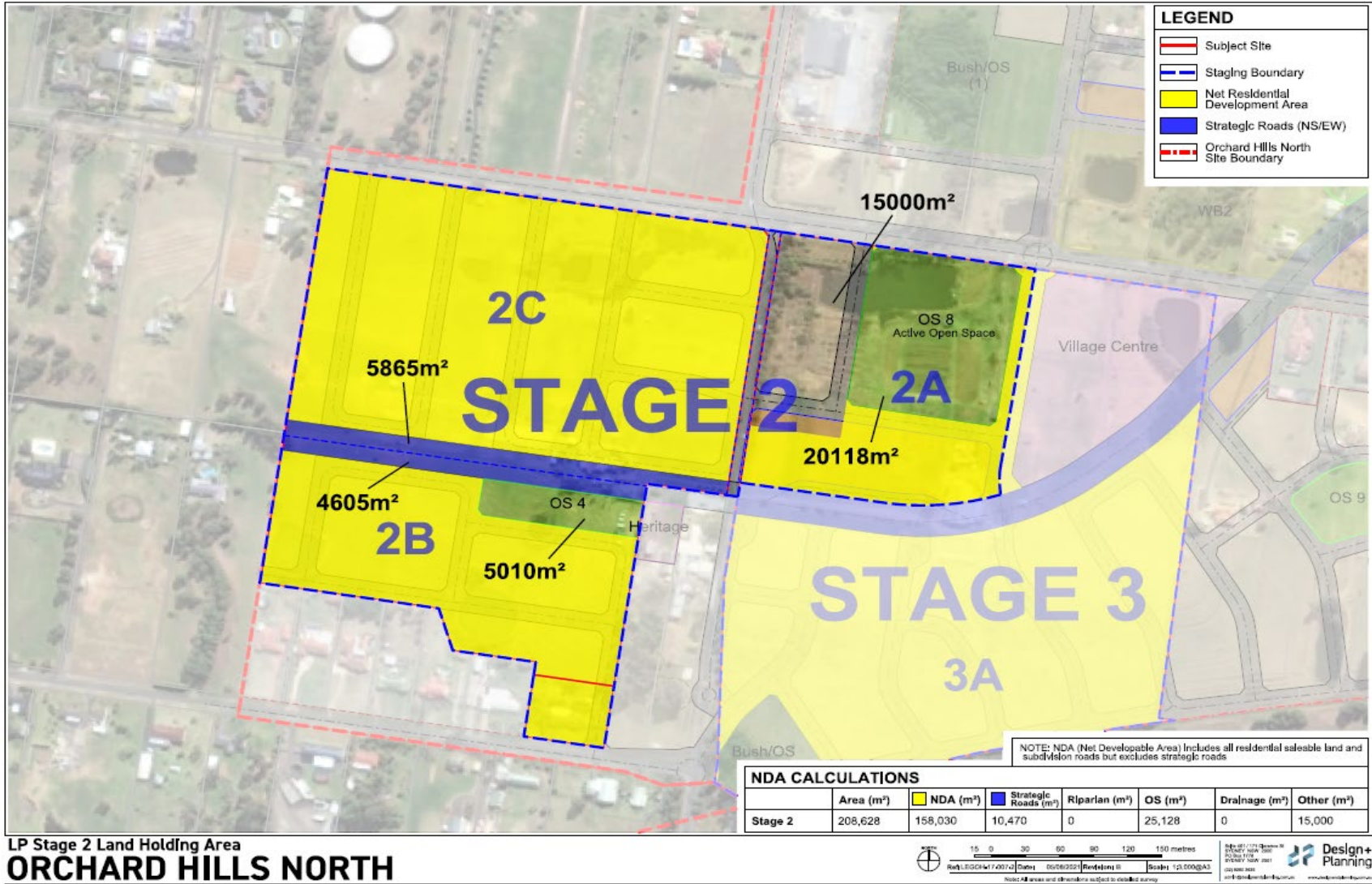
Stage 1 Plan



Stage 2: Proposed Land & Works Contributions

Item	Description/Public Purpose	Values		Timing
		Land	Works	
Informal Recreation Park	Dedication of a minimum 5,010sqm of land being Part of Lot 8 DP857982	\$2,004,000	\$601,200	Prior to or in conjunction with Subdivision Certificate for any Final Lots within Stage 2B.
OS4	Landscape embellishment works 12-month maintenance period			Prior to Subdivision Certificate for any Final Lots within Stage 2B. From practical completion.
Active Open Space	Dedication of a minimum 20,118sqm of land being Part of Lot 1 DP239091	\$8,047,200	n/a	Prior to or in conjunction with Subdivision Certificate for any Final Lots within Stage 2A.
OS8	Landscape embellishment and park infrastructure works 12-month maintenance period	n/a	\$2,414,160	Within 1 year after Subdivision Certificate for 200th Final Lot within Stage 2. From practical completion.
Traffic & Transport Management	Dedication of a minimum *10,470sqm of land being part of Lot 8 DP857982 for a four land section of the east/west collector road	\$4,188,000	n/a	Prior to or in conjunction with a Subdivision Certificate for 100th Final Lot within Stage 2C.
	Construction of a four-lane road to PCC standards	n/a	\$2,372,900	Prior to or in conjunction with a Subdivision Certificate for 100th Final Lot within Stage 2C.
	12-month maintenance period	n/a		From practical completion.
	Dedication of a minimum *13,596sqm of land being part of Lot 1 DP239091 for a four land section of the east/west collector road <i>*If additional or lesser land required, the cost of land, works and offset will be adjusted on a pro-rata basis.</i>	\$5,438,400	n/a	
Stage 2 Sub-total		\$19,677,600	\$5,388,260	TOTAL = \$25,065,860

