



HICKSONS
LAWYERS

Our ref: SKT 150725

28 October 2015

Mr Bernard Chiu
Bernard Chiu Legal & Business Solutions
Level 18, Citigroup Centre
2 Park Street
SYDNEY NSW 2000

Dear Bernard

**Daraki Holdings Pty Ltd sale to JL Chatswood Pty Ltd
Registration of Voluntary Planning Agreement (VPA)
Property: 660 Pacific Highway, Chatswood**

We hereby give you notice that the VPA has been duly registered.

We **enclose** a copy of the registered VPA for your records.

In accordance with clause 7.1(b), the completion date is 18 December 2015.

We look forward to receiving the Transfer urgently as it has to be sent overseas for execution by our client.

Yours faithfully
HICKSONS

Siew Tong
Partner
t: +61 2 9293 5458
f: +61 2 9264 4790
e: siew.tong@hicksons.com.au

Encl.

Form: 11R
Release: 4-1

REQUEST

New South Wales
Real Property Act 1900



AJ832765W

PRIVACY NOTE: Section 31B of the Real Property Act 1900 (RP Act) authorises the Registrar-General to use information provided 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.

(A) **STAMP DUTY**

If applicable. Office of State Revenue use only

(B) **TORRENS TITLE**

Folio Identifiers 1/1068007, 1/121830, 1/839309 and 2/839309

(C) **REGISTERED DEALING**

Number

Torrens Title

(D) **LODGED BY**

Document
Collection
Box

1010Q

Name, Address or DX, Telephone, and Customer Account Number if any

Wee & Wells, Solicitors & Attorneys LLPN 123722V
1308/370 Pitt Street, Sydney NSW 2000, Ph: 9283 9833

Reference: GBW:1161

CODE

R

(E) **APPLICANT**

DARAKI HOLDINGS PTY LIMITED (ACN 003 304 032)

(F) **NATURE OF REQUEST**

Registration of Planning Agreement pursuant to s93H of the Environmental Planning and Assessment Act 1979

(G) **TEXT OF REQUEST**

Registration on title of the document annexed as "B" to this request, being the Voluntary Planning Agreement - 654-666 Pacific Highway, 2A Oliver Road and 1 Freeman Road, Chatswood NSW entered into between Willoughby City Council and the Applicant, dated 25 June 2015

DATE

(H)

RELODGED

14 OCT 2015

TIME: 3.40

Certified correct for the purposes of the Real Property Act 1900 on behalf of the applicant by the person whose signature appears below.

Signature:

Signatory's name:

Signatory's capacity:

Gregory Bernard Wee
solicitor

(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.

Full name:

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

Page 1 of 16

1303

CT Prod 322A on 13/8/15
FOR THIS DLG M

Annexure A to Request

Parties: Daraki Holdings Pty Limited (as applicant) and Willoughby City Council, HSBC Bank Australia Limited and EARP Brothers Hardware Pty Limited (as consenting parties)

Dated:

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

Authority: Willoughby City Council

~~Signature of authorised delegate:~~
Signature of Witness:

Name of authorised delegate:

Office held: Name of Witness: CRAIG O'BRIEN

Address of Witness: LEVEL 4

31 VICTOR STREET

CHATSWOOD NSW 2067

Signature of authorised delegate:

Name of authorised delegate: LINDA MCCLURE

Office held: STRATEGIC PLANNING
MANAGER

~~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.~~

~~Company: HSBC Bank Australia Limited~~

~~Authority: section 127 of the Corporations Act 2001~~

~~Signature of authorised person:~~

~~Name of authorised person:~~

~~Office held:~~

~~Signature of authorised person:~~

~~Name of authorised person:~~

~~Office held:~~

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.

Company: EARP Brothers Hardware Pty Limited

Authority: section 127 of the Corporations Act 2001

Signature of authorised person:

Name of authorised person:

Office held: RICHARD EARP / DIRECTOR

Signature of authorised person:

Name of authorised person:

Office held: MICHAEL EARP / SECRETARY

I certify that I am an eligible witness and
that the mortgagee's attorney signed this
dealing in my presence.

