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6 October 2022

The General Manager  
Penrith City Council  
PO Box 60  
PENRITH NSW 2751

**Attention:** Brooke Levingston

Dear Brooke

### **Letter of Offer to enter into a Planning Agreement**

**Subject Land:** 61-79 Henry Street, Penrith (Henry Lawson Centre)  
**Planning Proposal:** To permit high density housing within the B3 Commercial Core in Penrith, where it is not currently a permitted use.

The Australian Foundation for Disability (also known as AFFORD) (**'the Owner'**) has submitted a Planning Proposal seeking to amend *Penrith Local Environmental Plan 2010* (**'the LEP'**) in respect of Lot 1 in DP 771927, also known as 61-79 Henry Street, Penrith (Henry Lawson Centre) (**'the Site'**). The Planning Proposal seeks an amendment to Schedule 1 of the LEP to include residential accommodation as an additional permitted use on the Site if a minimum Floor Space Ratio of 2:1 is provided for non-residential premises. A sunset clause is proposed where the LEP provision will cease to exist five years after the date of the proposed LEP amendment is made (**'the Planning Proposal'**).

The inclusion of residential accommodation as an additional permitted use by way of the Planning Proposal is necessary to:

- allow a viable mix of uses necessary to facilitate the redevelopment of the Site and thereby contribute to the revitalization of the Penrith City Centre; and
- encourage housing diversity and social inclusion by allowing the Owner to provide housing for people with a disability within a mixed-use development on the Site.

If the Planning Proposal is supported, so that the amendment to the LEP is made, the Owner proposes to lodge a staged development application for a mixed-use development at the Site. The mixed-use development will be the subject to a design excellence competition. Upon selection of a design excellence competition winner, a 'stage 1' development application for the proposed mixed-use development will be lodged with Council. It is not yet known how many staged development applications will be required for the proposed mixed-use development, nor what each staged development application will seek consent for (**'the Proposed Development'**).

The Owner proposes to enter into a Planning Agreement with the Council to undertake the works identified in the Offer below in circumstances where the Planning Proposal is supported and the LEP amendment is made, so that the Proposed Development can occur.

This Letter of Offer confirms the Owner's willingness to enter into such a Planning Agreement (**'Planning Agreement'**).

The terms of the offer are set out in more detail below.

## Offer to enter into a Planning Agreement

The Owner offers to enter into a Planning Agreement with Council in accordance with s 7.4 and s 7.7 of the *Environmental Planning and Assessment Act 1979* (**the EP&A Act**), subject to the following terms, which includes the matters prescribed at s 7.4(3) of the EP&A Act.

1. The Planning Agreement is to the Site.
2. The offer to enter in a Planning Agreement is made in connection with the Planning Proposal.

## The Offer

In connection with the Planning Proposal, the Owner offers to enter into a Planning Agreement with Council which provides for the provision of affordable housing and housing for seniors and people with a disability, the provision of public open space, and to undertake road upgrade works.

The terms of the Offer to enter into a Planning Agreement are made in circumstances where the Planning Proposal is supported and the LEP amendment is made, so that the Proposed Development can occur.

The terms of the Offer are as follows:

### 1. Housing

A minimum of 15% of the total number of dwellings approved as part of the Proposed Development will be either:

- a) housing for seniors (as identified by Part 5 of the *State Environmental Planning Policy (Housing) 2021*); or
- b) housing for people with a disability (as identified by Part 5 of the *State Environmental Planning Policy (Housing) 2021*)

In addition, a minimum 5% of the total number of dwellings on the site approved as part of the Proposed Development are to be provided for affordable housing (as identified by Part 2 of the *State Environmental Planning Policy (Housing) 2021*).

(**‘the Nominated Dwellings’**).

The Nominated Dwellings will be provided as either affordable housing, seniors housing or housing for people with a disability for the lifespan of the Proposed Development.

At least 5% of the Nominated Dwellings are to be provided for people with a disability.

Those dwellings provided for affordable housing are to be a mix of 1 bedroom, 2 bedroom and 3 bedroom dwellings. No more than 40% of those dwellings provided for affordable housing are to be 1 bedroom dwellings, and at least 20% of those dwellings provided for affordable housing are to be 3+ bedroom dwellings.

