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REQUEST

New South Wales
Real Property Act 1900

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PRIVACY NOTE: Section 31B of the Real Property Act 1900 (RP Act) authorises the Registrar General to collect the information required by this form for the establishment and maintenance of the Real Property Act Register. Section 96B RP Act requires that the Register is made available to any person for search upon payment of a fee, if any.

(A) STAMP DUTY	If applicable. Office of State Revenue use only		
(B) TORRENS TITLE	Folio Identifier A/85916		
(C) REGISTERED DEALING	Number	Torrens Title	
(D) LODGED BY	Document Collection Box	Name, Address or DX, Telephone, and Customer Account Number if any Reference: <input type="text"/>	CODE R
(E) APPLICANT	See Annexure A		
(F) NATURE OF REQUEST	See Annexure A		
(G) TEXT OF REQUEST	<p>The Applicant requests that the attached voluntary planning agreement between The Council of the City of Ryde, One Wharf Development Pty Limited ACN 164 783 327, Windesea Build Pty Limited ACN 087 276 953, Hilda Chiming Cheong and Joseph Fook Yan Cheong be registered.</p>		

DATE 13 October 2014

- (H) I certify that I am an eligible witness and that the applicant's attorney signed this dealing in my presence.
[See note* below].

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

Signature of witness:

Signature of attorney:

Name of witness:

Attorney's name: See Annexure B

Address of witness:

Signing on behalf of:

Power of attorney-Book:

-No.:

- (I) This section is to be completed where a notice of sale is required and the relevant data has been forwarded through eNOS. The applicant certifies that the eNOS data relevant to this dealing has been submitted and stored under eNOS ID No. Full name: Signature:

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

Annexure A to REQUEST

Parties: Windesea Build Pty Limited ACN 087 276 953, Hilda Chiming Cheong and Joseph Fook Yan Cheong

Dated: 13 / 12 / 2014

(E) Applicant

Windesea Build Pty Limited ACN 087 276 953, Hilda Chiming Cheong and Joseph Fook Yan Cheong

(F) Nature of Request


Registration of planning agreement pursuant to section 93H of the Environmental Planning and Assessment Act 1979 (NSW)

Annexure B to REQUEST

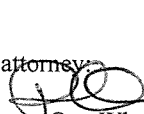
Parties: Windesea Build Pty Limited ACN 087 276 953, Hilda Chiming Cheong and Joseph Fook Yan Cheong

Dated: 13 / 10 / 2014

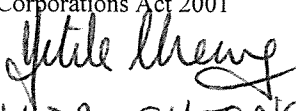
I certify I am an eligible witness and that the applicant's attorney signed this dealing in my presence.
[See note* below]


Signature of witness: 
Name of witness: Kathy Gray
Address of witness: 204 George Street
Sydney NSW 2000

Certified correct for the purposes of the Real Property Act 1900 by the person(s) named below who signed this instrument pursuant to the power of attorney specified.


Signature of attorney: 
Attorney's name: One Wharf Development Pty Limited ACN 164 783 327
Signing on behalf of: Windesea Build Pty Limited ACN 087 276 953, Hilda Chiming Cheong and Joseph Fook Yan Cheong
Power of attorney Book: 4660 No: 267

Certified correct for the purposes of the Real Property Act 1900 and executed on behalf of the company named below by the authorised person(s) whose signature(s) appear(s) below pursuant to the authority specified.
Company: ONE WHARF DEVELOPMENT PTY LIMITED ACN 164 276 953
Authority: Section 127(1) of the Corporations Act 2001

Signature of authorised person: 
Name of authorised person: HILDA CHEONG
Office held: Director


Signature of authorised person:
Name of authorised person: Peter Gribble
Office held: Director

Certified correct for the purposes of the Real Property Act 1900 and executed on behalf of the company named below by the authorised person(s) whose signature(s) appear(s) below pursuant to the authority specified.
Company: ONE WHARF INVESTMENTS PTY LIMITED ACN 144 535 302
Authority: Section 127(1) of the Corporations Act 2001


Signature of authorised person:
Name of authorised person: Peter Gribble
Office held: Sole Director/Secretary

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

Planning Agreement

The Council of the City of Ryde
ABN 81 621 610

One Wharf Development Pty Limited
ACN 164 783 327

Windesea Build Pty Limited
ACN 087 276 953

Hilda Chiming Cheong

Joseph Fook Yan Cheong

Newcastle

Sparke Helmore Building, Level 7, 28 Honeysuckle Dr, Newcastle NSW 2300

PO Box 812, Newcastle NSW 2300

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Agreement

Date

Parties

First party

Name City of Ryde Council (**Council**)
ABN 81 621 292 610
Contact The General Manager

Second party

Name One Wharf Development Pty Limited
(**Developer**)
ACN 164 783 327
Contact

Third party

Name Windesea Build Pty Limited (**Windesea**)
ACN 087 276 953
Contact

Fourth party

Name Hilda Chiming Cheong

Fifth party

Name Joseph Fook Yan Cheong

Background

- A. The Land Owners are or intend to be the owner of the Land.
- B. Windesea has obtained the Development Consent to carry out the Development on the Land. The Land Owners and the Developer have entered into an agreement for the carrying out of the Development in accordance with the Development Consent.
- C. This Agreement records an irrevocable offer by the Developer and the Land Owners, and on the date this Agreement commences to operate, constitutes an agreement between the Developer, the Land Owners and Council for the provision of contributions including construction and maintenance of open space areas to be publicly accessible and other public domain works.

