

Cumberland City Council
General Manager
PO Box 42
MERRYLANDS NSW 2160

25 January 2024

Our ref MYP 226772

Attention: Peter J Fitzgerald

Email: peter.j.fitzgerald@cumberland.nsw.gov.au

Dear Mr Fitzgerald

**Letter of Offer to enter into Voluntary Planning Agreement
Merrylands (A) 88 Development Pty Limited and Merrylands (B) 88
Development Pty Ltd and Cumberland City Council
2 Neil Street, Merrylands and 4 & 4A Terminal Place, Merrylands ('Subject
Property')**

We act on behalf of Merrylands (A) 88 Development Pty Limited and Merrylands (B) 88 Development Pty Ltd (jointly known as the '**Proponents**') in relation to the subject property.

The Proponents formally offer to enter into a Planning Agreement with Cumberland City Council ('**Council**') pursuant to section 7.4 of the *Environmental Planning and Assessment Act 1979* ('**the Act**'), in connection with Development Application 2022/0722, Development Application 2022/0776 and in connection with the public domain works for the public benefit to be constructed within the subject property (subject to a development application.)

This letter constitutes the Proponents' formal letter of offer ('**Letter of Offer**') for the subject property.

For an abundance of clarity, this Letter of Offer is in connection with the following proposed applications which form part of the *Merrylands Masterplan, the Gladstone Village* (plan of the proposed *Gladstone Village* at Schedule 2):

1. Development Application 2022/0722 at 2 Neil Street, Merrylands

This is considered as 'Stage 2' and 'Site 1' of works proposed to be completed as part of the Merrylands Masterplan of the Gladstone Village.

('the **Stage 2 DA**')

2. Development Application 2022/0776 at 2 Neil Street, Merrylands, 4 & 4A Merrylands

161422391 - 226772 (MYP)

This is considered as 'Stage 3' and 'Site 2' of works of works proposed to be completed as part of the Merrylands Masterplan of the Gladstone Village.

(the **Stage 3 DA**)

3. **Proposed public domain works for the public benefit (subject to a development application)**

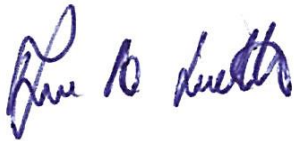
Public domain works for the public benefit, to be constructed within the subject property (and subject to a development application), will comprise of nine (9) distinct components that will revitalise the Merrylands Town Centre and promote safe and walkable connection sin accordance with the vision of the Merrylands Town Centre Precinct Development Control Plan.

The terms of the proposed Planning Agreement, in accordance with s7.4(3) of the Act, are summarised in Schedule 1 of this Letter of Offer.

We are of the view that this Letter of Offer is consistent and has considered the matters outlined with Council's Planning Agreement Policy, Council's Planning Agreement Guidelines revised December 2022, the Cumberland Local Infrastructure Contributions Plan 2021 and the Former Holroyd Section 94 Development Contributions Plan.

Yours faithfully

Bartier Perry



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Schedule 1

Terms to Planning Agreement	
Item	Terms
Parties to the Planning Agreement	<p>Cumberland City Council (as Council);</p> <p>Merrylands (A) 88 Pty Limited (as Applicant to Development Application 2022/0722 and developer of the Land);</p> <p>Merrylands (B) 88 Developments Pty Ltd (as Applicant to Development Application 2022/0776 and developer of the Land); and</p> <p>Merrylands 88 Pty Ltd as the owner of the Land.</p>
Land	<p>Lot 2 in DP1217412, Lot 1 in DP229589 and Lot 1 in DP1173048, otherwise known as 2 Neil Street, Merrylands, and 4 & 4A Terminal Place Merrylands.</p> <p>DA2023/0108 (separate to this Letter of Offer) seeks consent to subdivide the three (3) Torrens title lots into four (4) Torrens title lots. Proposed subdivision plan in accordance with DA2023/0108 is at Schedule 3.</p>
Development Application	<p>This Planning Agreement will be in connection with:</p> <ol style="list-style-type: none"> 1. Development Application 2022/0722; 2. Development Application 2022/0776; and 3. Public domain works for the public benefit, to be constructed within the Land (and subject to a development application).
Monetary Contribution	Not applicable.
Works	The Proponent will deliver a Public Domain within the precinct (Neil St Park, Terminal Park and Boulevard Park) in accordance with the development application associated with the public domain works.
Dedication of Land	<p>The Proponents offer to dedicate part of the Land (refer to Schedule 3) to Council free of cost. This can be particularised as follows:</p> <ol style="list-style-type: none"> 1. Part of the Land is zoned RE1 Public Recreation and marked "Local Open Space" pursuant to <i>Cumberland Local Environmental Plan 2021</i>. <p>The land marked proposed Lot 3 in the Subdivision Plan at Schedule 3 is to be dedicated pursuant to clause 5.1A and the</p>

