

PARTIES

Lane Cove Municipal Council trading as Lane Cove
Council ABN 42 062 211 626

and

Sun Property Lane Cove Pty Ltd ABN 82 614 668 272

Draft Planning Agreement

Section 7.4 of the Environmental
Planning and Assessment Act, 1979
(NSW)

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Dated this day of 2018

Parties

Lane Cove Municipal Council trading as Lane Cove Council ABN 42 062 211 626 of
48 Longueville Road, Lane Cove, New South Wales (**Council**)

and

Sun Property Lane Cove Pty Ltd ABN 82 614 668 272 of Suite 2, Level 39/100 Miller
Street, North Sydney, New South Wales (**Land Owner/Developer**)

Background

- A The Land Owner owns the Land.
- B The Developer seeks Development Consent to carry out the Development on
the Land and the Council's Land and has lodged the Development Application
which relates to the Land and the Council's land.
- C The Development Application for the Development was accompanied by an
offer by the Developer to enter into this Agreement providing for the Developer
to make Development Contributions which are to be applied towards the
Agreed Public Purpose.
- E Subject to the grant of Development Consent for the Development, the
Developer will provide the Development Contributions and subject to the
Council performing its obligations in Schedule 5, the Developer must carry-out
and deliver the Works in Kind in accordance with the terms of this Agreement.
- D As contemplated by section 7.4 of the *Environmental Planning & Assessment
Act 1993*, the parties wish to enter into an Agreement in connection with the
Development Application on the terms and conditions of this Agreement.
- E The Council will apply the Development Contribution provided as part of the
Development Contribution for the Agreed Public Purposes, subject to the terms
of this Agreement.

Operative provisions

It is agreed:

1 Definitions and interpretation

1.1 Definitions

In this Agreement these terms have the following meanings:

- | | |
|-------------------------------|--|
| Act | means the <i>Environmental Planning and Assessment Act 1979</i> (NSW). |
| Agreed Public Purposes | means the funding of: |

- (a) The provision of an integrated car parking on the Land and Council 's Land providing improved access from Sera Street to Burns Bay Road;
- (b) construction of a Community Space to be dedicated to Council in the Development; and
- (c) other items.

Agreement

means this voluntary planning agreement including any schedules and annexures.

Authority

means any Federal, State or local government or semi-governmental, statutory, judicial or public person, instrumentality or department.

Bank Bill Rate

means the average bid rate for Bills having a tenor of 90 days as displayed on the "BBSY" page of the Reuters Monitor System on the day the relevant payment is due (**Due Date**). However, if the average bid rate is not displayed by 10:30 AM on the Due Date or if it is displayed but there is an obvious error in the rate, Bank Bill Rate means:

- (a) the rate the Council calculates as the average of the bid rates quoted at approximately 10:30 AM on the day by each of five or more institutions chosen by the Council which provides rates for display on the "BBSY" page of the Reuters Monitor System for Bills of a 90 day tenor which are accepted by that institution (after excluding the highest and the lowest, or in the case of equality, one of the highest and one of the lowest bid rates); or
- (b) where the Council is unable to calculate the rate under paragraph (a) because it is unable to obtain the necessary number of quotes, the rates set by the Council in good faith at approximately 10:30 AM on the day, having regard, to the extent possible, to the rates otherwise bid for Bills of the 90 day tenor at around that time.

The rate calculated or set must be expressed as a percentage rate per annum and be rounded up to the nearest fourth decimal place.

The Council may calculate a rate under paragraph (a) or (b) before 11 AM on the due date, but if the average bid rate appears on the "BBSY" page by 11 AM and there is no obvious error in it, the "BBSY" page rate applies as the Bank Bill Rate under this agreement despite any calculation by the Council under paragraph (a) or

	(b)	means an irrevocable and unconditional undertaking with an expiry date not earlier than 30 September 2028 in favour of the Council, issued by:
Bank Guarantee	(a) one of the following trading banks:	
	(i)	Australia and New Zealand Banking Group Limited,
	(ii)	Commonwealth Bank of Australia,
	(iii)	Macquarie Bank Limited,
	(iv)	National Australia Bank Limited,
	(v)	St George Bank Limited,
	(vi)	Westpac Banking Corporation, or
	(b)	any other financial institution approved by the Council acting reasonably.
Bond		means a documentary performance bond which must be denominated in Australian dollars and include an unconditional undertaking which is:
	(a)	signed and issued by an Australian Prudential Regulation Authority ("APRA") regulated authorised deposit taking institution or an insurer authorised by APRA to conduct new or renewal insurance business in Australia as agreed to by the Council acting reasonably;
	(b)	has a rating for its long-term unsecured and non credit-enhanced debt obligations of A- or higher by Standard & Poor's Rating Services or Fitch Ratings Ltd or A3 or higher by Moody's Investor Services Limited or a comparable rating from an internationally recognised credit rating agency;
	(c)	be issued on behalf of the Developer;
	(d)	have no expiry or end date;
	(e)	have the beneficiary as the Council; and
	(f)	state the purpose of the deposit required in accordance with this Agreement.
Business Day		means a day which is not a Saturday, Sunday or bank or public holiday in Sydney.
Consent Authority		means an Authority having the function to determine the Development Application under the Act.
Construction Certificate		has the same meaning as under section 6.4 of the Act, but excludes any construction certificate

	issued for early works.
Council's Land	means that part of the land located at Sera Street, Lane Cove comprising an area 728 sqm in forming part of the folio identifier listed in Part B of Schedule 3 and further identified as the area bounded in Green as the Council's Site on the Plan.
Council's Obligation	means the obligations of Council in regard to the Development Contribution as outlined in Column 2 of clause 1 of Schedule 5 .
CPI	means the All Groups Consumer Price Index (Sydney) as published by the Australian Bureau of Statistics.
Development	means the proposed redevelopment of the Land and the Council's Land consisting of a proposed mixed use commercial and residential development with associated over basement car parking and servicing pursuant to the Development Application
Development Application	means the development application DA 145/2018 lodged with the Council on the 17 August 2018 pursuant to Part 4 of the Act for the Development.
Development Consent	means the consent (if any) granted by the Consent Authority to the Development Application and has the same meaning as in the Act and includes any amendment or modification of the Development Consent, including a Section 96 Modification.
Development Contribution	means the total quantum of the monetary development contribution calculated in accordance with the formula specified in Column 1 of Schedule 4 .
Development Contribution Value	means the value of the Development Contribution calculated in accordance with the formula specified in Item 1 of Column 1 of Schedule 4 .
Explanatory Note	the Explanatory Note attached at Schedule 2 .
Force Majeure	means any physical or material restraint beyond the reasonable control of the Party claiming force majeure.
Gross Floor Area	has the same meaning as provided by the LCLEP at the date of this Agreement.
GST	has the same meaning as in the GST Law.
GST Law	has the meaning given to that term in <i>A New Tax System (Goods and Services Tax) Act 1999</i> (Cth) and any other Act or regulation relating to the

	imposition or administration of the GST.
Height Limit	means the height limit in the LCLEP as at the date of this Agreement as it applies to the Development and the Land and Council's Land under the LCLEP Height Limit map.
Interest Rate	in relation to interest payable on any payment due under this Agreement means the rate which is the Bank Bill Rate plus a margin of 2% per annum.
Item	means an item referred to in the applicable Schedule.
Land	means the land located at 56-60 Burns Bay Road, Lane Cove comprising the folio identifiers listed in Part A of Schedule 3 .
Law	means: <ul style="list-style-type: none"> (a) the common law including principles of equity, and (b) the requirement of all statutes, rules, ordinances, codes, instruments, regulations, proclamations, by-laws or consent by an Authority, that presently apply or as they may apply in the future.
LCLEP	means the <i>Lane Cove Local Environmental Plan 2009</i> .
Lot	means a lot in a registered deposited plan that forms part of the Land and Council's Land.
LRS	means the Land Registry Services New South Wales or any other Authority replacing it.
Novation Deed	means the draft deed generally in the form set out in Annexure A .
Occupation Certificate	has the same meaning as under section 6.4 of the Act.
Party	a party to this Agreement, including their successors and assigns.
Permitted Encumbrances	means any easements required to be created by Council in favour of the Land Owner as specified in clause 1 of Schedule 5, any easements in favour of utility service providers or required by any Authority or as otherwise agreed in writing by the Council and any existing easements burdening the Council's Land.
Plan	means the plan of the Council's Land annexed hereto as the Annexure marked with the letter

	“B”.
Practical Completion	means in relation to the Works in Kind in Column 1 of clause 1 of Schedule 5 , the point of time at which the Works in Kind are fit for use and occupation, and are capable of being used and occupied for their intended purpose as set out in the Development Consent.
Public Purpose	has the same meaning as in section 7.4 (2) of the Act.
Real Property Act	means the <i>Real Property Act 1900</i> (NSW).
Registration on Title	means the registration of this Agreement under section 7.6 of the Act in the folio of the register kept under the Real Property Act in relation to the Land and the Council Land, and Registered on Title refers to the state of the Agreement being so registered.
Regulation	the <i>Environmental Planning and Assessment Regulation 2000</i> (NSW).
Schedule	means a schedule to this Agreement and forming part of this Agreement.
Security	means a Bank Guarantee or a Bond.
Security Amount	means the Development Contribution Value.
Section 96 Modification	means any modification of the Development Consent pursuant to section 96 of the Act.
Subdivision Certificate	has the same meaning as under section 6.4 of the Act.
Strata Lot	means a strata lot in a Strata Plan.
Strata Plan	means a strata plan or strata plan of subdivision within the meaning of the <i>Strata Schemes (Freehold Development) Act 1973</i> (NSW) or any other legislation replacing it.
Transferee	has the meaning given to it under clause 16.2(a) .
Transfer Lands	means that land (including a stratum lot) that is to be dedicated to Council in accordance with Items 1 and 3 in clause 1 of Schedule 5 .
VPA Contribution Offset	means the amount as determined under clause 2 of Schedule 5 being the offset amount referred to in Items 1, 2, and 3 of clause 1 of Schedule 5 .
Works in Kind	means each of the Works in Kind to be carried out by the Developer specified in Column 1 of clause 1 of Schedule 5 .