Signature of witness: X

Name of witness:

Address of witness:

~~Certified correct for the purposes of the Real
Property Act 1900 by the mortgagee's attorney
who signed this dealing pursuant to the power of
attorney specified.~~

~~Signature of attorney:~~

~~Attorney's name:~~

~~Signed on behalf of:~~

~~Power of attorney made:~~

~~At:~~

Willoughby City Council

Daraki Holdings Pty Limited

Voluntary Planning Agreement – 654-666 Pacific Highway, 2A Oliver Road and 1 Freeman Road, Chatswood

PLANNING AGREEMENT No. of 201

Section 93F of the Environmental Planning and Assessment Act 1979

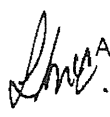

Date TWENTY FIFTH OF JUNE 2015

Parties

Willoughby Council of New South Wales (Council)

Daraki Holdings Pty Ltd ACN 003 304 032 of 129/421-473 Pacific Highway,
Artarmon NSW 2064 (Developer)

Background

-   2 June 2014
- On ~~insert date~~ the Developer, who is the owner of the Land, submitted a Planning Proposal Application to the Council to amend Willoughby Local Environment Plan 2012 for the purpose of making a Development Application to the Council for Development Consent to carry out the Development on the Land (**Planning Proposal**).
- B The Planning Proposal seeks an amendment to Willoughby Local Environment Plan 2012 (**WLEP 2012**) to increase the floor space ratio to 3:1 on a site exceeding 2,400 metres, with the floor space ratio of any shop top housing not exceeding 2.14:1 and increase the height to RL 137.8 for Tower A and RL 128.8 for Tower B.
- C The Planning Proposal was accompanied by an offer by the Developer to enter into this Agreement to make Development Contributions towards the material Public Benefits if that Planning Proposal proceeds.

Operative provisions

1 Planning Agreement under the Act

The Parties agree that this Agreement is a planning agreement governed by Subdivision 2 of Division 6 of Part 4 of the Act.

2 Application of this Agreement

This Agreement applies to the Planning Proposal for the Land and the Dedication Land.

3 Operation of this Agreement

The parties agree that this Agreement operates and binds both the parties on and from the date this Agreement is entered into by the parties.

4 Definitions and interpretation

4.1 In this Agreement the following definitions apply:

Act means the *Environmental Planning and Assessment Act 1979* (NSW).

Dealing, in relation to the Land, means, without limitation, selling, transferring, assigning, mortgaging, charging, encumbering or otherwise dealing with the Land.

Dedication Land means those parts of the Land which are hatched and identified as the "PROPOSED DEDICATION TO WILLOUGHBY COUNCIL" on the plan annexed to this Agreement at Schedule 1, which parts lie on the Oliver Road and Freeman Road boundaries of the Land. For the avoidance of doubt, the Dedication Land does not include the land identified as "ROAD WIDENING AREA BY RTA" which lies on the Pacific Highway boundary of the Land.

Development means the demolition of all existing buildings on the Land and construction in their place of a mixed used development with basement parking, retail/office/business premises and shop top housing consistent with the Planning Proposal.

Development Application has the same meaning as in the Act.

Development Consent has the same meaning as in the Act.

Development Contribution means a monetary contribution, the dedication of land free of cost or the provision of a material public benefit.

GST has the same meaning as in the GST Law.

GST Law has the meaning given to that term in 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.

Land means, collectively, the land contained in Lot 1 in DP 1068007, Lot 1 in DP 121830, Lot 1 in DP 839309 and Lot 2 in DP 839309.

Party means a party to this agreement, including their successors and assigns.

Planning Proposal has the meaning given to it in paragraph A of the Background.

Regulation means the *Environmental Planning and Assessment Regulation 2000*.

WLEP 2012 has the meaning given to it in paragraph B of the Background.

4.2 In the interpretation of this Agreement, the following provisions apply unless the context otherwise requires:

- (a) Headings are inserted for convenience only and do not affect the interpretation of this Agreement.
- (b) A reference in this Agreement to a "business day" means a day other than a Saturday or Sunday on which banks are open for business generally in Sydney.
- (c) If the day on which any act, matter or thing is to be done under this Agreement is not a business day, the act, matter or thing must be done on the next business day.
- (d) A reference in this Agreement to dollars or \$ means Australian dollars and all amounts payable under this Agreement are payable in Australian dollars.
- (e) A reference in this Agreement to any law, legislation or legislative provision includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision.
- (f) A reference in this Agreement to any agreement, deed or document is to that agreement, deed or document as amended, novated, supplemented or replaced.
- (g) A reference to a clause, part, schedule or attachment is a reference to a clause, part, schedule or attachment of or to this Agreement.
- (h) An expression importing a natural person includes any company, trust, partnership, joint venture, association, body corporate or governmental agency.
- (i) Where a word or phrase is given a defined meaning, another part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning.
- (j) A word which denotes the singular denotes the plural, a word which denotes the plural denotes the singular, and a reference to any gender denotes the other genders.
- (k) References to the word "include" or "including" are to be construed without limitation.
- (l) A reference to this Agreement includes the agreement recorded in this Agreement.