Operative part

1 Definitions

In this Agreement, unless context indicates a contrary intention:

Act means the NSW *Environmental Planning and Assessment Act 1979*;

Adjoining Developer means the developer of the Adjoining Land, currently being Hindmarsh Development Australia Pty Limited.

Adjoining Land means the land described in Folio Identifiers 1/445440, 2/44540, 2/9135, 1/437223 and CP 4035 adjacent to the eastern boundary of the Land, as shown on the plan at Annexure C;

Adjoining Landowner means the registered proprietor of the Adjoining Land from time to time;

Adjoining Plaza Works means the works to construct and embellish that part of an open space plaza above the basement car park located on the Adjoining Land as shown on the plan at Annexure C;

Adjoining Temporary Works means the temporary landscaping works on the Adjoining Land and on the Plaza Land near to the boundary of the Adjoining Land, including balustrades and handrails, that may be required to ensure the Plaza Land is safe until the Adjoining Plaza Works have been completed, as shown on the plan at Annexure D;

Approval means any certificate, licence, consent, permit, approval or other requirement of any Authority having jurisdiction in connection with the activities contemplated by this Agreement;

Authority means any government, semi-governmental, statutory, administrative, fiscal or judicial body, department, commission, authority, tribunal, public or other person;

Bank Guarantee means an irrevocable and unconditional undertaking that is not limited in time and does not expire by one of the following trading banks:

- (a) Australia and New Zealand Banking Group Limited;
- (b) Commonwealth Bank of Australia;
- (c) Macquarie Bank;
- (d) National Australia Bank Limited;
- (e) St George Bank Limited;
- (f) Westpac Banking Corporation; or
- (g) other financial institution approved by the Council,

to pay an amount or amounts of money to the Council on demand and containing terms and conditions reasonably acceptable to the Council;

Bond means an unconditional bond without any expiry dates issued by a bank holding an Australian banking licence for the benefit of the Council;

Builder means the building contractor awarded a building contract for any part of the Works;

Business Day means a day on which banks are open for general banking business in Sydney, New South Wales, excluding Saturdays and Sundays;

Claim means any claim, loss, liability, damage, proceeding, order, judgment or expense arising out of the operation of this Agreement;

Construction Certificate has the same meaning as in the Act;

Damages means all liabilities, losses, damages, costs and expenses, including legal fees and disbursements and costs of investigation, litigation, settlement, judgment, interest and penalties;

Development means the development of the Land to construct a mixed use building to be used for the purposes of car parking, residential apartments and retail units, road works and landscaping on ground level including the construction of a publicly accessible plaza;

Development Consent means the development consent number LDAA2012/0417 (as amended from time to time).

Fax Number means a party's facsimile number set out in the Notices clause of this Agreement;

GST has the same meaning as in the GST Law;

GST Law has the meaning given to that term in *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and any other Act or regulation relating to the imposition or administration of the GST;

Heritage Item means the item referred to as "Memorial Clock" located at 2D Victoria Road, corner Wharf Road, Item number I1 listed in the *Ryde Local Environmental Plan (Gladesville Town Centre and Victoria Road Corridor) 2010* as an item of Environmental Heritage;

Implementation Terms means the terms in Schedule 2;

Land means the land upon which the Development will be undertaken, as described in the Development Consent, being Lot A DP 85916 and parts of adjoining roads to be acquired by Windesea Build Pty Ltd;

Land Owners means the registered proprietors of the Land, currently being Hilda Chiming Cheong, Joseph Fook Yan Cheong and Windesea Build Pty Ltd.

Law means:

- (a) any law applicable including legislation, ordinances, regulations, by-laws and other subordinate legislation;
- (b) any Approval, including any condition or requirement under it; and
- (c) any fees and charges payable in connection with the things referred to in paragraphs (a) and (b);

LPI means Land and Property Information NSW or any similar department established from time to time;

Monetary Contribution means \$152,576.00 (inclusive of GST).

Note: The Monetary Contribution has been calculated based on the estimated value of the public works compared with the value of section 94 contributions that would otherwise have applied to the Development (plus 20%) in accordance with the table at Item 2 of Schedule 1;

New Lane means the public road along the southern boundary of the Land to be constructed as part of the Development and includes only the upper stratum of the land on which the road is constructed as shown on the plan at Annexure H;

Occupation Certificate has the same meaning as in the Act and includes any Occupation Certificate including any interim or final Occupation Certificate;

Owners Corporation means the owners corporation created on registration of a Strata Plan;

Part Plaza Works means the works to construct and embellish that part of an open space plaza above the basement car park located on the Plaza Land as shown on the plan at Annexure B, except the public art shown on the plan;

Plaza Land means that part of the Land that will form an open space plaza shown on the plan at Annexure B;

Plaza Works means the Whole Plaza Works or the Part Plaza Works and any other works the Developer is required to carry out in accordance with clause 6.1 and Item 1 of Schedule 1;

Practical Completion means that stage in the construction of the Works when:

- (a) construction of the relevant item of Works is complete except for minor omissions and minor defects:
 - (i) which do not prevent the Works from being reasonably capable of being used for its intended purpose; and
 - (ii) rectification of which will not prejudice the convenient use of the Works; and
- (b) where any outstanding works are yet to be completed, a Bond or Bank Guarantee is delivered for 1.5 times the value of the outstanding work to provide security that the works will be completed;

Public Access Areas means the footway to be constructed by the Streetscape Works, the central part of the Plaza Area at least 3m wide from the eastern boundary of the Land and the area between them, as shown in red hatching on the plan at Annexure G;

Register means the Torrens Title register maintained under the NSW *Real Property Act 1900*;

Regulation means the NSW *Environmental Planning and Assessment Regulation 2000*;

Related Body Corporate has the meaning given in section 50 of the *Corporations Act 2001* (Cth).

