

**ANGEL PLACE
LEVEL 8, 123 PITT STREET
SYDNEY NSW 2000**

URBIS.COM.AU
Urbis Pty Ltd
ABN 50 105 256 228

23 June 2021

Attention: General Manager
By email: email@willoughby.nsw.gov.au
Willoughby City Council
31 Victor Street
Chatswood NSW 2067

Dear Sir/Madam,

PLANNING AGREEMENT OFFER – 9-11 NELSON STREET, CHATSWOOD

Urbis, on behalf of The Owners – Strata Plan No. 65120 (Owners Corporation), wishes, subject to the finalisation and negotiation of the following terms, to make a formal offer (VPA Offer) under section 7.4 of the Environmental Planning and Assessment Act 1979 (EPA Act) to enter into a Voluntary Planning Agreement (VPA) with Willoughby City Council (Council).

The VPA Offer is made in connection with a planning proposal related to 9-11 Nelson Street, Chatswood (Council reference 2020/12) (Planning Proposal).


In summary, the terms of the proposed VPA would be as follows:

Item	Terms
Parties	The parties to the VPA will be: <ol style="list-style-type: none">Willoughby City Council; andThe Owners – Strata Plan No. 65120 (ABN 30 967 574 531)
Land	9-11 Nelson Street, Chatswood, legally known as Strata Plan No. 65120.
Planning Proposal / Development Application	Planning Proposal to amend the following controls applicable to the Land under the <i>Willoughby Local Environmental Plan 2012</i> (WLEP): <ol style="list-style-type: none">Land zone from R2 Low Density Residential to B4 Mixed Use;Maximum building height from 12 metres to 90 metres; andMaximum floor space ratio from 0.9:1 to 6:1.
Monetary Contribution	Monetary contributions for community infrastructure purposes in the amount of \$12,464,741.70, calculated based on 16,293.78m ² of

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	<p>GFA uplift that will be achieved under the Planning Proposal at the agreed rate of \$765/m² as set out in Council's Draft Planning Agreement Policy (2020).</p> <p>We are aware that Council's general policy is to require the staged payment of development contributions in connection with a planning proposal, the first instalment of which is due a short time after Gazettal of the new WLEP. Council's Draft Planning Agreements Policy indicates that the appropriateness of this contributions structure is considered on a case by case basis and, with respect, it is neither appropriate nor feasible for this structure to be implemented in this case.</p> <p>The Owners Corporation does not intend to develop the Land and, following implementation of the proposed planning controls and completion of a strata renewal process or collective sale, will sell the Land to a developer. It will novate its rights and obligations under the VPA to the incoming purchaser.</p> <p>The Owners Corporation seeks to work with Council to facilitate the implementation of the Chatswood CBD Strategy in respect of the Land but, as a collection of strata owners, it will have no financial means to deliver monetary contributions to Council or secure future contributions by providing a bank guarantee.</p> <p>The development will not proceed for some time following creation of the new LEP, as this cannot progress until the strata plan is dissolved, the Land sold to a developer and a development application is lodged and approved. Accordingly, the need to deliver community infrastructure in connection with the proposed development of the Land will also not arise for some time.</p> <p>In these circumstances, it would be appropriate to make payment of the proposed monetary contributions to Council contingent prior to the issue of an occupation certificate for the future development of the Land. This would also be consistent with the <i>Environmental Planning and Assessment (Local Infrastructure Contributions – Timing of Payments) Direction 2020</i> and clause 154F of the <i>Environmental Planning and Assessment Regulation 2000</i>.</p>
Works	Nil.
Dedication of Land	Dedication and registration of an easement for public access 3 metres wide in favour of Council along the eastern boundary of the Land adjacent to the Frank Channon Walk (Proposed Easement).

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Application of section 7.11, 7.12 and 7.24	<ol style="list-style-type: none"> 1. Section 7.11 and 7.12 contributions are not proposed to be excluded; and 2. Section 7.24 contributions are not proposed to be excluded.
Registration	The Owners Corporation agrees to register the VPA on the title of the Land.
Dispute Resolution	Usual dispute resolution mechanisms including mediation. The dispute resolution clauses are subject to further review by the Owner's Corporation once the draft VPA has been prepared.
Security / Enforcement	<p>The VPA will include the following security and enforcement measures:</p> <ol style="list-style-type: none"> 1. Registration of the VPA on title of the Land; 2. Requiring the payment of a monetary contribution and registration of the Proposed Easement prior to the issuing of an occupation certificate for the development of the Land that benefits from the planning proposal; and 3. Council will have the ability to compulsorily acquire the Proposed Easement for \$1, if the Proposed Easement has not been created by the time agreed in the VPA.
Costs	The Owners Corporation agrees to pay Council's reasonable costs of and incidental to the negotiation, preparation and entering into the VPA, as well as administration and enforcement of the VPA.

Yours sincerely,



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 Director
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