- (m) A reference to a party to this Agreement includes a reference to the servants, agents and contractors of the party, and the party's successors and assigns.
- (n) Any schedules and attachments form part of this Agreement.

5 Development Contributions to be made under this Agreement

- 5.1 The Developer agrees that if the Planning Proposal proceeds to gazettal of an amendment to WLEP 2012 to enable a Development Application to be lodged for Development Consent to carry out the Development, it will provide the Development Contribution described in Schedule 2 by the due date specified in Column 3 of Schedule 2 and as otherwise provided in this Agreement.
- 5.2 The Developer shall include in a Development Application lodged in respect of the Development the Development Contribution set out in Schedule 2 of this Agreement and must:
 - (a) comply with any condition of Development Consent requiring provision of the Development Contribution; and
 - (b) not seek to amend such conditions of Development Consent; and
 - (c) not appeal to the Land and Environment Court in respect of the same; and
 - (d) not take any other action to avoid complying with such conditions,provided that the conditions on the Development Consent for the Development reflect and are not inconsistent with the agreement between the parties regarding the Development Contribution set out in this Agreement.

6 Application of Sections 94, 94A and 94EF of the Act to the Development

This Agreement does not otherwise exclude the application of sections 94, 94A and 94EF of the Act to the Development.

7 Registration of this Agreement

The Developer must arrange for registration of this Agreement at LPI NSW by lodgement of Request forms duly executed by the Developer with copies of this Agreement annexed within one (1) month of the date of this Agreement.

8 Review of this Agreement

This Agreement is final and binding as between the parties, and cannot be reviewed under any circumstances.

9 Dispute Resolution

- 9.1 If a party claims that a dispute has arisen under this planning agreement (**Claimant**), it must give notice to the other party (**Respondent**) stating the matters in dispute and designating as its representative a person to negotiate the dispute (**Claim Notice**).
- 9.2 Within 20 business days of receiving the Claim Notice, the Respondent must notify the Claimant of its representative to negotiate the dispute.
- 9.3 The nominated representatives must:
- (a) Meet to discuss the matter in good faith within 10 business days after the Respondent has given a notice advising of its representatives; and
 - (b) Use reasonable endeavours to settle or resolve a dispute within 15 business days after they have met.
- 9.4 If the dispute is not resolved within 15 business days after the nominated representatives have met, either party may give to the other a notice calling for the termination of the dispute (**Dispute Notice**).
- 9.5 The parties agree that a dispute will be mediated if it is the subject of a Dispute Notice, in which case:
- (a) The parties must agree to the terms of reference for the mediation within 5 business days of receipt of the Dispute Notice, the terms shall include a requirement that the mediation rules at the Institute of Arbitrators and Mediators Australia (NSW Chapter) applies;
 - (b) The mediator will be spread between the parties, or failing agreement within 5 business days of receipt of the Dispute Notice, either party may request the President of the Institute of Arbitrators and Mediators Australia (NSW Chapter) to appoint a mediator;
 - (c) The mediator appointed pursuant to clause (b) must:
 - (i) Have reasonable qualifications and practical experience in the area of the dispute; and
 - (ii) Have no interest or duty that conflicts or may conflict with his function as mediator, he being required to fully disclose any such interest or duty before his appointment;
 - (d) The mediator shall be required to undertake to keep confidential all matters coming to his knowledge by reason of his appointment and performance of his duties;

- (e) The parties must within 5 business days of receipt of the Dispute Notice notify each other if their representatives will be involved in the mediation;
- (f) The parties agree to be bound by a mediation settlement and may only initiate judicial proceedings in respect of a dispute which is the subject of the mediation settlement for the purposes of enforcing that mediation settlement;
- (g) In relation to costs and expenses:
 - (i) each party will bear their own professional and expert costs incurred in connection with the mediation; and
 - (ii) the costs of the mediator will be shared equally by the parties unless the Mediator determines a party has engaged in vexatious or unconscionable behaviour in which case the mediator may require the full cost of the mediation be borne by that party.

10 Enforcement

The Developer acknowledges and agrees that any excavation or construction work to be carried out on the Land the subject of the Development Application or the Development Consent in relation to the Development must be deferred until such time as a plan of consolidation and subdivision dedicating the Dedication Land has been registered.

11 Notices

11.1 Any notice, consent, information, application or request that must or may be given or made to a Party under this Agreement is only given or made if it is in writing and sent in one of the following ways:

- (a) Delivered or posted to that Party at its address set out below.
- (b) Faxed to that Party at its fax number set out below.
- (c) Emailed to that Party at its email address set out below.