Road Land means parts of adjoining roads to be acquired by Windesea Build Pty Ltd identified and described in a separate contract for sale entered into between Council and Windesea on 7 February 2013.

Road Works means the works to construct New Lane;

Strata Plan means a strata plan, a strata plan of subdivision or a strata plan of consolidation that is registered in accordance with the *Strata Schemes (Freehold Development) Act 1973* or the *Strata Schemes (Leasehold Development) Act 1986*;

Stratum Plan means a plan showing the division of the Land, including any vertical subdivision of the Land, into layers which, when superimposed one upon the other, form the whole of the parcel;

Streetscape Works means the works required to embellish and landscape the publicly accessible footway on that part of the Land adjoining Meriton Street from Victoria Road to Meriton Street, as shown on the plan at Annexure F;

Subdivision Certificate has the same meaning as in the Act;

Temporary Works means the temporary landscaping works on the Plaza Land that may be required to ensure the Adjoining Land and Adjoining Plaza Works are safe until the Plaza Works have been completed, as shown on the plan at Annexure E;

Whole Plaza Works means the works to construct and embellish the open space plaza on both the Plaza Land and the Adjoining Land as shown on the plan at Annexure A, except the public art shown on that;

Works means the Plaza Works, the Road Works and the Streetscape Works.

2 Interpretation

In this Agreement, unless context indicates a contrary intention:

- (a) **(documents)** a reference to this Agreement or another document includes any document which varies, supplements, replaces, assigns or novates this Agreement or that other document;
- (b) **(references)** a reference to a party, clause, paragraph, schedule or annexure is a reference to a party, clause, paragraph, schedule or annexure to or of this Agreement;
- (c) **(headings)** clause headings and the table of contents are inserted for convenience only and do not affect interpretation of this Agreement;
- (d) **(person)** a reference to a person includes a natural person, corporation, statutory corporation, partnership, the Crown and any other organisation or legal entity and their personal representatives, successors, substitutes (including persons taking by novation) and permitted assigns;
- (e) **(party)** a reference to a party to a document includes that party's personal representatives, executors, administrators, successors, substitutes (including persons taking by novation) and permitted assigns;

- (f) **(president, CEO or managing director)** the president, CEO or managing director of a body or Authority means any person acting in that capacity;
- (g) **(requirements)** a requirement to do any thing includes a requirement to cause that thing to be done, and a requirement not to do any thing includes a requirement to prevent that thing being done;
- (h) **(including)** including and includes are not words of limitation, and a list of examples is not limited to those items or to items of a similar kind;
- (i) **(corresponding meanings)** a word that is derived from a defined word has a corresponding meaning;
- (j) **(singular)** the singular includes the plural and vice-versa;
- (k) **(gender)** words importing one gender include all other genders;
- (l) **(parts)** a reference to one or more things includes each part and all parts of that thing or group of things but nothing in this clause implies that part performance of an obligation constitutes performance of that obligation;
- (m) **(rules of construction)** neither this Agreement nor any part of it is to be construed against a party on the basis that the party or its lawyers were responsible for its drafting;
- (n) **(legislation)** a reference to any legislation or provision of legislation includes all amendments, consolidations or replacements and all regulations or instruments issued under it;
- (o) **(time and date)** a reference to a time or date in connection with the performance of an obligation by a party is a reference to the time and date in , Australia, even if the obligation is to be performed elsewhere;
- (p) **(joint and several)** an agreement, representation, covenant, right or obligation:
 - (i) in favour of two or more persons is for the benefit of them jointly and severally; and
 - (ii) on the part of two or more persons binds them jointly and severally;
- (q) **(writing)** a reference to a notice, consent, request, approval or other communication under this Agreement or an agreement between the parties means a written notice, request, consent, approval or agreement;
- (r) **(replacement bodies)** a reference to a body (including an institute, association or Authority) which ceases to exist or whose powers or functions are transferred to another body is a reference to the body which replaces it or which substantially succeeds to its power or functions;
- (s) **(Australian currency)** a reference to dollars or \$ is to Australian currency;
- (t) **(month)** a reference to a month is a reference to a calendar month.

- (u) **(year)** a reference to a year is a reference to twelve consecutive calendar months;
- (v) **(GST)** words defined in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) have the same meaning in clauses about GST, and references to GST extend to any notional liability of any person for GST and to any amount which is treated as GST under the *A New Tax System (Goods and Services Tax) Act 1999* (Cth), and references to an input tax credit extend to any notional input tax credit to which any person is entitled; and
- (w) **(GST group)** if a person is a member of a GST group, references to GST for which the person is liable and to input tax credits to which the person is entitled include GST for which the representative member of the GST group is liable and input tax credits to which the representative member is entitled.

3 Planning Agreement under the Act

This Agreement is a planning agreement governed by Subdivision 2 of Division 6 of Part 4 of the Act.