1.2 Interpretation

Unless expressed to the contrary, in this Agreement:

- (a) words in the singular include the plural and vice versa;
- (b) any gender includes the other genders;
- (c) if a word or phrase is defined its other grammatical forms have corresponding meanings;
- (d) 'includes' means includes without limitation;
- (e) if the day on or by which any act, must be done under this Agreement is not a Business Day, the act must be done on or by the next Business Day;
- (f) '\$' or 'dollars' is a reference to Australian currency and all amounts payable under this Agreement are payable in Australian dollars;
- (g) 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;
- (h) a reference in this Agreement to any agreement, deed or document is to that agreement, deed or document as amended, novated, supplemented or replaced;
- (i) a reference to a clause, part, schedule or annexure is a reference to a clause, part, schedule or annexure of or to this Agreement;
- (j) an expression importing a natural person includes any company, trust, partnership, joint venture, association, body corporate or governmental agency;
- (k) 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;
- (l) any schedules and annexures form part of this Agreement;
- (m) headings do not affect the interpretation of this Agreement; and
- (n) this Agreement is not binding on any Party unless it or a counterpart has been duly executed by each person named as a Party to this Agreement.

1.3 Compliance with New Laws

- (a) If a Law is changed or a new Law comes into force (both referred to as "**New Law**"), and the Developer is obliged by the New Law to perform certain works or pay an amount which it is required to do in accordance with this Agreement, then, to the extent that the relevant obligation is required under the New Law and the Agreement, compliance with the New Law will constitute compliance with the relevant obligation under this Agreement.
- (b) For the avoidance of doubt any New Law will not relieve the Developer from its obligation to make the Development Contribution.

2 Planning Agreement under the Act

- (a) The Parties agree that this Agreement is a planning agreement governed by subdivision 2 of Division 7.1 of Part 7 of the Act.
- (b) **Schedule 1** of this Agreement sets out the mandatory requirements of section 7.4 of the Act and the corresponding provisions of this Agreement.

3 Application of this Agreement

This Agreement applies to:

- (a) the Land;
- (b) the Council's Land; and
- (c) the Development.

4 Operation of this Agreement

- (a) This Agreement is entered into on and from the date that this Agreement as required by clause 25C(1) of the Regulation.
- (b) This Agreement will remain in force until:
 - (i) it is terminated by operation of Law;
 - (ii) all obligations are performed or satisfied; or
 - (iii) it is otherwise discharged or released in accordance with the terms of this Agreement.
- (c) If a legal challenge to the Development Consent by a third party results in either or both of them being rendered invalid or unenforceable, then the Developer or the Land Owner may, in its absolute discretion, either terminate this Agreement or request the Council to consider changes to its terms.
- (d) This Agreement does not impose an obligation on the Council to grant or modify any Development Consent.
- (e) For avoidance of doubt, **clause 4(d)** does not affect any obligation of the Consent Authority (under section 4.15(1)(a)(iia) of the Act) to take this Agreement into consideration.

5 Condition Precedent

The obligations and covenants of the Land Owner under this Agreement are conditional on:

- (a) the grant of Development Consent for the Development; and
- (b) the Council performing its obligations set out in **Column 2 of clause 1 Schedule 5**.

6 Development Contribution to be made under this Agreement

6.1 Provision of Development Contribution

- (a) Subject to this Agreement:
 - (i) the Developer must make the Development Contribution in **Column 1 of Schedule 4** as a portion of the Development Contribution Value at the point in time set out in the corresponding **Column 3 of Schedule 4** of the relevant **Item**; and
 - (ii) subject to the Council performing its obligations in **Column 2 of clause 1 of Schedule 5**, the Developer must carry-out and deliver the Works in Kind and the Land Owner must dedicate the Transfer Land to Council at the point in time set out in the corresponding **Column 3 of clause 1 of Schedule 5**.
- (b) Nothing in this Agreement precludes the Developer from electing to make a Development Contribution earlier than it is required to do so.
- (c) If the Development Contribution specified in **Column 1 of Schedule 4** is not made at the point in time set out in **Column 3 of Schedule 4** then the Council may after giving at least 14 days' notice to the Developer have recourse to the Security equivalent to the value of the Development Contribution outstanding.

6.1A Determination of Residual Land Value

- (a) The Developer, the Land Owner and Council agree that the residential Residual Land Value ("**RLV**") for the purpose of calculating the Development Contribution Value is \$3,000 per square metre of GFA ("**Rate**") fixed for the period of two (2) years from the date of this Agreement and thereafter subject to indexation calculated in accordance with **Clause 6.3(b)**.
- (b) If at any time and prior to provision of the Development Contribution the Developer forms the reasonably held opinion due to changes in economic conditions that the amount of \$3,000 per square metre makes the Development unviable, the Developer or the Land Owner may propose an alternative RLV to Council.
- (c) If the Developer or the Land Owner proposes an alternative RLV under **clause** , the Developer must:
 - (i) submit a notice to Council proposing the alternative RLV per square metre ("**RLV Notice**") ; and
 - (ii) provide evidence in support of the alternative RLV amount.
- (d) The Council must accept or reject the alternative RLV amount specified in the RLV Notice within 20 Business Days of receiving the RLV Notice. If the Council rejects the alternative RLV amount in the RLV Notice, it must submit to the Developer the Council's alternative RLV amount, which must not be higher than \$3,000per square metre of GFA (subject to any indexation as provided for in this Agreement) ("**Council RLV Notice**").

- (e) If the Developer does not agree with the RLV amount specified in the Council RLV Notice, then the Developer must provide written notice to the Council within 20 Business Days of receiving the Council RLV Notice that a dispute has arisen regarding the applicable RLV amount (“**RLV Dispute**”). The Parties agree that any RLV Dispute will be resolved in accordance with **clause 6.1B**.
- (f) After the expiration of the two (2) year period referred to in **clause 6.1A(a)**, the Developer must adjust the Rate (including the Rate as amended in accordance with **clause 6.1A** or **clause 6.1B**) in the manner described in **clause 6.3**.

6.1B Valuer to determine Residual Land Value

- (a) Within 20 Business Days of the Developer providing Council with the RLV Dispute notice under **clause 6.1A(e)**, the Council must nominate in writing:
 - (i) three (3) independent and qualified valuers with a minimum of ten (10) years' experience in hypothetical medium or high density residential land valuation in Sydney; and
 - (ii) three (3) independent and qualified quantity surveyors,
 for the Developer's consideration in determining the RLV Dispute.
- (b) If the Developer:
 - (i) agrees to the appointment of one of the valuers (“**Valuer**”) and one of the quantity surveyors proposed by Council under **clause 6.1B(a)**, that Valuer and quantity surveyor will be jointly appointed by the Parties to resolve the RLV Dispute in accordance with this clause; or
 - (ii) does not agree to the appointment of any of the valuers and/or quantity surveyors proposed by Council under **clause 6.1B(a)**, then the RLV Dispute is to be determined by an independent and qualified valuer (“**Valuer**”) and quantity surveyor (nominated by the president of the Australian Property Institute (NSW Division)).
- (c) The Council and the Developer may make written submissions to the Valuer and quantity surveyor appointed in accordance with this clause.
- (d) The Parties must direct the quantity surveyor to provide to the Valuer all relevant construction cost calculations and information required by the Valuer to determine the RLV. In providing any information required by the Valuer, the quantity surveyor must take into account the matters outlined in **clause 6.1B(e)**.
- (e) In determining the RLV, the Valuer must:
 - (i) take into account any written submission provided by the Parties under **clause 6.1B(c)**;
 - (ii) act as an expert and not as an arbitrator but where his/her decision will be final and binding on the Parties (except to the extent that a manifest error has occurred);
 - (iii) determine the RLV as at the date of the RLV Notice:

- (A) taking into account residential sales based on comparable sales by floor level for comparable developments both within and outside the Land;
- (B) on the assumption that the relevant sale of the Land is between a willing but not anxious vendor and a willing but not anxious purchaser; and
- (C) any other valuation considerations determined by the Valuer; and
- (iv) provide a written report to the Parties which outlines the RLV determination and provides details of the basis upon which the RLV was determined by the Valuer including all information from the quantity surveyor relied upon by the Valuer and details of all comparable sales.
- (f) The Valuer must determine which Party is responsible for the payment of the costs of the Valuer and quantity surveyor in determining the RLV in accordance with this clause.