Council

Attention: Strategic Planner
Address: PO Box 57, Chatswood NSW 2057
Fax Number: 9777 1038
Email: email@willoughby.nsw.gov.au

Developer

Attention: Mr Lawrence Tam

Address: PO Box 261, Chatswood NSW 2067

Fax Number:

Email: ltams@iinet.com.au

- 11.2 If a Party gives the other Party three (3) business days' notice of a change of its address or fax number, any notice, consent, information, application or request is only given or made by that other Party if it is delivered, posted or
- 11.3 Any notice, consent, information, application or request is to be treated as given or made at the following time:
- (a) If it is delivered, when it is left at the relevant address.
 - (b) If it is sent by post, 2 business days after it is posted.
 - (c) If it is sent by fax, as soon as the sender receives from the sender's fax machine a report of an error free transmission to the correct fax number.
- 11.4 If any notice, consent, information, application or request is delivered, or an error free transmission report in relation to it is received, on a day that is not a business day, or if on a business day, after 5pm on that day in the place of the Party to whom it is sent, it is to be treated as having been given or made at the beginning of the next business day.

12 Approvals and consent

Except as otherwise set out in this Agreement, and subject to any statutory obligations, a Party may give or withhold an approval or consent to be given under this Agreement in that Party's absolute discretion and subject to any conditions determined by the Party. A Party is not obliged to give its reasons for giving or withholding consent or for giving consent subject to conditions.

13 Assignment and Dealings

If the Developer proposes to sell, transfer or dispose of the whole (or any part) of the Land and/or the Development Consent prior to the Development being completed and the Dedication Land being dedicated, the Developer must:

- (a) notify Council no later than twenty-eight (28) days prior to completion of any sale, transfer or disposal; and
- (b) register this Agreement at LPI NSW prior to the sale, transfer or disposal of the Land.

14 Costs

- 14.1 The Developer will be responsible for preparing and submitting and paying for the draft of this Agreement to Council for its approval.
- 14.2 Each party shall be responsible for their costs thereafter in checking and executing this Agreement.
- 14.3 All costs associated with the provision of the Development Contribution described in Schedule 2 are to be paid by the Developer.

15 Entire agreement

This Agreement contains everything to which the Parties have agreed in relation to the matters it deals with. No Party can rely on an earlier document, or anything said or done by another Party, or by a director, officer, agent or employee of that Party, before this Agreement was executed, except as permitted by law.

16 Further acts

Each Party must promptly execute all documents and do all things that another Party from time to time reasonably requests to affect, perfect or complete this Agreement and all transactions incidental to it.

17 Governing law and jurisdiction

This Agreement is governed by the law of New South Wales. The Parties submit to the non-exclusive jurisdiction of its courts and courts of appeal from them. The Parties will not object to the exercise of jurisdiction by those courts on any basis.

18 Joint and individual liability and benefits

Except as otherwise set out in this Agreement, any agreement, covenant, representation or warranty under this Agreement by 2 or more persons binds them jointly and each of them individually, and any benefit in favour of 2 or more persons is for the benefit of them jointly and each of them individually.

19 No fetter

Nothing in this Agreement shall be construed as requiring Council to do anything that would cause it to be in breach of any of its obligations at law, and without limitation, nothing shall be construed as limiting or fettering in any way the exercise of any statutory discretion or duty.

20 Representations and warranties

The Parties represent and warrant that they have power to enter into this Agreement and comply with their obligations under the Agreement and that entry into this Agreement will not result in the breach of any law.

21 Severability

If a clause or part of a clause of this Agreement can be read in a way that makes it illegal, unenforceable or invalid, but can also be read in a way that makes it legal, enforceable and valid, it must be read in the latter way. If any clause or part of a clause is illegal, unenforceable or invalid, that clause or part is to be treated as removed from this Agreement, but the rest of this Agreement is not affected.

22 Modification

No modification of this Agreement will be of any force or effect unless it is in writing and signed by the Parties to this Agreement.

23 Waiver

The fact that a Party fails to do, or delays in doing, something the Party is entitled to do under this Agreement, does not amount to a waiver of any obligation of, or breach of obligation by, another Party. A waiver by a Party is only effective if it is in writing. A written waiver by a Party is only effective in relation to the particular obligation or breach in respect of which it is given. It is not to be taken as an implied waiver of any other obligation or breach or as an implied waiver of that obligation or breach in relation to any other occasion.

24 GST

If any Party reasonably decides that it is liable to pay GST on a supply made to the other Party under this Agreement and the supply was not priced to include GST, then recipient of the supply must pay an additional amount equal to the GST on that supply.

Schedule 1 – Plan of Dedication Land

Note: Services and infrastructure associated with the development site are to be located outside of the dedicated land and wholly within the development site.