4 Application of this Agreement

This Agreement applies to:

- (a) the Development; and
- (b) the Land.

5 Operation of this Agreement

This Agreement commences on the date it is executed by all parties.

6 Contributions to be made under this Agreement

6.1 Plaza Works

- (a) The Developer will carry out the Plaza Works, in accordance with Item 1 of Schedule 1 of this Agreement and the Implementation Terms.
- (b) The Plaza Works will be taken to have been delivered for the purposes of this Agreement when:
 - (i) Council issues a notice to the Developer in accordance with clause 8.2(c) of Schedule 2; or
 - (ii) if clause 10.6 applies, the Plaza Works are determined to comply with clause 8.1(a) of Schedule 2; or
 - (iii) the Developer complies with any expert determination made after referral under clause 8.2(f) of Schedule 2.
- (c) The Plaza Works must be delivered in accordance with clause 6.1(b) prior to occupation of the Development or the issue of any Occupation Certificate for the Development.
- (d) The parties agree that the Plaza Works are to be constructed for the purpose of providing and embellishing public open space areas within the vicinity of the Development.

6.2 Streetscape Works

- (a) The Developer will carry out the Streetscape Works in accordance with the Implementation Terms.
- (b) The Streetscape Works will be taken to have been delivered for the purposes of this Agreement when:
 - (i) Council issues a notice to the Developer in accordance with clause 8.2(c) of Schedule 2; or
 - (ii) if clause 10.6 applies, the Streetscape Works are determined to comply with clause 8.1(a) of Schedule 2; or
 - (iii) the Developer complies with any expert determination made after referral under clause 8.2(f) of Schedule 2.
- (c) The Streetscape Works must be delivered in accordance with clause 6.2(b) prior to occupation of the Development or the issue of any Occupation Certificate for the Development.
- (d) The parties agree that the Streetscape Works are to be constructed for the purpose of providing public open space areas and improvement of public domain areas within the vicinity of the Development.

6.3 Public Access

- (a) The Developer and the Land Owners acknowledges and accepts up until any release and discharge of this Agreement in accordance with clause 8, the Developer and the Land Owners will be responsible for the ongoing maintenance and repair of the Public Access Areas and the Developer and Land Owners will carry out any maintenance or repair work to the Public Access Areas if directed to do so by the Council.
- (b) The Developer agrees and acknowledges that:
 - (i) no buildings or structures, other than structures for the purposes of enhancing public domain areas acceptable to the Council or temporary structures necessary for the construction of the Development, will be constructed on the Public Access Areas;
 - (ii) the Developer will, at no cost to Council, register against the title to the Land:
 - (A) a covenant prohibiting any building or structures, other than structures for the purposes of enhancing public domain areas, to be constructed on the Public Access Areas; and
 - (B) an easement in gross in favour of Council permitting public access to the Public Access Areas.
- (c) The easement in gross referred to in clause 6.3(b)(ii)(B) will include
 - (i) a right of footway granting full and free right to the Council and every person authorised by it including any member of the public, to go, pass and repass on foot at all times and for all purposes over the Public Access Areas.

- (ii) a right to use the accessible toilet provided in the building on the Plaza frontage as a public toilet at least during the hours of 7am to 7pm, seven days a week.
- (d) The easement in gross referred to in clause 6.3(b)(ii)(B) will require the owner of the Public Access Areas to.
 - (i) maintain and repair the Public Access Areas and carry out any maintenance or repair work to the Public Access Areas if directed to do so by the Council (acting reasonably);
 - (ii) maintain public liability insurance covering the use of the Public Access Areas as determined by the Owners Corporation; and
 - (iii) ensure that any rules made by an Owner's Corporation relating to the Public Access Areas are not inconsistent with the easement in gross referred to in clause 6.3(b)(ii)(B) and the covenant.
- (e) The requirement to register the covenant and the easement in gross under clause 6.3(b)(ii) will be taken to have been satisfied when the Developer establishes in writing to the Council that the relevant instruments appear on the Register relating to the Land or the land as subdivided.
- (f) The Developer must lodge with the LPI the relevant instruments to achieve registration of the covenant and the easement in gross under clause 6.3(b)(ii) prior to the issue of any Occupation Certificate for the Development or any part of the Development.
- (g) The parties agree that the covenant and the easement in gross over the Public Access Areas required under clause 6.3(b)(ii) is for the purpose of providing public open space areas and public domain areas within the vicinity of the Development.

6.4 Road Works and Road Dedication

- (a) The Developer will carry out the Road Works in accordance with the Implementation Terms.
- (b) The Road Works will be taken to have been completed for the purposes of this Agreement when:
 - (i) Council issues a notice to the Developer in accordance with clause 8.2(c) of Schedule 2; or
 - (ii) if clause 10.6 applies, the Road Works are determined to comply with clause 8.1(a) of Schedule 2; or
 - (iii) the Developer complies with any expert determination made after referral under clause 8.2(f) of Schedule 2.
- (c) The Road Works must be completed in accordance with clause 6.4(b) prior to the dedication of New Lane to Council in accordance with clause 6.4(d).
- (d) On completion of the Road Works in accordance with the Implementation Terms and clause 6.4(b), the Developer will dedicate, at

no cost to Council, New Lane as a public road under the *Roads Act 1993*.