6.2 Capped Development Contribution

The Parties agree that the overriding principle of this Agreement is that the Development Contribution Value payable in relation to the Development is capped at the amount so calculated subject only to adjustment with any movement in the CPI in accordance with clause 6.1A(f).

6.3 Indexation

- (a) The Development Contribution Value calculated in accordance with **clause 6.1** is to be indexed in accordance with any movement in the CPI calculated in the manner specified in **Item 2 of Column 1 of Schedule 4**.
- (b) The RLV specified in **Clause 6.1A** is to be reviewed on each Review Date in accordance with any movement in the CPI calculated as follows;
 - (i) to an amount represented by A in the following formula:

$$A = B \times \frac{C}{D}$$

Where:

B = the RLV payable immediately before the Review Date;

C = the Consumer Price Index ("the Index") (Sydney – All Groups) Number ("the CPI Number") as issued by the Australian Bureau of Statistics ("ABS") for the last quarter before the Review Date; and

D = the CPI Number for the same quarter ending twelve (12) months before the Review Date.

If the Index is discontinued then, for the purposes of this clause, the CPI Number is to be the CPI Number of the price index which replaces the Index or, if there is no substitute then of any price index kept by the ABS which the Lessor may select at its absolute discretion ("the New Index") to which the Lessor may make the appropriate arithmetical adjustment for differences between the Index and the New Index, if required.

In this clause **Review Date** means the date falling two (2) years after the date of this Agreement and annually thereafter on the same day.

6.4 Delivery of Development Contributions

- (a) The Development Contribution is made for the purposes of this Agreement when either:
 - (i) cleared funds are deposited by means of electronic funds transfer into a bank account nominated by the Council; or
 - (ii) a bank cheque is provided to Council by the Developer; or
 - (iii) The Works in Kind achieve Practical completion.
- (b) The Developer is to give the Council not less than 10 Business Days written notice of:
 - (i) its intention to pay the Development Contribution; and
 - (ii) the amount proposed to be paid and the details of the calculation of the Development Contribution using the formula in **Item 1 of Column 1 of Schedule 4**.
- (c) If a tax invoice is by law required to be provided to the Developer or the Land Owner by the Council:
 - (i) the Developer or the Land Owner (as the case may be) is not required to pay the Development Contribution under this Agreement until the Council, after having received the Developer's notice under **clause 6.4(b)**, has given to the Developer or the Land Owner (as the case may be) a tax invoice for the amount of the Development Contribution;
 - (ii) the Developer and the Land Owner is not in breach of this Agreement if it fails to pay the Development Contribution at the time required by this Agreement by reason only of the Council's failure to give to the Developer or the Land Owner a tax invoice in relation to the Development Contribution; and
 - (iii) a failure by Council under this **clause 6.4(c)** will not prevent the issue of a Construction Certificate, Subdivision Certificate or Occupation Certificate for the Development.

6.5 Design of Works in Kind

Not Used

6.6 Delivery of Works in Kind

- (a) The Developer will give Council 10 Business Days' notice of the date upon which the Developer anticipates that Practical Completion comprising a Work in Kind under **Schedule 5** will be reached.
- (b) When the Developer is of the reasonable opinion that Practical Completion has been reached, the Developer must notify the Council in writing, specifying the date on which, in its opinion, Practical Completion has been reached.

- (c) If the Council does not consider that Practical Completion has been reached, it must provide the Developer with notice in writing, within 10 Business Days after the date nominated by the Developer as being the date on which Practical Completion has been reached, setting out all matters that the Council reasonably considers must be completed in order for Practical Completion to be reached.
- (d) The Developer must undertake the Works in Kind as soon as practicable

6.7 Failure to deliver Work in Kind

Subject to **clause 11**:

- (a) If the Developer fails to complete any of the Works in Kind required by this Agreement by the time specified in **Column 3** of **clause 1** of **Schedule 5** for that item of Work in Kind, the Council may elect to complete that item or such part or parts as are outstanding as at the date specified in **Column 3** of **clause 1** of **Schedule 5** or otherwise as agreed, or appoint a contractor to carry out these works on the Council's behalf.
- (b) If **clause 6.7(a)** applies:
 - (i) The Developer must allow the Council, its officers, employees, agents and contractors to enter the Land for the purposes of completing the relevant Work in Kind; and
 - (ii) The costs which the Council incurs in completing the relevant Works in Kind will be a debt due and payable by the Developer to the Council within 30 Business Days after the production of a valid tax invoice and which may be recovered as a debt due in a court of competent jurisdiction.

6.8 Deferral of Work

- (a) Notwithstanding any other provision of this Agreement, if the Developer forms the view at any time, that it is unable to complete a Works in Kind by the time specified in **Column 3** of **clause 1** of **Schedule 5**, then:
 - (i) the Developer must provide written notice to the Council to that effect and, if only part of the Works in Kind is to be made, the notice must identify the relevant part of the Works in Kind that is proposed to be deferred;
 - (ii) the Developer must provide to Council, for Council's approval, a revised completion date for the relevant Works in Kind (or part of the Works in Kind);
 - (iii) Council can approve, or not approve a revised completion date in its discretion, and if the Council does not approve the Developer's revised completion date for the Works in Kind (or part of the Works in Kind), the Council and Developer must negotiate in good faith and agree upon a revised completion date for the Works in Kind (or part of the Works in Kind); and
 - (iv) the time for completion of the Works in Kind (or part of the Works in Kind) and the dedication of the relevant land under this Agreement specified in **column 3** of **clause 1** of **Schedule 5** will be taken to be the revised completion date approved by the

Council or as agreed between the parties under **clause 6.7(a)(iii)** and nothing prevents the issuing of a Subdivision Certificate or Occupation Certificate that may be issued before that time.

- (b) If the Developer complies with **clause 6.7(a)**, then:
 - (i) it will not be considered to be in breach of this Agreement as a result of a failure to Complete all or part of the Work in Kind by the time specified in **Column 3** of **clause 1** of **Schedules 5**;
 - (ii) if applicable, any relevant Subdivision Certificate or Occupation Certificate may be issued if the time for compliance for the completion of a Work in Kind or dedication of the relevant land is required prior to the issue of a Subdivision Certificate or Occupation Certificate in **Column 3** of **clause 1** of **Schedule 5**; and
 - (iii) in the event that only part of the Work in Kind has been completed and the balance remains to be completed as agreed with Council in **clause 6.7(a)**, then the Developer will be taken to have completed that part of the Work for the purposes of this Agreement.
- (c) If the Work in Kind (or part of the Work in Kind) is not completed by the revised date for completion of the Work in Kind (or part of the Work in Kind) agreed under **clause 6.7(a)(iv)** then the Council may call on the Security to meet any of its reasonable costs incurred under this Agreement in respect of the failure to complete the Work in Kind (or part of the Work in Kind) by the revised date for completion.
- (d) The Security held by the Council is to be reduced for that portion of the completed Works in Kind in accordance with the provisions of **clause 13**.

6.9 Dedication of Transfer Lands

- (a) The Developer must take all steps necessary to register at the LRS the transfer for the relevant part of the Transfer Lands in accordance with the timing specified in **Column 3** of **clause 1** of **Schedule 5** by either:
 - (i) dedication of the Transfer Lands on the registration of a deposited plan which indicates that the relevant portion of the Transfer Lands is intended to be dedicated to the Council; or
 - (ii) delivery to the Council of:
 - (A) a form of transfer in respect of the relevant portion of the Transfer Lands executed by the Land Owner in registrable form transferring that land for \$1.00; and
 - (B) the certificates of title for the relevant part of the Transfer Lands; and
 - (C) subject to **clause 10(e)**, withdrawal of any caveat, mortgage or charge registered on the title to the Transfer Lands which would prevent registration of the transfer to Council,
- and the Land Owner must otherwise take any other necessary action (other than paying stamp duty associated with the transfer) to give effect to the transfer of the title of the relevant portion of the Transfer Lands to the Council.

- (b) The Council agrees that it will accept the Transfer Lands subject to the Permitted Encumbrances.

6.10 Council's obligations

- (a) The Council must perform the obligations specified in **Column 2 of Clause 1 of Schedule 5** by the times specified and in the event that Council is required to grant an easement in the Land Owner's favour, the Council must negotiate the terms of the easement on reasonable and standard terms.
- (b) Council must do all things reasonably necessary to obtain all approvals and give all consents to enable the Developer or the Land Owner to carry out the Works in Kind including by Council authorising the Developer to carry out those works on its behalf under any State Environmental Planning Policy, Part 5 of the Act or under the *Roads Act 1993* (NSW) and *Local Government Act 1993* (NSW).
- (c) The Council must take all steps necessary to register at the LRS the transfer for the Council's Land in accordance with the timing specified in **Column 3 of clause 1 of Schedule 5**, by either:
 - (i) dedication of the Council's Land on the registration of a deposited plan which indicates that the Council's Land is intended to be dedicated to the Developer; or
 - (ii) delivery to the Developer of:
 - (A) a form of transfer in respect of the Council's Land executed by the Council in registrable form transferring that land for \$1.00; and
 - (B) the certificates of title for the relevant part of the Council's Land; and
 - (C) subject to **clause 10(e)**, withdrawal of any caveat, mortgage or charge registered on the title to the Council's Land which would prevent registration of the transfer to the Developer, and the Council must otherwise take any other necessary action (other than paying stamp duty associated with the transfer) to give effect to the transfer of the title of the Council's Land to the Developer.
- (d) The Developer agrees that it will accept the Council's Land subject to the Permitted Encumbrances.