DEDICATION AREA

[illegible]

Schedule 2 – Development Contributions

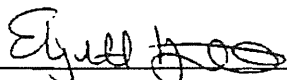
Column 1 – Development Contribution	Column 2 – Intended use/purpose	Column 3 – Date by which the Development Contribution is to be provided
<p>The dedication of the Land as depicted on the indicative plan in Schedule 1 to Council as a public road for the purpose of road widening on Oliver Road and Freeman Road, including:</p> <p>(a) the transfer of ownership of the Dedication Land to Council on the Torrens register;</p> <p>(b) the clearance of all structures from the Dedication Land and the remediation of the same;</p> <p>(c) the provision to Council of a site audit statement for the Dedication Land which declares that land to be free of contamination or, if contamination is allowed, that the Dedication Land has been remediated to an acceptable standard under the relevant NSW environmental legislation for the undertaking of road widening works.</p>	<p>Public road / road widening works.</p>	<p>[On or before the date works commence in accordance with a Development Consent for the Development]</p>

Execution



Executed as an agreement.

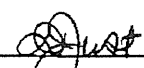
SIGNED for and on behalf of **WILLOUGHBY CITY COUNCIL**
by its authorised delegates:



Signature of Witness

ELIZABETH KEELING
c/- 31 VICTOR ST, CHATSWOOD

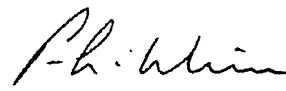
Name and address of Witness (print)



Signature of General Manager

DEBRA JUST

Debra Just

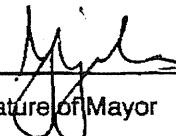


Signature of Witness

TRICIA MANN

c/- 31 VICTOR ST, CHATSWOOD

Name and address of Witness (print)

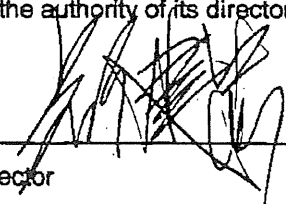


Signature of Mayor

GAIL GILES-GIDLEY

Gail Giles-Gidley

EXECUTED by **DARAKI HOLDINGS PTY LIMITED**
under section 127(1) of the Corporations Act 2001 (Cth)
by the authority of its directors:



Director

KIN CHUNG LUI

Name of Director



Director/Company Secretary

SIU WAH LUI

Name of Director/Company Secretary

FILM WITH A-2822765

ANNEXURE TO VOLUNTARY PLANNING AGREEMENT

ST.GEORGE BANK - A DIVISION OF WESTPAC BANKING CORPORATION
A.B.N 33 007 457 141 HEREBY CONSENTS TO THE ATTACHED VOLUNTARY PLANNING AGREEMENT

Registered Proprietor: Daraki Holdings Pty Ltd ACN 003 304 032

Affecting Certificate of Title Folio Identifiers: 1/121830

I certify that I am an eligible witness and that the mortgagee signed this dealing in my presence.
[See note* below]

Signature of witness

Name of witness: Tanja Smith

Address of witness: 1 King Street
Concord West NSW 2138

Certified correct for the purposes of the Real Property Act 1900 by the mortgagee.

SIGNED by Vic Trajcevski
as attorney for St. George - A division of Westpac Banking Corporation
ABN 33 007 457 141 under power of attorney dated 17 January 2001
registered Book 4299 No.332

Signature of Her Three Attorneys

By executing this instrument the attorney states that the attorney has received no notice of the revocation of the power of attorney.

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

ANNEXURE TO VOLUNTARY PLANNING AGREEMENT

**ST.GEORGE BANK – A DIVISION OF WESTPAC BANKING CORPORATION
A.B.N 33 007 457 141 HEREBY CONSENTS TO THE ATTACHED VOLUNTARY PLANNING
AGREEMENT**

Registered Proprietor: Daraki Holdings Pty Ltd ACN 003 304 032

Affecting Certificate of Title Folio Identifiers: 1/1068007

I certify that I am an eligible witness and that the mortgagee
signed this dealing in my presence.
[See note* below]

Signature of witness

Name of witness: Tanja Smith

Address of witness: 1 King Street
Concord West NSW 2138

Certified correct for the purposes of the Real Property Act 1900 by the
mortgagee.

SIGNED by Vic Trajcevski
as attorney for St. George – A division of Westpac Banking Corporation
ABN 33 007 457 141 under power of attorney dated 17 January 2001
registered Book 4299 No.332

Signature Tier Three Attorney

By executing this instrument the attorney states that the attorney has
received no notice of the revocation of the power of attorney.

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