- (e) Dedication of New Lane as a public road as required by clause 6.4(d) will be taken to have been made for the purposes of this Agreement when:
 - (i) Council has approved a Stratum Plan showing the proposed stratum division of the Land, including any vertical subdivision of the Land required to establish New Lane; and
 - (ii) the Developer establishes in writing to Council that the approved Stratum Plan and any other plans or documents required to effect the dedication of New Lane to Council as a public road under the *Roads Act 1993* have been registered.
- (f) The Developer must lodge with LPI the Stratum Plan and relevant instruments required to dedicate New Lane as a public road in accordance with clause 6.4(e) prior to the occupation of the Development or the issue of any Occupation Certificate for the Development.
- (g) The parties agree that the Road Works and the dedication of New Lane are to be provided for the purposes of constructing and providing public roads within the vicinity of the Development.

6.5 *Monetary Contribution*

- (a) The Developer will pay the Monetary Contribution to Council.
- (b) The Monetary Contribution will be made for the purposes of this Agreement when cleared funds are deposited by means of electronic funds transfer into a bank account nominated by the Council.
- (c) The Monetary Contribution must be made prior to the issue of any Construction Certificate for the Development.
- (d) The parties acknowledge that the Monetary Contribution is made for the purposes of repairing, renovating and maintaining the Heritage Item and for the purposes of other public domain works in the Ryde Local Government Area, to be expended at the Council's discretion, provided that the repair and renovation of the Heritage Item is attended to within two years from the completion of both the Development and the development on the Adjoining Land.

7 Application of s94, s94A and s94EF of the Act to the Development

- (a) This Agreement excludes the application of sections 94 and 94A of the Act to the Development.
- (b) This Agreement does not exclude the application section 94EF of the Act to the Development.

8 Registration of this Agreement

8.1 Land Owners' and Developer's Interest

- (a) The Land Owners represent and warrant that on the date of this Agreement:
 - (i) they are the registered proprietors of the Land, except the Road Land;
 - (ii) in respect of the Road Land, they have entered into a contract for sale to purchase the Road Land from the Council, the transfer of which will occur after the necessary procedures to close the relevant roads under the *Roads Act 1993* have been completed and separate titles and folio identifiers have been issued for the Road Land.
- (b) The Land Owners and Developer acknowledge that works will not be able to be undertaken on any part of the Road Land until:
 - (i) the Road Land has been transferred to Windesea Build Pty Ltd in accordance with the separate contract for sale made between the Council and Windesea Build Pty Ltd; or
 - (ii) the Council has otherwise (as roads authority for the Road Land) approved the works in accordance with the requirements under the *Roads Act 1993*.
- (c) The Developer represents and warrants to Council that on the date of this Agreement:
 - (i) it is legally or entitled to be in occupation of the Land, including the Road Land once it is acquired by Windesea Build Pty Ltd;
 - (ii) it is entitled to develop or seek to develop the Land, including the Road Land once it is acquired by Windesea Build Pty Ltd;
 - (iii) it has the consent of the Land Owners to enter into this Agreement.
- (d) The Land Owners:
 - (i) consent to the registration of this Agreement and any other documents contemplated to be registered over the Land;
 - (ii) will do all that is necessary to effect registration of this Agreement and all documents contemplated by this Agreement; and
 - (iii) if the Land Owners retake occupation of the Land, the Land Owners will adhere to the provisions of this Agreement.

8.2 Registration of this Agreement

- (a) The Developer agrees to procure the registration of this Agreement under the *NSW Real Property Act 1900* in the relevant folios of the Register of the Land in accordance with section 93H of the Act.
- (b) The Developer at its own cost will, promptly after the execution of this Agreement (and in the case of the Road Land, promptly after completion of the purchase of that Land by Windesea Build Pty Ltd),

take all practical steps and otherwise do anything that the Council reasonably requires to procure:

- (i) the consent of each person who has an estate or interest in the Land registered under the NSW *Real Property Act 1900* or each person who is seized or possessed of an estate or interest in the Land;
 - (ii) an acceptance of the terms of this Agreement and an acknowledgement in writing from any existing mortgagee in relation to the Land that the mortgagee will adhere to the provisions of this Agreement if it takes possession of the Land as mortgagee in possession;
 - (iii) the execution of any documents; and
 - (iv) the production of the relevant duplicate certificate of title, to enable the registration of this Agreement in accordance with clause 8.2(a).
- (c) The Developer at its own cost will take all practical steps and otherwise do anything that the Council requires:
- (i) to procure the lodgement of this Agreement with the Registrar-General as soon as reasonably practicable after this Agreement is executed but in any event for all Land other than the Road Land prior to the issue of a Construction Certificate for the Development or any part of the Development; and
 - (ii) to comply with any requisitions raised by LPI as soon as reasonably practicable after this Agreement is lodged for registration.

8.3 *Release and discharge*

- (a) From time to time, the Developer and the Land Owners may request Council to provide a release and discharge of this Agreement to the extent that this Agreement affects any part of the Land in respect of which a Subdivision Certificate has been issued or a Strata Plan has been registered creating strata lots.
- (b) The Council agrees to provide a release and discharge of this Agreement in accordance with any request made by the Developer and the Land Owners under clause 8.3(a) provided:
 - (i) all Works required under this Agreement have been delivered in accordance with the provision of this Agreement; and
 - (ii) the Monetary Contribution has been made in accordance with this Agreement; and
 - (iii) all easements and covenants required under this Agreement have been registered; and
 - (iv) the final Strata Plan and the final Statum Plan for the Development have been registered; and

- (v) an Occupation Certificate for the Development has been granted; and
- (vi) there are no outstanding or ongoing obligations on the Land Owners under this Agreement that have not been satisfied or addressed by an easement, covenant or other instrument registered against the title to the Land.