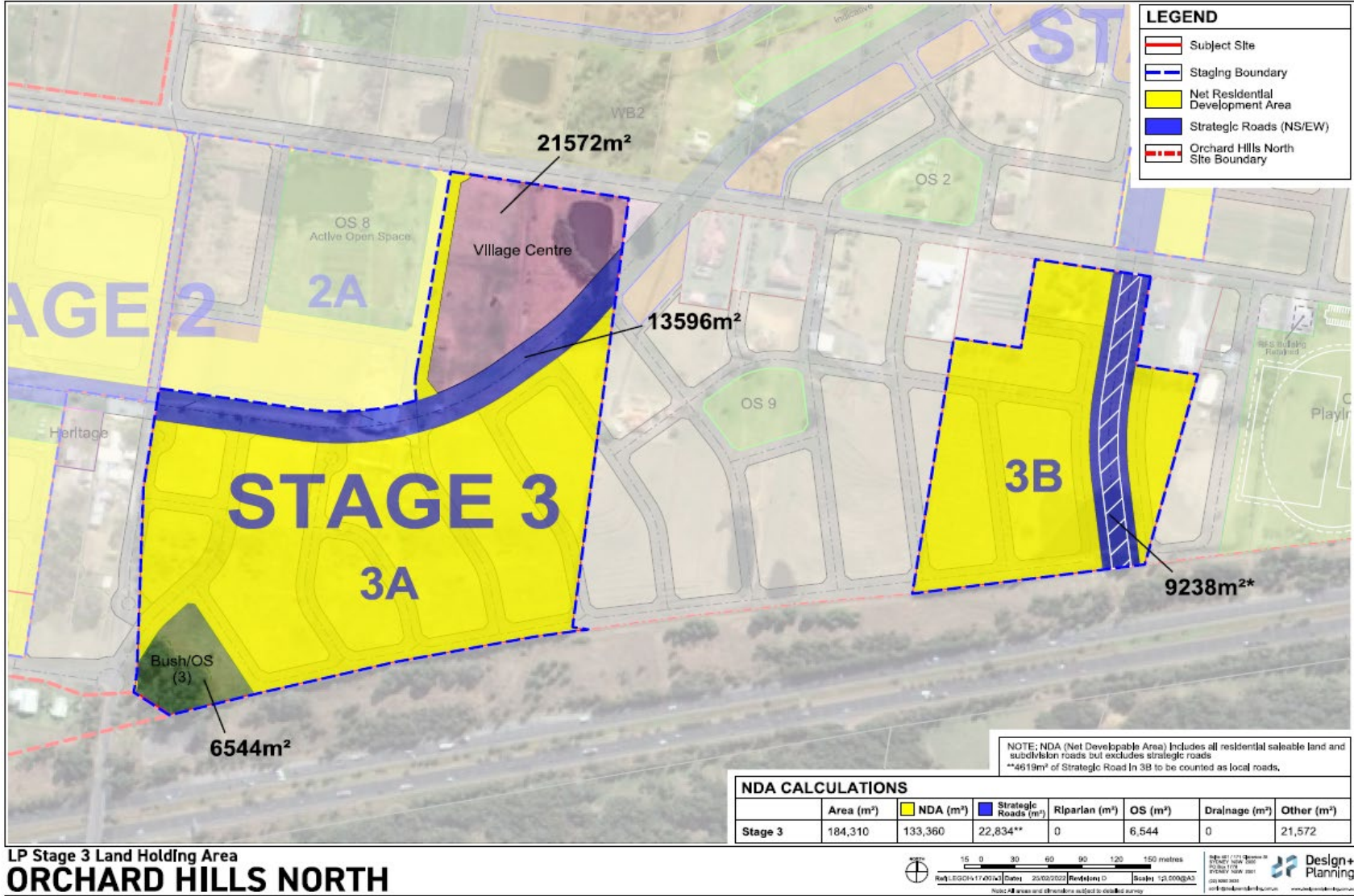
Stage 2 Plan



Stage 3: Proposed Land & Works Contributions

Item	Description/Public Purpose	Values		Timing
		Land	Works	
Natural Recreation Space Bush OS (3)	Dedication of a minimum 6,570sqm of land being Part of Lot 1 in DP239091	\$591,300	n/a	Prior to or in conjunction with Subdivision Certificate for 100th Final Lot within Stage 3A.
	Landscape embellishment worka	n/a	\$262,800	Prior to Subdivision Certificate for 100th Final Lot within Stage 3A.
	12-month maintenance period			From practical completion.
Traffic & Transport Management Facilities	Dedication of a minimum 13,596sqm of land, being part of Lot 1 DP239091	-	n/a	Prior to or in conjunction with Subdivision Certificate for 200th Final Lot within Stage 3A.
	Construction of a four-lane road to PCC standards	n/a	\$2,879,200	Prior to or in conjunction with Subdivision Certificate for 200th Final Lot within Stage 3A.
	12-month maintenance period			From practical completion.
Traffic & Transport Management	Dedication of a minimum *800sqm of land for a new four-way roundabout being Part of Lot 1 DP239091	\$320,000	n/a	Prior to or in conjunction with Subdivision Certificate for 200th Final Lot within Stage 3A.
	<i>*If additional or lesser land required, the cost of land, works and offset will be adjusted on a prorate basis.</i>			
	Construction of four-way roundabout	n/a	\$1,400,000	Prior to or in conjunction with Subdivision Certificate for 200th Final Lot within Stage 3A.
	12-month maintenance period			From practical completion.
Traffic & Transport Management	Dedication of a minimum 4,619sqm of land, being part of Lot 42 DP881960 for a future four-lane north-south road	\$1,847,600	n/a	Prior to or in conjunction with Subdivision Certificate for 200th Final Lot within Stage 3A.
	Road Construction (to PCC Standards) of N/S road through Stage 3B	n/a	\$2,897,200	Prior to or in conjunction with Subdivision Certificate for 200th Final Lot within Stage 3A.