7 Application of the Development Contributions

The Council must, acting reasonably and in good faith, apply the Development Contribution received from the Developer under this Agreement towards the Agreed Public Purposes.

However, if the Council determines that the Agreed Public Purposes cannot be realised (in whole or in part) then, after having given written notice to the Developer of this fact, the Council must apply the Development Contribution received from the Developer under this Agreement towards infrastructure for a

Public Purpose that is located generally within the Lane Cove Local Government Area.

8 Access to land by Developer

- (a) The Council authorises the Developer, for no licence fee, rent or other cost, to enter, occupy and use any land owned or controlled by the Council for the purpose of performing its obligations under this Agreement.
- (b) The Council is to permit the Developer, upon receiving reasonable prior notice from the Developer, for no licence fee, rent or other cost, to enter any other Council owned or controlled land in order to enable the Developer to properly perform its obligations under this Agreement.
- (c) Nothing in this Agreement creates or gives the Developer any estate or interest in any part of the land referred to in **clause 8(a)** or **8(b)** and the Developer must not interfere with the Permitted Encumbrances.

9 Application of sections 7.11, 7.12 and 7.24 of the Act to the Development

- (a) This Agreement does not exclude the application of:
 - (i) sections 7.11, 7.12 and 7.24 of the Act; or
 - (ii) any other monetary contributions required under the Act, in connection with any Development Consent (including any Section 96 Modifications) that is granted for the Development.
- (b) Except to the extent specified in **Column 2** of **clause 1** of **Schedule 5**, any benefits under this Agreement are not to be taken into account in determining a development contribution under section 94 of the Act.

10 Registration of this Agreement

- (a) The Land Owner must, at its expense take all practical steps to procure:
 - (i) the consent of each person who:
 - (A) has an estate or interest in the Land registered under the Real Property Act; or
 - (B) is seized or possessed of an estate or interest in the Land; and
 - (ii) the execution of any documents; and
 - (iii) the production of the relevant duplicate certificates of title, to enable the Registration on Title of this Agreement.
- (b) The Parties will take all practical steps to procure the lodgement of this Agreement with the Registrar-General as soon as reasonably practicable after the Agreement is entered into by the Parties.

- (c) The Parties agree that on registration by the Registrar-General the Agreement will be binding on and enforceable against the owners of the Land from time to time as if each owner of the Land for the time being had entered into this Agreement.
- (d) Until such time as this Agreement is Registered on Title, the Land Owner agrees that the Council may lodge a caveat to prevent the transfer of the Land to any party other than to the Land Owner but no other dealing.
- (e) If the Council lodges a caveat in accordance with **clause 10(d)**, then the Council will do all things reasonably necessary to:
 - (i) ensure that the caveat does not prevent or delay either the Registration on Title of this Agreement, the transfer of any Transfer Lands to Council or any dealing with the Land other than a transfer to a third party (other than Council); and
 - (ii) remove the caveat from the title to the Land promptly, following registration of this Agreement in accordance with **clause 10(a)**.
- (f) Despite **clause 10(d)**, the Council as caveator must promptly consent to the registration of:
 - (i) a transfer of the Land to the Land Owner;
 - (ii) a transfer of any part of the Land from the Land Owner to a third party if that third party has entered into a Voluntary Planning Agreement on the same terms as this Agreement in accordance with **clause 16**;
 - (iii) any surrender of lease;
 - (iv) any discharge of mortgage;
 - (v) any other dealing which effects any dealing listed in the certificates of title for the Land;
 - (vi) any mortgage(s) on the title.
- (g) Following the Agreement being Registered on Title, the Council will do all things reasonably necessary and provide its consent, but without fettering its discretion acting as a consent authority, to permit the registration of:
 - (i) any Strata Plan consistent with the Development Consent;
 - (ii) any transfer of the Land or any part of the Land from the Land Owner to a third party if that third-party has entered into a Voluntary Planning Agreement on the same terms as this Agreement in accordance with **clause 16**; and
 - (iii) any other dealing deemed necessary by the Developer or the Land Owner, acting reasonably.
- (h) If the Council lodges a caveat in accordance with clause 10(d) or the Land Owner has failed or has been unable to register this Agreement on any of the Land in accordance with **clause 10(a)**, the Developer must pay the Council's reasonable costs and expenses, including legal costs, of exercising its rights under **clause 10(d)** of this Agreement together with the costs of defending any action taken to seek a removal or withdrawal of the caveat and the Developer agrees to indemnify the

Council against all costs or losses or damage howsoever arising as a consequence of being unable to enforce its caveat or the terms of this Agreement including, without limitation, the costs or losses arising in relation to or in connection with any failure by the Council to receive the benefit of the Development Contribution.

- (i) The Council must promptly do all things reasonably required by the Developer and/or the Land Owner to release and discharge this Agreement with respect to any Lot or Lots forming part of any lot, including a Strata Lot, created or to be created on subdivision of the Land on satisfaction by the Developer of the obligation to provide:
 - (i) the Development Contributions in **Schedule 4**; and
 - (ii) Works in Kind and any land dedications in **Schedule 5** relevant to the Development.
- (j) For the avoidance of doubt, in the event that Council agrees to the deferral of a Works-in-Kind under **clause 6.8**, Council must still take the actions specified in **clause 10(i)** to release and discharge the Agreement from the relevant Lot or Lots and Council agrees that the retention of any Security Amount for the Works-in-Kind subject of the deferral will be satisfactory security for the purposes of section 93F(3)(g) of the Act.

11 Default

11.1 Notice

In the event a Party considers another Party has failed to perform and fulfil an obligation under this Agreement, it may give notice in writing to that Party (**Default Notice**) giving all particulars of the matters in respect of which it considers default has occurred and by such notice require the default to be remedied within a reasonable time.

11.2 Reasonable Time

In determining a reasonable time, regard must be had to both the nature of the default and the work or other action required to remedy it and whether or not the continuation of the default constitutes or causes a public nuisance or raises other circumstances of urgency or emergency.

11.3 Suspension of time-dispute

If a Party disputes the Default Notice it may refer that dispute to dispute resolution under **clause 12** of this Agreement.

12 Dispute Resolution

12.1 Reference to dispute

If a dispute arises between the Parties in relation to this Agreement, then the Parties may seek to resolve that dispute in accordance with this clause unless

this Agreement expressly states that the dispute is to be resolved in accordance with another clause.

12.2 Notice of dispute

The Party wishing to commence the dispute resolution processes must notify the others in writing of:

- (a) the intent to invoke this clause;
- (b) the nature or subject matter of the dispute, including a summary of any efforts made to resolve the dispute other than by way of this clause; and
- (c) the outcomes which the notifying Party wishes to achieve (if practicable).

12.3 Representatives of parties to meet

- (a) The representatives of the Parties must promptly (and in any event within 14 Business Days of the written notice provided in accordance with **clause 12.2**), meet in good faith to attempt to resolve the notified dispute.
- (b) The Parties may, without limitation:
 - (i) resolve the dispute during the course of that meeting;
 - (ii) agree that further material, expert opinion or consideration is needed to effectively resolve the dispute (in which event the Parties will, in good faith, agree to a timetable for resolution); or
 - (iii) agree that the Parties are unlikely to resolve the dispute and, in good faith, agree to a form of alternative dispute resolution (including expert determination, arbitration or mediation) which is appropriate for the resolution of the relevant dispute.

12.4 Parties may not constrain

If:

- (a) at least one meeting has been held in accordance with **clause 12.3**;
- (b) the Parties have been unable to reach an outcome identified in **clauses 12.3(b)(i) to 12.3(b)(iii)**; and
- (c) the Parties, acting in good faith, form the view that the dispute is reasonably unlikely to be resolved in accordance with a process agreed under **clause 12.3**,

then, a Party may, by 14 Business Days written notice to the other Parties, terminate the dispute resolution process in respect of that dispute. The termination of the process set out in this clause does not of itself amount to a breach of this Agreement.