	<p>Land Reservation Acquisition Map of the <i>Cumberland Local Environmental Plan 2021</i> to be developed as a Public Domain (inclusive of driveways).</p> <p>2. Part of the Land, otherwise known as McLeod Road is zoned E2 Commercial Centre and marked "Local Road" pursuant to <i>Cumberland Local Environmental Plan 2021</i>.</p> <p>The land marked proposed Lot 4 in the Subdivision Plan is to be dedicated pursuant to clause 5.1A and the Land Reservation Acquisition Map of the <i>Cumberland Local Environmental Plan 2021</i> to be developed as a local road.</p> <p>"the Proposed Dedicated Land"</p> <p>The Proposed Dedicated Land is to be dedicated following:</p> <ol style="list-style-type: none"> 1. approval of DA2023/0108; 2. approval AND completion of all approved works in DA2022/0722 and DA2022/0776; 3. issue of final Occupation Certificate in DA2022/0776; AND 4. subject to the Proponents' having ongoing access over the Proposed Dedicated Land in accordance with the terms set out in this Schedule under <i>Other Terms</i>.
Other Public Benefits	Not applicable.
Application of section 7.11, 7.12 and 7.24	<p>The public benefit proposed in <i>Dedication of Land</i> and in <i>Works</i> of this Schedule is to be used as an offset to any s7.11 contributions payable under the Act and applicable for Development Application 2022/0722, Development Application 2022/0776 and any development application for the public domain works for the public benefit, to be constructed within the Land.</p> <p>This Letter of Offer excludes the application of s7.12 of the Act.</p> <p>This Letter of Offer does not exclude the application of s7.24 of the Act to the Development.</p>
Registration	The Proponents acknowledge that the Planning Agreement will be required to be registered until such time that the obligations required of the Proponents under the Planning Agreement have been complied with.
Security	Not applicable.

Restrictions on Issue of Certificates	Not applicable.
Dispute Resolution	<p>In the event a dispute arises between the parties, the matter is to be mediated at first instance in accordance with the mediation rules of the Institute of Arbitrators and Mediators Australia (NSW Chapter). Each party is to pay their own costs of the mediation.</p> <p>If the dispute is not resolved at mediation, the matter will proceed to be determined by an independent expert.</p>
Other Terms	<p>The Proponents require easement/s and/or right of carriageways over the land specified in <i>Dedication of Land</i> of this Schedule as follows:</p> <ol style="list-style-type: none"> 1. To allow the Proponents access to the land the subject of the Stage 2 DA and the land the subject of the Stage 3 DA. At all times, Council is to ensure this access is ongoing; and 2. Any easements as required by Council, other statutory authority, or any network/service provider (i.e Endeavour Energy). <p>The public benefits proposed in <i>Works</i> of this Schedule are to be used as an offset against:</p> <ol style="list-style-type: none"> 1. any s7.11 and s7.12 contributions payable under the Act; AND 2. any uplift contributions which may be required by Council, <p>which are or may be payable under any of the applications/ proposals outlined in <i>Development Applications</i> of this Schedule.</p>
Costs	The Proponents agrees to pay Council's costs incurred of and incidental to the negotiation, preparation and entering into a Planning Agreement in accordance with this Letter of Offer to a maximum amount of \$5,000.00.