	12-month maintenance period			From practical completion.
Stage 3 Sub-total		\$2,758,900	\$7,439,200	TOTAL = \$10,198,100

Stage 3 Plan



**Schedule C: Additional Public Benefits**

Item	Contribution	Timing
Monetary contribution towards public art	<ul style="list-style-type: none">A monetary contribution of \$335,000 based on 10% of the embellishment works costs for OS3, OS4 and OS8.This contribution is to deliver public artwork within OS8. The artwork will be designed and themed following consultation with the existing Orchard Hills primary school children and Council. The budget will include costs for consultation, design development, approvals, construction and project management	In conjunction with delivery of OS8
Contribution to community facility	<ul style="list-style-type: none">A monetary contribution of \$440,000 based on a proportional contribution relating to Land covered by this VPA.The amount is based on a construction cost estimate of \$1,090,000 for a 432sqm community facility to meet needs, based on the entire Orchard Hills North rezoning area.	Prior to any subdivision certificate in Stage 2C
Affordable housing	<ul style="list-style-type: none">23 dwellings, representing 3% of the forecast dwelling yield for the Land, to be delivered outside of the Orchard Hills North area but within the Penrith LGA in partnership with a registered Community Housing Provider.Provision of Affordable Housing in accordance with the VPA will be satisfy all requirements and obligations to provide affordable housing in relation to the development of the Land.Alternatively, at Legacy's election this may be provided by monetary contribution to Council based on a future rate to be determined by Council in accordance with Chapter 2 of <i>State Environmental Planning Policy (Housing) 2021</i>.	Prior to any subdivision certificate in Stage 3A

Schedule D: Summary of Requirements (Section 7.4)