13 Security and Enforcement

13.1 Developer to provide security

Section 7.4(3)(g) of the Act requires the enforcement of a planning agreement by a suitable means, such as the provision of a bond or guarantee, in the event of a breach of the Agreement by the Developer. The intention of the Parties is that the following clauses satisfy this obligation:

- (a) this **clause 13** through the provision of a Bank Guarantee or Bond to Council as Security and the enforcement provisions; and
- (b) **clause 10** through the registration of this Agreement on the title of the Land; and
- (c) registration of a caveat over the Land by the Council pending Registration on Title of this Agreement

13.2 Security to be provided to Council

- (a) The Developer must provide Security for the Security Amount to the Council prior to the issue of the first Construction Certificate for the Development which may subsequently be adjusted in accordance with this clause.
- (b) In determining any adjustment in the Security Amount the parties are to take into account the calculation of the value of each of the Works-in-Kind and:
 - (i) the Developer must appoint a quantity surveyor who is to prepare a report which identifies the estimated value of the Works-in-Kind (**Security Amount QS Report**);
 - (ii) the Developer must provide that Security Amount QS Report to Council at least 30 days prior to the requirement for the Developer to provide the Security to Council;
 - (i) Within 5 Business Days of receipt of the Security Amount QS Report by Council, Council must provide written notification to the Developer of either:
 - (A) Council's agreement to the Security Amount identified in the Security Amount QS Report; or
 - (B) Council's objection to the Security Amount identified in the Security Amount QS Report.
 - (ii) In the event that Council objects to the offset amount under **clause 13.2(b)(i)(B) (Security Amount Dispute)**, the Council must nominate in writing three (3) independent and qualified quantity surveyors, for the Developer's consideration in determining the Security Amount Dispute.
 - (iii) If the Developer:
 - (A) agrees to the appointment of one of the quantity surveyors proposed by Council under **clause 13.2(b)(ii)** then that quantity surveyor will be jointly appointed by the Parties to resolve the Security Amount Dispute in accordance with this **clause 13.2**; or
 - (B) does not agree to the appointment of any of quantity surveyors proposed by Council under **clause 13.2**, then the Security Amount Dispute is to be determined by an independent and qualified quantity surveyor (nominated by the president of the Australian Property Institute (NSW Division)).

- (iv) The Council and the Developer may make written submissions to the quantity surveyor appointed in accordance with this clause.
- (v) In determining the Security Amount Dispute, the quantity surveyor must:
 - (A) take into account any written submission provided by the Parties under **clause 13.2(b)(iv)**;
 - (B) act as an expert and not as an arbitrator but where his/her decision will be final and binding on the Parties (except to the extent that a manifest error has occurred); and
 - (C) provide a written report to the Parties which outlines the Security Amount Dispute determination and provides details of the basis upon which the offset was determined by the quantity surveyor (**Determination**).
- (vi) The parties agree that costs shall follow the event such that if the Determination results in an amount greater than the amount specified in the Security Amount QS Report then the costs are to be met by the Developer and if the Determination results in an amount that is equal to or less than the amount specified in the Security Amount QS Report then the costs are to be met by the Council.
- (vii) Within a reasonable period after each anniversary of the date the Security was provided under clause 13.2(a), the Developer must provide a replacement Security to Council which is equal to the Security Amount indexed annually in accordance with the CPI from the date the Security was provided.

13.3 Release of security to the Developer

- (a) The Council must release the Security provided by the Developer as follows:
 - (i) for that part of the Security Amount provided for the Development Contributions, within 10 Business Days of the payment of the Development Contribution to Council;
 - (ii) for that part of the Security Amount provided for a Works-in-Kind component of the Development Contribution, within 10 Business Days of the delivery to the Council of notice of Practical Completion of the relevant Works-in-Kind under **clause 6.5(b)** or, if applicable, **clause 6.5(e)**; and
 - (iii) immediately upon an alternative Security being provided by a Transferee pursuant to **clause 16**.
- (b) The Council must also release the Security provided by the Developer within 10 Business Days of any of the following events:
 - (i) the Development Consent lapses; or
 - (ii) the Development Consent is declared invalid by a court.

13.4 Call on Security

- (a) Subject to **clause 13.3**, the Security provided in **clause 13.2** is given to secure performance by the Developer of its obligation to make the Development Contribution and deliver the Works in Kind.
- (b) The Council must only exercise its rights under the Security in accordance with this **clause 13.4**.
- (c) If the Developer does not comply with its obligation to pay any part of the Development Contribution payable under this Agreement or deliver any of the Works in Kind, then Council may, after giving the Developer no less than 10 Business Days' notice of the default so that the Developer may seek to remedy any default, call on all or part of the Security and apply the proceeds as its own property in order to recover Council's loss arising from the failure of the Developer to make the Development Contribution (in whole or part) or deliver any of the Works in Kind.
- (d) If the Developer or the Land Owner becomes insolvent, a receiver, receiver and manager, administrator, provisional liquidator or liquidator is appointed in respect of the Developer or the Land Owner or any of its property or the Developer or the Land Owner abandons the Development prior to completion of the Development then Council may, after giving the Developer no less than 10 Business Days' notice of the default so that the Developer may seek to remedy any default, call on all or part of the Security and apply the proceeds as its own property in order to recover Council's loss arising from the failure of the Developer to make the Development Contribution (in whole or part) or deliver any of the Works in Kind.
- (e) In **clause 13.4(d)** "**abandons**" means if at any time after construction of the Development commences the Council forms the reasonable opinion that construction work has ceased and no construction activity has taken place for a period exceeding 90 days.

13.5 Enforcement by any party

- (a) Without limiting any other remedies available to the Parties, this Agreement may be enforced by any Party in any court of competent jurisdiction.
- (b) Nothing in this Agreement prevents:
 - (i) a Party from bringing proceedings in the Land and Environment Court to enforce any aspect of this Agreement or any matter to which this Agreement relates; or
 - (ii) the Council from exercising any function under the Act or any other law relating to the enforcement of any aspect of this Agreement or any matter to which this Agreement relates.

14 Notices

14.1 Delivery

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.

Lane Cove Council

Attention: The General Manager
Address: 48 Longueville Road, Lane Cove, NSW
Fax Number: 02 9911 3600
Email: lccouncil@lanecove.nsw.gov.au

Sun Property Lane Cove Pty Ltd ABN 82 614 668 272

Attention: Zhongwei SUN
Address: 21 Macquarie Road, Pymble, NSW, 2073
Fax Number:
Email:

14.2 Change of details

If a Party gives another Party three Business Days' notice of a change of its postal address, fax number or email address then any notice, consent, information, application or request is only given or made by that other Party if it is delivered, posted or faxed to the latest postal address, fax number or email address.

14.3 Giving of notice

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, two 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;
or
- (d) If it sent by email, when a delivery confirmation report is received by the sender, unless subsequently the sender receives a delivery failure notification, indicating that the electronic mail has not been delivered.

14.4 Delivery outside of business hours

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 5.00 pm 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.

15 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.

16 Assignment and dealings

16.1 Assignment

- (a) A Party must not assign or deal with any right under this Agreement without the prior written consent of the other Parties. Council must not unreasonably withhold or delay its written consent and must respond within 15 Business Days.
- (b) Any purported dealing in breach of this **clause 16** is of no effect.

16.2 Transfer dealings

- (a) The Land Owner must not transfer all or any part of their rights, interests or the Land (as applicable) under this Agreement to another party (**Transferee**) unless the Transferee delivers to the Council a Novation Deed signed by the Transferee and the Land Owner.
- (b) The Council must, within 20 Business Days of receipt of the signed Novation Deed in **clause 16.2(a)**, execute the Novation Deed and provide a copy of the signed Novation Deed to both the Transferee and the Land Owner.

17 GST

17.1 Construction

In this **clause 17** words and expressions which are not defined in this Agreement but which have a defined meaning in the GST Law have the same meaning as in the GST Law.

17.2 Intention of the Parties

Without limiting the operation of this **clause 17**, as at the date of this Agreement, the Parties intend that:

- (a) Divisions 81 and 82 of the GST Law apply to the supplies made under and in connection with this Agreement;
- (b) Except as provided in **clause 6.4(c)**, no tax invoices will be exchanged between the Parties; and
- (c) no additional amount will be payable to a Supplier (as defined in **clause 17.4** below) on account of GST.

17.3 Consideration GST exclusive

All prices or other sums payable or consideration to be provided under this Agreement are exclusive of GST.

17.4 Payment of GST – additional payment required

- (a) If an entity (**Supplier**) makes a taxable supply under or in connection with this Agreement (**Relevant Supply**), then, subject to **clause 17.4(d)**, the Party required under the other provisions of this Agreement to provide the consideration for that Relevant Supply (**Recipient**) must pay an additional amount to the Supplier (**GST Amount**), as calculated under **clause 17.4(b)** or **17.4(c)** (as appropriate).
- (b) To the extent that the consideration to be provided by the Recipient for the Relevant Supply under the other provisions of this Agreement is a payment of money (including, for the avoidance of doubt, any payment under **clause 17.4(c)**), the Recipient must pay to the Supplier an additional amount equal to the amount of the payment multiplied by the rate or rates of GST applicable to that Relevant Supply.
- (c) To the extent that the consideration to be provided by the Recipient for that Relevant Supply is neither:
 - (i) a payment of money; nor
 - (ii) a taxable supply,
(Non-taxable non-monetary consideration),
the Recipient must pay to the Supplier an additional amount equal to 1/11th of the GST-inclusive market value of the non-taxable non-monetary consideration.
- (d) To the extent that the consideration payable by the Recipient is a taxable supply made to the Supplier by the Recipient, then, notwithstanding **clause 17.4(a)**:
 - (i) subject to **clause 17.4(d)(ii)**, no additional amount is payable by the Recipient to the Supplier on account of the GST payable on that taxable supply; and
 - (ii) however, if taking into account any liability for GST of, any input tax credit of, and any amount payable under **clauses 17.4(b) or 17.4(c)** by a Supplier or Recipient, a Supplier or Recipient, or the representative member of a GST group of which they are a member, has a net amount of GST payable that it is not able to recover from another Party under this **clause 17**, the Parties must negotiate in good faith to agree on an appropriate treatment of GST as between them. If agreement cannot be reached prior to the time that a Party becomes liable for GST, the matter is to be resolved in the same way as a dispute under **clause 17.5(b)**.
- (e) The recipient will pay the GST Amount referred to in this **clause 17.4** in addition to and at the same time as the first part of the consideration is provided for the Relevant Supply.

