

15 March 2022

North Sydney Council

200 Miller Street
North Sydney NSW 2000

Attention: The General Manager
By: Email

Dear Sir,

**LETTER OF OFFER TO ENTER INTO A VOLUNTARY PLANNING AGREEMENT –
PLANNING PROPOSAL FOR 45 McLAREN ST NORTH SYDNEY.**

We write on behalf of 45 McLaren Pty Limited (the **Developer**), a wholly controlled subsidiary of the Podia Group in relation to 45 McLaren St, North Sydney (**the site**).

We have submitted a Planning Proposal which seeks an amendment to the *North Sydney Local Environmental Plan 2013 (NSLEP 2013)* to achieve enhanced urban design, architectural and sustainable outcomes for the site and the broader precinct. The Planning Proposal has the support of the North Sydney Local Planning Panel as confirmed during the Panels February 2022 meeting and is now due to be reported to North Sydney Council later this month.

This is a Letter of Offer to enter into a Voluntary Planning Agreement (**VPA**) under Section 7.4(1)(a) and (b) of the Environmental Planning and Assessment Act 1979 (**EP&A Act**) that the Developer would be willing to enter into with North Sydney Council in accordance with its Voluntary Planning Agreement Policy (June 2018).

Development Overview.

In accordance with the NSLEP 2013, the site is currently zoned R4 High Density Residential and has a maximum permissible building height of 12m. No floor space ratio (**FSR**) controls apply to the site and the site does not contain any items of European, Indigenous or environmental heritage.

The Planning Proposal seeks to amend the NSLEP 2013, by way of the following:

- Rezone the site from R4 High Density Residential to B4 Mixed Use;
- Amend the maximum height of buildings to include a split height of RL103 and RL115;
- Introduce a maximum floor space ratio of 6.25:1;
- Introduce a minimum non-residential floor space ratio of 1:1;
- Insert the following subclause (6A) after subclause 4.4A(6):
Despite subclause (5), an active street frontage is not required for any part of a building facing Walker Street, erected on land at 45 McLaren Street, North Sydney, being SP 14598.
- Insert the following subclause (4) after subclause 6.12A(3):
Despite subclause (3)(b), development consent may be granted for the purpose of a



residential flat building for that part of the building at the ground floor level that faces Walker Street, on land at 45 McLaren Street, North Sydney being SP 14598.

The Planning Proposal is accompanied by a comprehensive Urban Design investigation and indicative concept plan prepared by Bates Smart. Additionally, supporting technical studies are included in the submission which provide further guidance with respect to the anticipated development outcome for the site.

Voluntary Planning Agreement Offer.

In accordance with North Sydney Council's Voluntary Planning Agreement Policy (25 June 2018), we are pleased to submit an offer that provides material public benefit and monetary contribution to facilitate the delivery of public benefits in exchange for the planning controls uplift associated with the Planning Proposal.

Following submission of this Letter of Offer to Council, and subject to Council's agreement, we propose to prepare and submit for Council's consideration a draft VPA. It is proposed that the VPA will provide for:

a) Monetary Contribution for Community Infrastructure :

A monetary contribution for community infrastructure works is proposed based on a rate per additional dwelling approved in a Development Consent at 45 McLaren Street, North Sydney. A rate of **\$19,000** per additional dwelling (excluding any apartments allocated for Affordable Housing) is proposed for the purpose of carrying out community infrastructure and public domain upgrades within the Ward Street Precinct.

This amount will be paid prior to issue of occupation certificate and in addition to whatever the normal amount of local infrastructure contributions is payable under section 7.11 or 7.12 of the EP&A Act.

If any special infrastructure contribution is required to be paid to the NSW Government under the terms of a development consent (or a separate planning agreement with the state government) the monetary contribution required under the planning agreement will be reduced proportionately.

Working Example of Calculation Method (For methodology purposes only.):

Step 1: Number of dwellings approved in Development Consent for subject site:	say 85 dwellings in the Development Consent.
Step 2: Number of Existing Dwellings:	18 dwellings
Step 3: Number of Additional Dwellings:	67 dwellings
Step 4: Rate / Additional Dwelling:	\$19,000
Step 5: Monetary Contribution Value:	\$1,273,000



b) Through-Site Link (Works in Kind and Contribution of Land):

We propose to carry out the works to upgrade and widen the through-site pedestrian linkage between Walker Street and Harnett Street on the southern boundary of the site.

The pedestrian link is proposed to be widened by approximately 2m using land within the site. Following recent meetings with Council and in line with Council's request, the ownership of this land will be tied to the future strata title of the development and managed by the Body Corporate to be established following completion of the project.

The combined value of the Through-site link is estimated to be **\$1.8 million**, comprising the following elements:

Works to create through-site link	\$750,000
Land Value and Opportunity Costs The land being offered towards this initiative is estimated to have an underlying value of between \$400,000-\$600,000. Furthermore, there is an opportunity cost associated with the forgone land because of the lost opportunity to create improved amenity within the private space of the scheme, estimated to be worth \$200,000-\$400,000.	~\$500,000
On-going maintenance & minor capital expenditure Assumes \$100/week for upkeep, including blowing, sweeping, hosing etc plus \$1,000 p.a for minor capital expenditure, such as replacing broken pavers, broken light bulbs, removing graffiti and the like over a 50 year period. Escalation of 2% p.a over 50 years has also been allowed.	\$525,000
Major Capital Works Assumes \$5,000 every 10 years over a 50 year period. This is to cover costs for upkeep and upgrades (as required) to stormwater infrastructure, resurfacing of hardscaped areas, relandscaping and the like.	\$25,000
TOTAL COST	\$1,800,000

c) Public Domain (footpath, curb and gutter) upgrade works (Works in Kind):

We propose to carry out upgrade works to approximately 127m of footpaths, curbs, gutters and improved landscaping around the site Walker St, McLaren St, and Harnett St.