Subject and subsection of the Act	Planning Agreement
<p>Planning instrument and/or Development Application – Section 7.4(1)</p> <p>The Landowners have:</p> <p>(a) Sought a change to an environmental planning instrument</p> <p>(b) Made, or propose to make a Development Application</p> <p>(c) Entered into an agreement with, or are otherwise associated with, a person to whom paragraph (a) or (b) applies</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>Description of the land to which the Planning Agreement applies – Section 7.4(3)(a)</p>	<p>Refer Schedule A.</p>
<p>Description of the change to the environmental planning instrument or development to which the Planning Agreement applies – Section 7.4(3)(b)</p>	<p>The VPA relates to the proposed amendment of the <i>Penrith Local Environmental Plan 2010</i> in relation to the Planning Proposal.</p> <p>The Planning Proposal seeks to amend <i>Penrith Local Environmental Plan 2010</i> to rezone approximately 151.9ha of land in the Orchard Hills North area from RU4 Primary Production Small Lots to R1 General Residential, B2 Local Centre, RE1 Public Recreation, E2 Environmental Conservation and E3 Environmental Management.</p>
<p>The scope, timing and manner of delivery of contributions required by the Planning Agreement applies – Section 7.4(3)(c)</p>	<p>Refer Schedule B.</p>

Application of section 7.11 of the Act – Section 7.4(3)(d)	The VPA excludes the application of section 7.11 of the EP&A Act to the Land and any subsequent development.
Application of section 7.12 of the Act – Section 7.4(3)(d)	The VPA excludes the application of section 7.12 of the EP&A Act to the Land and any subsequent development.
Application of section 7.24 of the Act – Section 7.4(3)(d)	The application of section 7.24 of the EP&A Act is not excluded .
Whether the benefits are or not to be taken into consideration in determining a development contribution under section 7.11 – Section 7.4(3)(e)	N/A The VPA excludes the application of section 7.11 of the EP&A Act.
Mechanism for dispute resolution – Section 7.4(3)(f)	A standard dispute resolution mechanism and relevant clauses shall be incorporated into the VPA, including but not limited to: (a) Written notice of dispute (b) Attempt to resolve (c) Mediation (d) Court proceedings
Enforcement of the Planning Agreement by a suitable means – Section 7.4(3)(g)	A standard enforcement mechanism and relevant clauses shall be incorporated into the VPA, including but not limited to the developer providing security to the planning authority for the performance of the developers obligations under the VPA by providing: (a) The registration of the VPA on each certificate of title for Lot 12 DP1344 and Lot 7 DP857982 on execution;

	<p>(b) Registration of the VPA on the titles of the balance on the Land on Legacy becoming the registered proprietor;</p> <p>(c) restriction on the issue of relevant certificates under Part 6 of the EP&A Act prior to the relevant obligation(s) being satisfied; and</p> <p>(d) inclusion of a mechanism which allows Council to compulsorily acquire land to be dedicated for \$1.</p>
<p>Registration of the Planning Agreement - Section 7.6</p>	<p>The VPA will include an obligation which requires the VPA, at the developer's cost, to be registered on each title of the Land, on Legacy becoming the registered proprietor.</p>

Schedule E: Risks

Risk	Responsibility
Contamination on Land being dedicated to Council	Legacy to remediate prior to dedication.
Contamination on any existing Council owned land subject to works	Council to meet cost of remediation
Costs of additional embellishment scope that exceeds the Contributions Plan if required / conditioned through development application	Council to meet cost of additional scope
Market / procurement risk for cost of works	Legacy

Schedule F: Limitation of Liability Clause

(1) Definitions

In this clause:

- (a) Trust means the LegPro Orchard Hills Unit Trust; and
- (b) Trust Deed means the trust deed establishing the Trust.

(2) Limitation of Liability

- (a) The Developer warrants that:
 - (i) it enters into this deed in its capacity as trustee of the Trust and in no other capacity; and
 - (ii) it is empowered by the terms of the Trust Deed or any other instrument constituting the Trust to enter into this deed in accordance with its provisions; and
 - (iii) it is entitled to be indemnified out of the assets of the Trust in respect of the obligations and liabilities assumed by it under the terms of this deed.
- (b) The Council acknowledges and agrees that, despite any other provision of this deed, any liability or obligation of the Developer arising under or in connection with this deed can only be enforced to the extent to which they are entitled to be, and are in fact, indemnified for that liability or obligation out of the assets of the Trust. This includes without limitation any representation, warranty or conduct by the Developer.
- (c) Clause 1(b) does not apply to any liability or obligation of the Developer to the extent there is a reduction in their ability to be indemnified for that liability or obligation out of the assets of the Trust as a result of the Developer's fraud, negligence or breach of trust.