17.5 Valuation of non-monetary consideration

The Parties will seek to agree upon the market value of any non-monetary consideration which the Recipient is required to provide under **clause 17.4**. If agreement cannot be reached prior to the time that a Party becomes liable for GST, the matter in dispute is to be determined by an independent expert nominated by the President for the time being of the Institute of Chartered Accountants in Australia. The Parties will each pay one half of the costs of referral and determination by the independent expert.

17.6 Tax invoice

The Supplier must deliver a tax invoice to the Recipient before the Supplier is entitled to payment of the GST Amount under **clause 17.4**. The Recipient can withhold payment of the GST Amount until the Supplier provides a tax invoice.

17.7 Adjustment event

If an adjustment event arises in respect of a taxable supply made by a Supplier under this Agreement, the GST Amount payable by the Recipient under **clause 17.4** will be recalculated taking into account any previous adjustment under this clause to reflect the adjustment event and a payment will be made by the Recipient to the Supplier or by the Supplier to the Recipient as the case requires.

17.8 Reimbursements

Where a Party is required under this Agreement to pay, indemnify or reimburse an expense, loss or outgoing of another Party, the amount to be paid, indemnified or reimbursed by the first Party will be the sum of:

- (a) the amount of the expense, loss or outgoing less any input tax credits in respect of the expense, loss or outgoing to which the other Party, or to which the representative member of a GST group of which the other Party is a member, is entitled; and
- (b) any additional amount payable under **clause 17.4** in respect of that reimbursement.

17.9 No Merger

This **clause 17** does not merge in the completion, discharge, rescission or termination of this Agreement or on the transfer of any property supplied or to be supplied under this Agreement.

18 Costs

The Developer must pay Council its reasonable legal and other costs and expenses of negotiating, preparing, executing, stamping and registering this Agreement to a fixed amount of **\$5,000**. Except as expressly stated otherwise in this Agreement, each Party must pay its own legal and other costs and expenses of performing its obligations under this Agreement.

19 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 agreement, 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.

20 Further acts

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

21 Governing law and jurisdiction

This Agreement and the transactions contemplated by this Agreement are governed by and are to be construed in accordance with the Laws applicable in New South Wales. The Parties irrevocably and unconditionally 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.

22 Joint and individual liability and benefits

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

23 No fetter

Nothing in this Agreement will 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 will be construed as limiting or fettering in any way the exercise of any statutory discretion or duty.

24 Intentionally Omitted

25 Representations and warranties

- (a) The Land Owner has agreed, promptly upon request, to lodge at the LRS the relevant certificates of title to enable the registration of the Agreement in the relevant folios of the Land titles.

- (b) The Council represents and warrants that it has power to enter into this Agreement and comply with its obligations under this Agreement and that entry into this Agreement will not result in the breach of any law.

26 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.

27 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.

28 Effect of Schedules

The Parties agree to comply with any terms contained in the Schedules to this Agreement as if those terms were included in the operative part of the Agreement.

29 Relationship of parties

This Agreement is not intended to create a partnership, joint venture or agency relationship between the Parties.

30 Further steps

Each Party must promptly do whatever any other Party reasonably requires of it to give effect to this Agreement and to perform its obligations under it.

31 Counterparts

This Agreement may consist of a number of counterparts and, if so, the counterparts taken together constitute one Agreement.

32 Rights cumulative

Except as expressly stated otherwise in this Agreement, the rights of a Party under this Agreement are cumulative and are in addition to any other rights of that Party.

33 Confidentiality

The Parties agree that the terms of this Agreement are not confidential and this Agreement may be treated as a public document and exhibited or reported without restriction by any Party.

34 Force Majeure

- (a) If a Party is unable by reason of Force Majeure to carry out wholly or in part its obligations under the Agreement, it must give to the other Parties prompt notice of the Force Majeure with reasonably full particulars.
- (b) The obligations of the Parties so far as they are affected by the Force Majeure are then suspended during continuance of the Force Majeure and any further period as may be reasonable in the circumstances.
- (c) The Party giving such notice under this clause must use all reasonable effort and diligence to remove the Force Majeure or ameliorate its effects as quickly as practicable.
- (d) If the Parties are unable to agree on the existence of an event of Force Majeure or the period during which the obligations of the Parties are suspended during the continuance of the Force Majeure, that dispute must be referred for determination under the Agreement.

35 Explanatory Note

The Explanatory Note must not be used to assist in construing this Agreement.

36 Modification

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

37 Reservation of Developer's rights

- (a) If, following entry into this Agreement, until the date which is six (6) months after the date of issue of the first Construction Certificate for the Development, the Council:
 - (i) enters into a voluntary planning agreement under the Act with any other person ("**Alternative Planning Agreement**") which in whole or part provides for the delivery of development contributions for the Agreed Public Purpose in circumstances where a change to

the LCLEP and/or the *Lane Cove Development Control Plan 2010* which is the subject of the Alternative Planning Agreement is materially the same as the changes sought by the Planning Proposal; and

- (ii) the Council has agreed, for the purposes of that Alternative Planning Agreement, to apply a different formula to that applied in **Item 1 of Schedule 4** of this Agreement to determine the equivalent of the Development Contribution Value under the Alternative Planning Agreement,

the Developer and the Land Owner reserves its right to seek a modification of this Agreement under **clause 36** to reflect the formula applied in the Alternative Planning Agreement.

- (b) In this **clause 37**, “materially the same” means an amendment to the zoning and/or increases to height controls or floor space ratios applying to Land.

Schedule 1

Section 7.4 Requirements

Provision of the Act	This Agreement
Under section 7.4(1), the Developer has:	
(a) sought a change to an environmental planning instrument.	(a) No
(b) made, or proposes to make, a development application.	(b) Yes
(c) entered into an agreement with, or is otherwise associated with, a person, to whom paragraph (a) or (b) applies.	(c) No
Description of the land to which this Agreement applies- (Section 7.4(3)(a))	The Land and the Council's Land
Description of the development to which this Agreement applies- (Section 7.4(3)(b)(ii))	The Development.
The scope, timing and manner of delivery of Development Contribution required by this Agreement - (Section 7.4(3)(c))	See clause 6 .
Applicability of Section 7.11 of the Act - (Section 7.4 (3)(d))	The application of section 7.11 of the Act is not excluded by this Agreement.
Applicability of Section 7.12 of the Act - (Section 7.4 (3)(d))	The application of sections 7.12 of the Act is not excluded by this Agreement.
Applicability of Section 7.24 of the Act - (Section 7.4 (3)(d))	The application of section 7.24 of the Act is not excluded by this Agreement.
Benefits to be taken into account (Section 7.4 (3)(e))	Except to the extent specified in Column 2 of clause 1 of Schedule 5 , the benefits under the Agreement are not to be taken into consideration when determining a development contribution under section 7.11 of the Act.
Mechanism for Dispute resolution - (Section 7.4 (3)(f))	See clause 12 .
Enforcement of this Agreement - (Section 7.4 (3)(g))	See clause 13 and 10 .
Registration of this Agreement (Section 7.6)	See clause 10 .
No obligation to grant consent or exercise functions - (Section 7.4 (9))	See clause 23 .

Schedule 2

Explanatory Note

Environmental Planning and Assessment Regulation 2000

(Clause 25E)

Explanatory Note

Explanatory Note – St Leonards Planning Agreement, Northern Terrace

Clause 25E

Environmental Planning and Assessment Regulations 2000

Summary

The purpose of this Explanatory note is to provide a plain english summary to support the notification of a draft Voluntary Planning Agreement (“**The Planning Agreement**”) under section 7.4 of the *Environmental Planning and Assessment Act 1979* (“**the Act**”).

This Explanatory Note has been prepared jointly between the parties as required by clause 25E of the *Environmental Planning and Assessment Regulation 2000* (“**the Regulations**”).

This Explanatory Note is not to be used to assist in construing the Planning Agreement.

Parties

Lane Cove Council ABN 42 062 211 626 of 48 Longueville Road, Lane Cove, New South Wales (**Council**)

Sun Property Lane Cove Pty Ltd ABN 82 614 668 272 of Suite 2, Level 39/100 Miller Street, North Sydney, New South Wales (**Land Owner/Developer**)

Description of the Subject Land

The land is located at 56-60 Burns Bay Road, Lane Cove and contained in folio identifier Lots 1 in DP591036 which includes Council’s Land identified as Lot 21 in DP1132641.