The cost estimate for the proposed works is \$600,000.

It is acknowledged that these works would traditionally take place following receipt of a Development Approval. However, a Development Approval would not be sought for the site unless a rezoning were granted. Accordingly, these are genuine costs to be incurred by the developer following receipt of a rezoning for the site. The site also comprises three (3) street frontages, where most sites typically have one or two street frontages.

These works also provide significant public benefit in the form of improved footpath regrading, improved disability access, improved lighting, and passive surveillance after hours and improved landscaping. All of these items contribute to making North Sydney CBD more pedestrian friendly and walkable.

In consideration of the above, we propose to allocate 1/3rd of the costs described above to our VPA offer, being **\$200,000**.



d) Affordable Housing Contribution:

We propose to deliver and handover to council 1, 2-bedroom apartment within the development to be owned and managed by council within its Affordable Housing program.

The estimated market value for a 2-bedroom apartment in this location is **\$1,500,000**.

Regional Infrastructure Contribution (RIC)

The State Government have recently imposed a Regional Infrastructure Contribution (RIC) on all developments across the state, effective from 1 July 2022. These costs will be imposed on developers progressively over the next 3 years (i.e a 50% discount applies in the first year, a 25% discount in the second year, and no discount in the third year).

Given the time frame required to complete the Planning Proposal process and LEP amendment and subsequently, the Development Approval process, the estimate of the RIC on the subject site is in the order of **\$1m** (\$10,000/dwelling plus \$30/m² for retail area).

These costs are additional cost not contemplated during the planning proposal process undertaken with council over the past 18 months. Accordingly, they must be factored into the overall public benefit costs to deliver the project.

Summary of Voluntary Planning Agreement Offer.

The table below provides a summary of our proposed contributions and value which reflect a total VPA offer of **\$4.773 million** (excluding additional mandatory RIC cost paid to State Government).

Description of Developer's Contribution	Estimated Value
a) Monetary Contribution – Community Infrastructure	\$1,273,000
b) Through-Site Link:	\$1,800,000
c) Public Domain Works	\$200,000
d) Affordable Housing	\$1,500,000
Total Estimated Contributions	\$4,773,000

The delivery of the material public benefit items would be provided before the issue of any occupation certification. The value of the contribution and material public benefit offering is based on the development proposed under the planning proposal to be reported to North Sydney Council in the March 2022 meeting.

In the event of changes to the proposed built form controls as part of the Planning Proposal, we reserve the right to adjust the VPA offer. Furthermore, we reserve the right to adjust the VPA offer based on the market conditions and/or major legislative changes prior to the exhibition of any draft VPA.



Parties to the VPA.

The parties to the VPA will be 45 McLaren Pty Limited as the Developer and the Council.

Land to which the VPA applies.

The VPA will apply to the site, being land described as Lot 1-18 in Strata Plan 14598.

Timing of the obligations.

The VPA will be entered into prior to the publication of the environmental planning instrument giving effect to the planning proposal.

The obligation to provide the contributions under the VPA must be satisfied prior to the issue of an occupation certificate for any building erected on the site in accordance with any future development consent for the erection of a mixed-use development incorporating residential, retail and commercial uses on the site.

Enforcement of the VPA.

The Developer does not propose to lodge monetary security in relation to the above obligations. This is because the VPA will provide for the enforcement of the agreement by a suitable means in the following ways:

- The Developer will arrange for the registration of the VPA on the title of the site. This means that the agreement will be binding on, and enforceable against, the Developer of the site from time to time as if each Developer for the time being had entered into the agreement (section 93H(3) of the *Environmental Planning and Assessment Act 1979*).
- Prior to registration, the Developer will not be able to assign or novate its rights under the agreement, or transfer its interest in the site, without Council's consent. The Council's consent may not be unreasonably withheld, but consent may be withheld if the Developer is in breach of the agreement. The restriction will not prevent the use of the land as security for the purpose of finance.
- It is proposed that an occupation certificate will not be able to be issued if:
 - the necessary construction required by the VPA has not been completed; and/or
 - the relevant easement-in-gross has not been imposed (section 6.10 of the *Environmental Planning and Assessment Act 1979*).

Dispute resolution.

The VPA will contain a mechanism for the resolution of disputes by way of mediation.

Formal document.

A VPA will need to be prepared in accordance with this offer. It should be expected that this document will contain reasonable safeguards to protect the Developer's interests and those of the Council that are not expressly referenced in this letter. Ultimately, any agreement will be dependent on the finalisation of this document in a form that is satisfactory to both the



Developer and the Council.

Costs of negotiating and exhibiting the VPA.

The Developer is prepared to pay the Council's reasonable costs of negotiating and exhibiting the VPA.

Next steps.

This Letter of Offer is submitted to Council for your consideration. We would welcome the opportunity to meet with Council to discuss this proposal after which time, we would proceed with drafting the VPA.

The VPA would operate when the amendments to the Local Environment Plan and Development Control Plan take effect.

Yours faithfully,

Michael Grassi

Director, Podia Developments Pty Ltd
On behalf of 45 McLaren Pty Limited