8.4 Caveat

- (a) The Land Owners acknowledge and agree that:
 - (i) when this Agreement is executed, Council is deemed to have acquired, and the Developer is deemed to have granted, an equitable estate and interest in each relevant parcel of the Land for the purposes of section 74F(1) of the *Real Property Act 1900* (NSW) and consequently Council has sufficient interest in the Land in respect of which to lodge a caveat over the Land notifying that interest; and
 - (ii) it will not object to Council lodging a caveat in the relevant folios of the register held by the LPI for the Land nor will it seek to remove any caveat lodged by Council provided the caveat does not prevent registration of any dealing or plan other than a transfer.
- (b) Council must register a withdrawal of any caveat in respect of the Land within 20 Business Days after this Agreement has been registered in accordance with clause 8.2 and must not lodge any other caveats on the titles to any of the Land, providing the withdrawal of a caveat will only apply in respect of such parts of the Land in respect of which registration of this Agreement has been procured.

9 Review of this Agreement

- (a) This Agreement may be reviewed or modified and any review or modification of this Agreement will be conducted in the circumstances and in the manner determined by the parties and the Adjoining Owner.
- (b) No modification or review of this Agreement will be of any force or effect unless it is in writing and signed by the parties to this Agreement and consented to by the Adjoining Owner.
- (c) A party is not in breach of this Agreement if it does not agree to an amendment to this Agreement requested by a party in or as a consequence of a review.

10 Dispute Resolution

10.1 Reference to Dispute

If a dispute arises between the parties in relation to this Agreement, the parties must not commence any court proceedings relating to the dispute unless the parties have complied with this clause, except where a party seeks urgent interlocutory relief.

10.2 *Notice of Dispute*

The party wishing to commence the dispute resolution processes must give written notice (**Notice of Dispute**) to the other parties of:

- (a) the nature of the dispute;
- (b) the alleged basis of the dispute; and
- (c) the position which the party issuing the Notice of Dispute believes is correct.

10.3 *Representatives of Parties to Meet*

- (a) The representatives of the parties must promptly (and in any event within 14 Business Days of the Notice of Dispute) 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 determination in accordance with clause 10.6 about a particular issue 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.

10.4 *Further Notice if Not Settled*

If the dispute is not resolved within 15 Business Days after the nominated representatives have met, either party may give to the other a written notice calling for determination of the dispute (**Determination Notice**) by mediation under clause 10.5 or by expert determination under clause 10.6.

10.5 *Mediation*

If a party gives a Determination Notice calling for the dispute to be mediated:

- (a) The parties must agree to the terms of reference of the mediation within 5 Business Days of the receipt of the Determination Notice (the terms shall include a requirement that the mediation rules of the Institute of Arbitrators and Mediators Australia (NSW Chapter) apply;
- (b) The mediator will be agreed between the parties, or failing agreement within 5 Business Days of receipt of the Determination Notice, either Party may request the President of the Institute of Arbitrators and Mediators Australia (NSW Chapter) to appoint a mediator;
- (c) The mediator appointed pursuant to this clause 10.5 must:
 - (i) have reasonable qualifications and practical experience in the area of the dispute; and

- (ii) have no interest or duty which conflicts or may conflict with his or her function as a mediator, he or she being required to fully disclose any such interest or duty before his or her appointment;
- (d) The mediator shall be required to undertake to keep confidential all matters coming to his or her knowledge by reason of his or her appointment and performance of his or her duties;
- (e) The parties must within 5 Business Days of receipt of the Determination Notice notify each other of their representatives will be involved in the mediation (except if a resolution of the Council is required to appoint a representative, the Council must advise of the representative within 5 Business Days of the resolution);
- (f) The parties agree to be bound by a mediation settlement and unless waived by the parties, may only initiate judicial proceedings in respect of a dispute which is the subject of a mediation settlement for the purpose of enforcing that mediation settlement; and
- (g) In relation to costs and expenses:
 - (i) Each party will bear its own professional and expert costs incurred in connection with the mediation; and
 - (ii) The costs of the mediator will be shared equally by the parties unless the mediator determines that a party has engaged in vexatious or unconscionable behaviour in which case the mediator may require the full costs of the mediation to be borne by that party.

10.6 *Expert determination*

If the dispute is not resolved under clause 10.3 or clause 10.5, or the parties otherwise agree that the dispute may be resolved by expert determination, the parties may refer the dispute to an expert, in which event:

- (a) The dispute must be determined by an independent expert in the relevant field:
 - (i) agreed upon and appointed jointly by Council and the Developer; and
 - (ii) in the event that no agreement is reached or no appointment is made within 30 Business Days of the agreement to refer the dispute to an expert, appointed on application of a party by the then President of the Law Society of New South Wales;
- (b) The expert must be appointed in writing and the terms of the appointment must not be inconsistent with this clause;
- (c) The determination of the dispute by such an expert will be made as an expert and not as an arbitrator and will be in writing and contain the reasons for the determination;
- (d) The expert will determine the rules for the conduct of the process but must conduct the process in accordance with the rules of natural justice;

- (e) Each party will bear its own costs in connection with the process and the determination by the expert and will share equally the expert's fees and costs; and
- (f) Any determination made by an expert pursuant to this clause is final and binding upon the parties except unless:
 - (i) within 20 Business Days of receiving the determination, a party gives written notice to the other party that it does not agree with the determination and commences litigation; or
 - (ii) the determination is in respect of, or relates to, termination or purported termination of this Agreement by any party, in which event the expert is deemed to be giving a non-binding appraisal.