Description of the Development to which the Planning Agreement Applies

The Developer has submitted a development application seeking development consent for the construction of a multi-storey mixed use residential development and a commercial building on the Land (**‘Development’**).

Summary of Objectives, Nature and Effect of the Planning Agreement

The Developer proposes to provide both monetary contributions, works-in-kind and to dedicate land to Council.

Subject to grant of the development consent for the Development, the Planning Agreement provides for the provision of the following:

Monetary Contribution

DCV = (RLV x GFA) less the VPA Contribution Offset (if any)

Where:

DCV means the Development Contribution Value.

RLV = the Residual Land Value of the Site (expressed as a rate of GFA/m²). The RLV included in the Planning Agreement is **\$3,000.00**.

GFA = the Gross Floor Area of the Development specified as 1,820 sqm at the time of this Agreement as noted in the Development Application but adjusted for any increase in the gross floor area arising by virtue of a change in the existing planning controls relating to the Height Limit and FSR.

VPA Contribution Offset means the amount as determined under clause 2 of Schedule 5 being the value of improvement works in Items 1 (Community Space), 2 (Construction of a public right of way and 3 (Car Spaces) as identified in clause 1 of Schedule 5.

Site means the Land and the Council's Land.

Works in Kind and Land Dedications

- 1. Community Space:** In a strata or stratum parcel (at the Developer's discretion), dedicated to Council at no cost a community space (cold shell) for public purposes (Community Space). The Community Space will have a minimum Gross Floor Area of 750m² plus a lobby of 100m². To be delivered prior to the issue of an Occupation Certificate in relation to the Development.
- 2. Construction of Right of Way:** Construct a new public right of way over the Council's Land in the area of the existing right of way burdening the Council's Land. To be delivered prior to the issue of an Occupation Certificate in relation to the Development.
- 3. Car spaces:** Construction and dedication to Council of a stratum lot or strata lots for a public carparking (Car Spaces) comprising the number of car spaces required to satisfy the amount of the Development Contribution. To be delivered prior to the issue of an Occupation Certificate in relation to the Development.

The value of Items 1, 2 and 3 are to be offset as against the Development Contribution payable.

Sections 7.11, 7.12 and 7.24 of the Act are not excluded as they apply to the Development.

Security is to be provided for the delivery of the Development Contribution prior to the issue of the Construction Certificate for the Development.

The Planning Agreement is to be registered on the title of the Land and released upon delivery of the Contributions.

Assessment of the Merits of the Planning Agreement

1. How the Planning Agreement Promotes the Objects of the Act and the Public Interest

The Planning Agreement promotes the following objectives of section 1.3 of the *Environmental Planning and Assessment Act 1979*:

- to promote the orderly and economic use and development of land,
- to promote good design and amenity of the built environment.

The draft Planning Agreement promotes the public interest by:

- Requiring the construction of a community space of 850 sqm which will provide public facility improvements that will benefit existing and future residents and workers in the area.
- Providing significant public domain upgrades including a pedestrian through-site link, between Sera Street and Burns Bay Road.
- Construction of a new public right of way in the location of Sera Street.
- Delivery of new public car parking spaces.

2. How the Planning Agreement promotes the elements of the Council's Charter under section 8 of the Local Government Act 1993

The Planning Agreement is consistent with the following purposes of the *Local Government Act 1993*:

- To give councils the ability to provide goods, services and facilities, and to carry out activities, appropriate to the current and future needs of local communities and the wider public.
- To give councils a role in the management, improvement and development of the resources of their areas.

The Planning Agreement promotes the following elements of the Council's Charter:

- To provide directly or on behalf of other levels of government, after due consultation, adequate, equitable and appropriate services and facilities for the community and to ensure that those services and facilities are managed efficiently and effectively.

This element of the Council's Charter is promoted through:

- The Development facilitates the construction of a new Community Space and, and will deliver enhancements to the public domain including construction of a new public right of way. The development will also facilitate the delivery of additional public car parking spaces.

3. The Planning Purpose served by the Planning Agreement

The development contributions and works in kind proposed to be provided under the Planning Agreement will be used to achieve the following planning purposes:

- Provision of a new community space.
- Provision of significant public domain and accessibility upgrades in and around the site including a through link between Sera Street and Burns Bay Road as well as upgraded right of way over Sera Street.
- Provision of a new car parking spaces.
- The Planning Agreement provides for a reasonable means of achieving these planning purposes.

4. Whether the Planning Agreement Conforms with the Council's Capital Works Program

Yes, the Planning Agreement is in conformity with Council's Capital Works Program.

Requirements of the agreement that must be complied with before a construction certificate, occupation certificate or subdivision certificate is issued

Security is to be provided prior to the issue of the Construction Certificate for the development.

The Development Contribution and all of the Works in Kind and land dedications are to occur prior to the issue of an Occupation Certificate for the Development.

Schedule 3

Land

Part A title details

Lot/DP	Address
Lots 1 in DP591036	56-60 Burns Bay Road, LANE COVE

Council Land

Part B title details

Lot/DP	Address
Lot 21 in DP1132641	Sera Street, LANE COVE

Schedule 4

Development Contribution Schedule

1. Development Contribution

The Developer undertakes to provide the following Development Contribution as set out and provided for in the Table below.

Column 1		Column 3
Development Contribution		Timing
Total Development Contribution		
<p>1. The value of the total Development Contribution payable is to be calculated by applying the following formula:</p> $DCV = (RLV \times GFA) \text{ less the VPA Contribution Offset (if any)}$ <p>Where:</p> <p>DCV means the Development Contribution Value;</p> <p>RLV = the Residual Land Value of the Site (expressed as a rate of GFA/m²) and identified as \$3,000 at the time of this Agreement;</p> <p>GFA = the Gross Floor Area of the Development specified as 1,820 sqm at the time of this Agreement.</p> <p>VPA Contribution Offset is a defined term (see clause 1.1); and</p> <p>Site means the Land.</p>		<p>The DCV is to be calculated following entry into the Planning Agreement and prior to the issue of the first Construction Certificate for the Development as approved ("Effective Date") and the contribution paid prior to the earlier of the:</p> <p>(a) issue of the first Occupation Certificate for the Development; or</p> <p>(b) 28 days after a written request is made by the Developer for the Transfer of the Council's Land.</p>
Indexation		
<p>2. The DCV will be adjusted in accordance with any movement in the CPI calculated from the Effective Date (see definition in Item 1 Column 3) to the date that payment of the Development Contribution is made to the intent that the DCV as originally calculated based on the RLV (previously adjusted for any CPI increase if necessary) is to be increased by any movement in the CPI</p>		Not applicable.

Schedule 5

Works in Kind Schedule

1 Works in Kind

Subject to Council performing its obligations specified in this **Schedule 5**, the Developer undertakes to provide the following Works in Kind and associated dedication of the Transfer Lands in the manner set out in the table below.

Column 1	Column 2	Column 3
Works in Kind Contribution	Council's Obligations	Timing
1 In a strata or stratum parcel (at the Developer's discretion), dedicated to Council at no cost a community space (cold shell) for public purposes (Community Space). The Community Space will have a minimum Gross Floor Area of 750m ² and will include an additional Lobby area of 100 m ² .	To Transfer at no cost to the Developer the Council's Land subject to the Developer preparing an appropriate plan of consolidation and subdivision of the Land and the Council's Land. To offset the cost of the Strata or Stratum cold shell structure works and value of the land dedicated to Council against the Development Contribution. The offset amount is to be calculated in accordance with clause 2 of Schedule 5 .	To be provided prior to the issue of an Occupation Certificate in relation to the Development.
2 Construct a new public right of way over the Council's Land in the area of the existing right of way burdening the Council's Land.	To grant at no cost to the Developer a right of way benefiting the Development. To offset the cost of the construction of the new public right of way against the Development Contribution. The offset amount is to be calculated in accordance with clause 2 of Schedule 5 .	To be provided prior to the issue of an Occupation Certificate in relation to the Development

Column 1	Column 2	Column 3
Works in Kind Contribution	Council's Obligations	Timing
<p>3 Construction and dedication to Council of a stratum lot or strata lots for a public carparking (Car Spaces) comprising the number of car spaces required to satisfy the amount of the Development Contribution.</p>	<p>Acceptance of the dedication of Car Spaces as a stratum parcel or individual strata lots.</p> <p>To offset the cost of the value of the car spaces against the Development Contribution. The offset amount is to be calculated in accordance with clause 2 of Schedule 5.</p>	<p>To be provided prior to the issue of an Occupation Certificate in relation to the Development</p>