### 2. Public Open Space

Public Open Space is to be provided by way of a local park (**‘the Public Open Space’**). The Public Open Space is to be at least 0.3 hectares in total area, however is not required to be provided as an uninterrupted single area.

The Public Open Space will be privately owned and maintained, and accessible by the residents of the Proposed Development and by the general public.

The concept design for the Public Open Space will be provided as part of the Design Competition for the Proposed Development.

The design of the Public Open Space will also be informed by:

- 'Greener Places: An urban green infrastructure design framework for NSW' developed by the Government Architect NSW.
- The relevant strategies, actions and guidelines for the design of open space (and specifically local parks) detailed in the Penrith Sport and Recreation Strategy.

A detailed staging plan for the delivery of the Public Open Space is to be confirmed by written letter from the Owner to the Council at the point in time when any Stage 1 Development Application is lodged with the Council. The timing of the completion of the public open space will be determined by the staging plan.

The Public Open Space may be incorporated into the calculation of 'communal open space' for the Proposed Development pursuant to the definition of 'communal open space' under the *Apartment Design Guide*.

In addition to the Public Open Space, the Owner notes that some communal open space will also be provided to residents as part of the Proposed Development by way of rooftop or podium levels. This communal open space will not be publicly accessible or part of the Public Open Space.

The Public Open Space meets the community infrastructure requirement of clause 8.7 of the LEP and no further community infrastructure is required for development on the Site to satisfy clause 8.7.

### **3. Road and Infrastructure Upgrades**

Road and Infrastructure Upgrades are required to support the Proposed Development.

The Road and Infrastructure Upgrades will:

- ensure that the safety of pedestrians crossing Lawson Street is taken into consideration in the final concept design; and
- ensure that the crest level of the driveway to the basement achieves the required freeboard above the 1% AEP flood level pursuant to Council's *Stormwater Drainage Guidelines for Building Developments* (May 2018).

The Road and Infrastructure Upgrades to be provided are:

- Roundabout works at the intersection of Lawson Street and Soper Place.
- Lawson Street/Henry Street mitigation measures.

The Road and Infrastructure Upgrades are to be generally in accordance with the indicative designs provided at Figure 1 and Figure 2, subject to the final design and footprint of the Soper Place carpark and the surrounding sites at point in time when the Road and Infrastructure Upgrades are to be constructed.

A detailed staging program for the Roads and Infrastructure Upgrades is to be submitted to the Council by the Owner, by way of written letter, at the point in time when any Stage 1 Development Application is lodged with the Council. The timing of the completion of works will be determined by the staging plan.

The final design of the Road and Infrastructure Upgrades will be subject to future traffic modelling prepared for the Proposed Development.

If the Road and Infrastructure Upgrades require substantive work on any land owned by Council (outside of the roads and road reserve) or any land owned by a private entity, the Owner is to take steps acquire that land that will be required to enable the construction of the Road and Infrastructure Upgrades.

The Owner will be responsible for the costs of the works associated with the provision of the Road and Infrastructure Upgrades.

### **Contributions**

This offer, and any subsequent Planning Agreement, does not have the effect of excluding the of s 7.11, 7.12 or 7.24 of the EP&A Act in relation to any development application associated with the Planning Proposal, as are lawfully applicable.

## **Procedure**

The Owner offers to provide the above benefits associated with the Planning Proposal within the terms of a Planning Agreement, in circumstances where the Planning Proposal is supported and the LEP amendment is made, so that the Proposed Development can occur.

In circumstances where the Planning Proposal is approved, on terms acceptable to the Owner, the Planning Agreement will operate and be registered on the title of the Site by the Registrar-General.

The Planning Agreement will contain a mechanism for the termination of the Planning Agreement in circumstances where the Planning Proposal or the Proposed Development is not approved on terms suitable to the Owner, is surrendered or lapses under the proposed subset clause.

The Planning Agreement will contain any necessary provisions of security, and mechanisms for the resolution of disputes and the enforcement of the agreement by the parties.

The Owner agrees to pay the Council's costs in relation to the preparation and notification of the Planning Agreement.

We look forward to receiving your response.

Kind regards,

A handwritten signature in black ink, consisting of a series of loops and a trailing flourish.

Mike Allen  
Chair  
Australian Foundation for Disability