10.7 *Litigation*

If the dispute is not finally resolved in accordance with this clause 10, then either party is at liberty to litigate the dispute.

10.8 *No suspension of contractual obligations*

Subject to any interlocutory order obtained under clause 10.1, the referral to or undertaking of a dispute resolution process under this clause 10 does not suspend the parties' obligations under this Agreement.

11 *Enforcement*

11.1 *Bank Guarantee or Bond*

- (a) Prior to the issue of any Construction Certificate for the Development or any part of the Development, the Developer is to provide to the Council Bank Guarantees or Bonds for the following amounts in respect of the following items:
 - (i) Plaza Works Bank Guarantee / Bond – the sum being 50% of the estimated construction costs of the Whole Plaza Works;
 - (ii) Streetscape Works Bank Guarantee / Bond – the sum being 100% of the Streetscape Works; and
 - (iii) Road Works Bank Guarantee / Bond – the sum being 100% of the estimated construction costs of the Road Works.
- (b) At any time following the provision of a Bank Guarantee or Bond, the Developer may provide Council with one or more replacement Bank Guarantees or Bonds totalling the amount required to be provided under this clause for the time being. On receipt of such replacement Bank Guarantee or Bond, the Council must release and return to the Developer, as directed, any Bank Guarantees or Bonds which it holds that have been replaced.
- (c) If the Council calls on a Bank Guarantee or Bond in accordance with this Agreement, the Council may, by notice in writing to the Developer, require the Developer to provide a further Bank Guarantee or Bond in an amount that, when added to any unused portion of the existing Bank Guarantees or Bonds, does not exceed an amount equivalent to the amounts specified in clause 11.1(a).

- (d) Within 10 Business Days of receiving a Certificate of Practical Completion for an item of Works, the Council will return any Bond or Bank Guarantee that relates to that item of Works.
- (e) For the avoidance of doubt, the Developer may request the Council to apply any Bank Guarantee or Bond as a defects liability bond or bank guarantee in accordance with clause 9.2 of the Implementation Terms, rather than return the Bond or Bank Guarantee in accordance with clause 11.1(d).

11.2 *Call on Bank Guarantee or Bond*

- (a) Subject to this clause, the Council may apply the proceeds of a Bank Guarantee or Bond in satisfaction of:
 - (i) any obligation of the Developer under this Agreement to carry out the Works; and
 - (ii) any associated liability, loss (excluding consequential loss), cost, charge or expense directly incurred by the Council because of the failure by the Developer to carry out the Works,

provided that if the Developer has failed to carry out the Works and the Council has given to the Developer at least 20 Business Days' notice to rectify such breach and the Developer has failed to rectify the breach within 20 Business Days, the Council may call on the Bank Guarantee or Bond.

- (b) If the Council considers (acting reasonably) that the Developer has failed to comply with its obligations to carry out the Works and the Developer has failed to rectify the non-compliance after having been given reasonable notice, which must be at least 20 Business Days, in writing to do so, Council may with its employees, workmen, contractors and consultants take all necessary steps to rectify the non-compliance including entering and carrying out works on any part of the Land, and may recover the costs incurred in rectifying that non-compliance from the Developer by calling upon the Bank Guarantees or Bonds provided under clause 11.1 and / or as a debt due to the Council by the Developer.
- (c) If, after the Developer has commenced construction of any part of the Works, the work ceases for a period of not less than four months as a result of:
 - (i) a dispute with the Builder; or
 - (ii) any other cause other than the agreed works program,

the Council may, at the Council's sole and absolute discretion, with its employees, workmen, contractors and consultants take all necessary steps to complete that part of the Works including entering and carrying out works on any part of the Land and may recover the costs incurred in doing so from the Developer by applying so much of the Bank Guarantees or Bonds provided under clause 11.1 or by any other means.

- (d) Nothing in this clause 11 prevents or restricts the Council from taking any enforcement action in relation to:
 - (i) any obligation of the Developer under this Agreement in relation to the carrying out of the Works; or
 - (ii) any associated liability, loss, cost, charge or expense directly or indirectly incurred by the Council because of the failure by the Developer to carry out the Works,that is not or cannot be satisfied by calling on a Bank Guarantee or Bond.

11.3 *Planning Certificates*

- (a) For the purposes of section 109F(1) of the Act and clause 146A of the Regulation, the Developer must provide the Monetary Contribution required under clause 6.5 prior to the issue of any Construction Certificate for the Development or any part of the Development.
- (b) For the purposes of section 109H(2) of the Act, the Developer must:
 - (i) complete the Plaza Works in accordance with clause 6.1;
 - (ii) complete the Streetscape Works in accordance with clause 6.2; and
 - (iii) lodge relevant instruments, plans and documents with the LPI as required by clauses 6.3(f) and 6.4(f),prior to the issue of any Occupation Certificate for the Development or any part of the Development.