Schedule 2

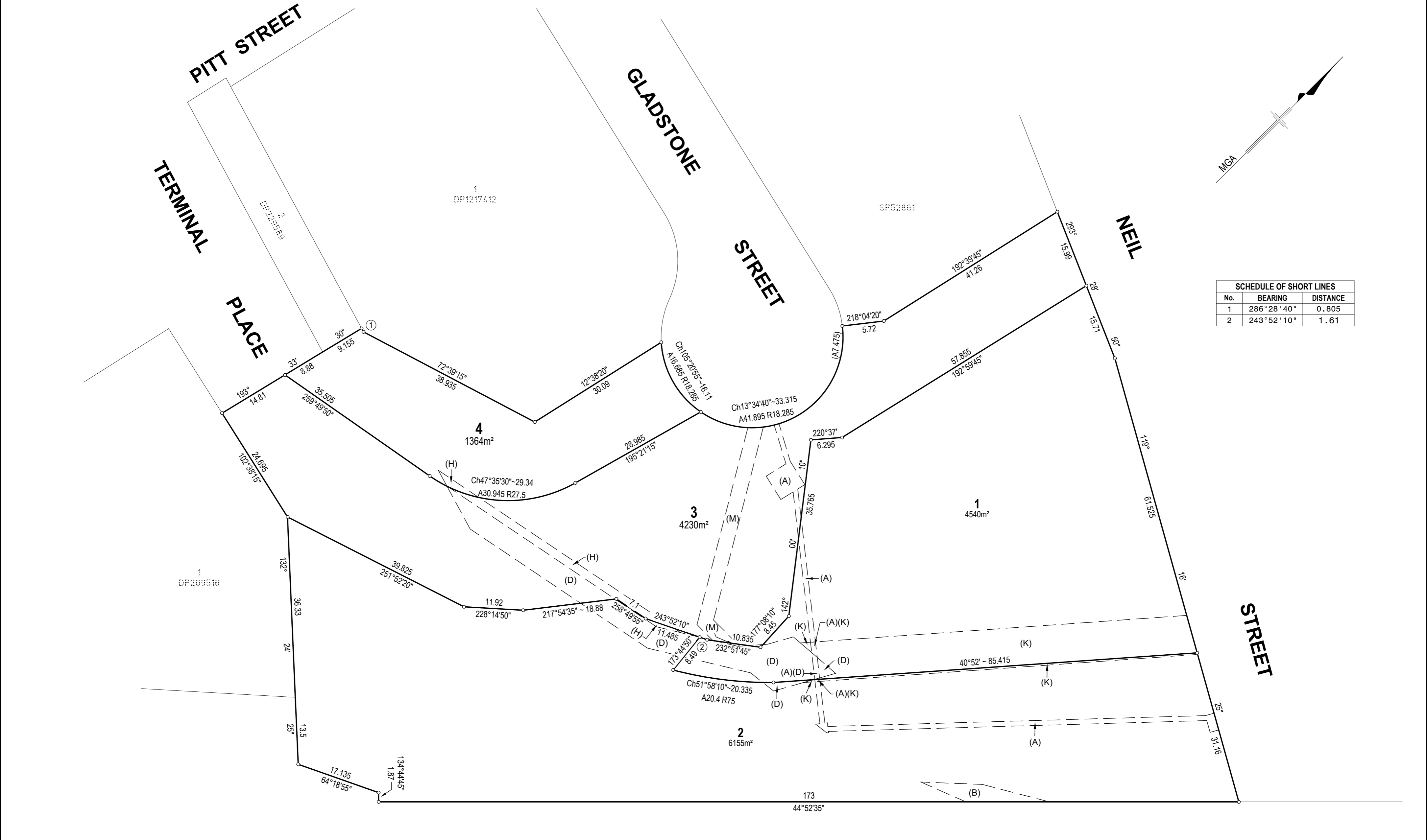
Proposed Gladstone Village



Schedule 3

Subdivision plan pursuant to DA2023/0108

DRAFT PLAN - SUBJECT TO FINAL SURVEY



EXISTING EASEMENTS

- (A) EASEMENT FOR ELECTRICITY PURPOSES VARIABLE WIDTH (T110106)
- (B) EASEMENT FOR RAILWAY SIDING VARIABLE WIDTH (B293406)
- (D) DRAINAGE EASEMENT 9.145 WIDE (D770166)
- (K) EASEMENT FOR STORMWATER CHANNEL (R779133)
- (H) EASEMENT FOR DRAINAGE VARIABLE WIDTH (C866493)
- (M) EASEMENT TO DRAIN WATER 3 WIDE (DP 701158)