2 Calculation of Offset

- (a) For the purposes of calculating the offset in **Items 1, 2, and 3 of clause 1 of Schedule 5**, the Developer must appoint a quantity surveyor to determine the value of the completed Works in Kind (**Quantity Surveyor Report**);
- (b) The Developer must, within a reasonable time prior to the claiming of the offset against the Development Contributions, provide Council with a copy of the Quantity Surveyor Report;
- (c) Within 5 Business Days of receipt of the Quantity Surveyor Report by Council, Council must provide written notification to the Developer of either:
 - (i) Council's agreement to the offset amount identified in the Quantity Surveyor Report; or
 - (ii) Council's objection to the offset amount identified in the Quantity Surveyor Report.
- (d) In the event that Council objects to the offset amount under **Schedule 5, clause 2(c)(ii) (Offset Dispute)**, the Council must nominate in writing three (3) independent and qualified quantity surveyors, for the Developer's consideration in determining the Offset Dispute.
- (e) If the Developer:
 - (i) agrees to the appointment of one of the quantity surveyors proposed by Council under **clause 2(d) of Schedule 5** and that quantity surveyor will be jointly appointed by the Parties to resolve the Offset Dispute in accordance with this **clause 2 of Schedule 5**; or
 - (ii) does not agree to the appointment of any of quantity surveyors proposed by Council under **clause 2(d) of Schedule 5**, then the Offset Dispute is to be determined by an independent and qualified quantity surveyor (nominated by the president of the Australian Property Institute (NSW Division)).
- (f) The Council and the Developer may make written submissions to the quantity surveyor appointed in accordance with this clause.
- (g) In determining the Offset Dispute, the quantity surveyor must:
 - (i) take into account any written submission provided by the Parties under **clause 2(f) of Schedule 5**;
 - (ii) act as an expert and not as an arbitrator but where his/her decision will be final and binding on the Parties (except to the extent that a manifest error has occurred); and
 - (iii) provide a written report to the Parties which outlines the Offset Dispute determination and provides details of the basis upon which the offset was determined by the quantity surveyor.
- (h) The quantity surveyor must determine which Party is responsible for the payment of the costs of the quantity surveyor in determining the Offset Dispute in accordance with this **clause 2 of Schedule 5**.

Execution

Executed as an agreement.

Executed by Lane Cove Council by its)
duly appointed attorney pursuant to)
Power of Attorney registered book 4637)
No.811 in the presence of:)

.....
Witness

.....
Name of Witness (print)

.....
Attorneys Signature

CRAIG ANTHONY WRIGHTSON

.....
Name of Attorney (print)

Executed by Sun Property Lane Cove)
Pty Ltd ABN 82 614 668 272 in)
accordance with section 127(1) of the)
Corporations Act 2001 (Cth):)
)

.....
Sole Director / Secretary

ZHONGWEI SUN

.....
Name of Sole Director / Secretary
(print)

Annexure A – Novation Deed

This is **Annexure A** referred to in the Voluntary Planning Agreement between **Lane Cove Council (Council)** and **Sun Property Lane Cove Pty Ltd ABN 82 614 668 272 (Owner /Developer)**

Dated the day of 2018

Draft No []
[Date]

Lane Cove Council

[Original Developer]

[New Developer]

Deed of Novation for Voluntary Planning Agreement

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Date

Parties

Lane Cove Council ACN ABN 42 062 211 626 of 48 Longueville Road, Lane Cove, New South Wales (**Council**)

[Original Developer] ACN [insert] of [insert address] New South Wales (**Original Developer**)

[New Developer] ACN [insert] of [insert address] New South Wales (**New Developer**)

Background

- A The Council and the Original Developer are parties to the Original Agreement.
 - B The Original Agreement relates to the whole of the Land [or part of].
 - C The Original Developer wishes to transfer the whole [or part] of the Land to the New Developer.
 - D The Original Developer wishes to novate all [or part] of its rights and obligations under the Original Agreement to the New Developer.
-

Agreed terms

1 Definitions

In this document these terms have the following meanings:

Council	Lane Cove Council.
Effective Date	[insert date upon which the novation becomes effective]
Land	Has the meaning given to that term in the Original Agreement.
Original Agreement	The voluntary planning agreement dated [insert] and made between the Council and the Original Developer.
Party	means a party to this document.

2 Novation

2.1 Original Agreement

Subject to **clause 2.2** and with effect from the Effective Date:

- (a) the New Developer is substituted for the Original Developer as a Party to the Original Agreement;
- (b) the New Developer will be bound by the Original Agreement, and will be entitled to the benefit of the Original Agreement, as if the New Developer was a Party to the Original Agreement instead of the Original Developer; and
- (c) the Original Developer is released and discharged from all obligations and liabilities, and from all claims (whether for costs, damages, fees, expenses or otherwise), arising under the Original Agreement.

[Note: Amend the above if only part of the Land is being transferred]

2.2 Reference in Original Agreement

All references to the Original Developer in the Original Agreement are to be construed as references to the New Developer.

[Note: Amend the above if only part of the Land is being transferred]

2.3 Address for notices

The Council must address all notices and communications to be given or made by it to the New Developer under the Original Agreement to the following address:

New Developer:

Address: [insert]

Fax: [insert]

Contact Person: [insert]

Email: [insert]

3 Affirmation of the Original Agreement

The Original Agreement will be read and construed subject to this document, and in all other respects the provisions of the Original Agreement are ratified and confirmed, and, subject to the variation and novation contained in this document, the Original Agreement will continue in full force and effect.

4 Indemnities

The New Developer indemnifies the Original Developer on demand against all liabilities, claims, damages and loss which the Original Developer suffers or

incurs in relation to the Original Agreement including those which arise or relate to acts or omissions occurring on or after the Effective Date.

[Note: Amend the above if only part of the Land is being transferred]

5 Warranties and representations

5.1 Warranties

Each Party represents and warrants that, at the time of execution, and at the Effective Date:

- (a) it has capacity unconditionally to execute, deliver and comply with its obligations under this document;
- (b) it has taken all necessary action to authorise the unconditional execution and delivery of, and the compliance with, its obligations under this document;
- (c) this document is a valid and legally binding obligation and is enforceable against it by each other Party in accordance with its terms; and
- (d) its unconditional execution and delivery of, and compliance with its obligations under, this document do not contravene:
 - (i) any law or directive from a government entity;
 - (ii) its constituent documents;
 - (iii) any agreement or instrument to which it is a Party; or
 - (iv) any obligation of it to any other person.

5.2 Survival of warranties

The warranties and representations in **clause 5.1** survive the execution of this document and the novation of the Original Agreement.

6 GST

Where a supply made under this document gives rise to a liability for GST, the consideration to be provided for that supply (other than under this clause) will be increased by an additional amount equal to the GST payable on the supply. The additional amount must be paid, and the supplier must provide a tax invoice, at the same time as the other consideration for that supply is to be provided under this document. Terms used in this clause have the meanings in the *A New Tax System (Goods and Services Tax) Act 1999*.

7 Stamp duty and costs

The New Developer will pay all stamp duty arising directly or indirectly from this document.

8 Further acts

- (a) Each Party will take all steps, execute all deeds and do everything reasonably required by any other Party to give effect to any of the actions contemplated by this document.
- (b) This document binds each Party which signs it even if other parties do not, or if the execution by other parties is defective, void or voidable.

9 Amendment

This document may only be varied or replaced by a document executed by the parties.

10 Governing law and jurisdiction

- (a) This document and the transactions contemplated by this document are governed by and are to be construed in accordance with the laws applicable in New South Wales.
- (b) Each Party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts exercising jurisdiction in New South Wales and any courts which have jurisdiction to hear appeals from any of those courts and waives any right to object to any proceedings being brought in those courts.

11 Counterparts

This document may consist of a number of counterparts and the counterparts taken together constitute one and the same instrument.

12 General

12.1 Construction

Unless expressed to the contrary, in this document:

- (a) words in the singular include the plural and vice versa;
- (b) any gender includes the other genders;
- (c) if a word or phrase is defined its other grammatical forms have corresponding meanings;
- (d) 'includes' means includes without limitation;
- (e) no rule of construction will apply to a clause to the disadvantage of a Party merely because that Party put forward the clause or would otherwise benefit from it; and
- (f) a reference to:
 - (i) a person includes a partnership, joint venture, unincorporated association, corporation and a government or statutory body or authority;

- (ii) a person includes the person's legal personal representatives, successors, assigns and persons substituted by novation;
- (iii) any legislation includes subordinate legislation under it and includes that legislation and subordinate legislation as modified or replaced;
- (iv) an obligation includes a warranty or representation and a reference to a failure to comply with an obligation includes a breach of warranty or representation.

12.2 Headings

Headings do not affect the interpretation of this document.

Execution

Executed as a deed/agreement.

Executed by **Lane Cove Council** by its)
duly appointed attorney pursuant to)
Power of Attorney registered book 4637)
No.811 in the presence of:

.....
Witness

.....
Attorneys Signature

.....
Name of Witness (print)

.....
Name of Attorney (print)

Executed by **[Original Developer]**)
ABN [insert] in accordance with)
section 127(1) of the *Corporations Act*
2001 (Cth):

.....
Company Secretary/Director

.....
Director

.....
Name of Company Secretary/Director
(print)

.....
Name of Director (print)

Executed by **[New Developer] ABN**)
[insert] in accordance with section)
127(1) of the *Corporations Act 2001*
(Cth):

.....
Company Secretary/Director

.....
Director

.....
Name of Company Secretary/Director
(print)

.....
Name of Director (print)

Annexure B – Plan

This is **Annexure B** referred to in the Voluntary Planning Agreement between **Lane Cove Council (Council)** and **Sun Property Lane Cove Pty Ltd ABN 82 614 668 272 (Owner/Developer)**

Dated the day of 2018