11.4 *Common Property and Public positive covenant*

On the registration of any Strata Plan creating common property for the Development, the Developer must ensure:

- (a) that the Public Access Areas are included as part of the common property for the Development to be owned and managed by the Owners Corporation in respect of the Development; and
- (b) that a public positive covenant is registered against the title to the common property requiring the Owners Corporation to comply with any ongoing obligations relating to the Public Access Areas under this Agreement, including but not limited to the requirement to maintain the Public Access Areas under clause 6.3(a).

11.5 *Enforcement by any party*

- (a) Without limiting any other remedies available to the parties and subject to clause 10, this Agreement may be enforced by any party in any court of competent jurisdiction.
- (b) Subject to clause 10:
 - (i) a party may bring proceedings in the Land and Environment Court to enforce any aspect of this Agreement or any matter to which this Agreement relates; and

- (ii) the Council may exercise any function under the Act or any other Act or Law relating to the enforcement of any aspect of this Agreement or any matter to which this Agreement relates.

12 Notices

12.1 Notices

Any notice given under or in connection with this Agreement (**Notice**):

- (a) must be in writing and signed by a person duly authorised by the sender;
- (b) must be addressed as follows and delivered to the intended recipient by hand, by prepaid post or by email or fax at the address or fax number below, or at the address or fax number last notified by the intended recipient to the sender after the date of this Agreement:

- (i) to City of Ryde Council: Address: 1 Devlin Street, Ryde
Fax: 02 9952 8070
Email: cityofryde@ryde.nsw.gov.au
Attention: General Manager

- (ii) Developer: Address: c/- One Wharf Development Pty Limited, Suite 124, 8 Quay Street, Sydney NSW 2000
Fax: 02 9211 4730
Email: hcheong@windesea.com.au
Attention: Hilda Cheong and Peter Gribble, Directors

- (iii) Land Owners Address: c/- Windesea Build Pty Limited, Suite 124, 8 Quay Street, Sydney NSW 2000
Fax: 02 211 4730
Email: hcheong@windesea.com.au
Attention: Hilda Cheong

- (c) is taken to be given and made:
 - (i) in the case of hand delivery, when delivered;
 - (ii) in the case of delivery by post, 3 Business Days after the date of posting (if posted to an address in the same country) or 7 Business Days after the date of posting (if posted to an address in another country); and
 - (iii) in the case of a fax, on production of a transmission report by the machine from which the fax was sent that indicates the fax was sent in its entirety to the recipient's fax number; and

- (d) if under clause (c) a Notice would be taken to be given or made on a day that is not a Business Day in the place to which the Notice is sent, or later than 4 pm (local time), it is taken to have been given or made at the start of business on the next Business Day in that place.

12.2 *Receipt of Notices sent by email*

- (a) A Notice sent by email under clause 12.1 is taken to be given or made:
 - (i) when the sender receives an email acknowledgement from the recipient's information system showing the Notice has been delivered to the email address stated above;
 - (ii) when the Notice enters an information system controlled by the recipient; or
 - (iii) when the Notice is first opened or read by the recipient, whichever occurs first.
- (b) If under clause (a) a Notice would be taken to be given or made on a day that is not a Business Day in the place to which the Notice is sent, or later than 4 pm (local time), it will be taken to have been given or made at the start of business on the next Business Day in that place.

13 *Not used*

14 *Assignment and Dealings*

14.1 *Assignment*

Subject to clause 14.4,

- (a) A party must not assign or deal with any right under this Agreement without the prior written consent of the other parties (such consent not to be unreasonably withheld).
- (b) Any change of ownership or control (as defined in s50AA of the Cth *Corporations Act 2001*) of a party (excluding the Council) shall be deemed to be an assignment of this Agreement for the purposes of this clause.
- (c) Any purported dealing in breach of this clause is of no effect.

14.2 *Arrangements with Mortgagee*

The Developer agrees with Council that if the Land including as subdivided is mortgaged after this Agreement is entered into it must use all reasonable efforts at that time to obtain a deed of acknowledgement (on terms acceptable to the mortgagee) from the mortgagee who will be providing finance for the Works so that the mortgagee accepts that the responsibilities set out in this Agreement are binding upon the mortgagee in the event that the Developer defaults on the mortgage and the mortgagee takes possession of the Land.

14.3 *Transfer of Land*

- (a) Subject to clause 14.4, the Developer may not transfer, assign or dispose of the whole or any part of its right, title or interest in the Land (present or future) or in the Development to another person

(**Transferee**) unless before it sells transfers or disposes of that right, title or interest:

- (i) the Developer satisfies Council that the proposed Transferee is financially capable of complying with the Developer's obligations under this Agreement;
- (ii) the Developer satisfies Council that the rights of the Council will not be diminished or fettered in any way;
- (iii) the Transferee delivers to the Council a novation deed signed by the Transferee in a form and of such substance as is acceptable to the Council (acting reasonably) containing provisions under which the Transferee agrees to comply with all the outstanding obligations of the Developer under this Agreement; and
- (iv) any default by the Developer under any provisions of this Agreement has been remedied by the Land Owners or the Developers or waived by the Council on such conditions as the Council may determine (acting reasonably); and
- (v) the Developer and the Transferee pay the Council's reasonable costs in relation to the assignment.

14.4 *Assignment permitted*

The Developer is not required to obtain Council consent to an assignment of this Agreement if the Developer wishes to transfer its rights and obligations under this Agreement to either:

- (a) the Land Owners or any one or more of them;
- (b) One Wharf Investments Pty Ltd; or
- (c) a Related Body Corporate of the Developer, Land Owners or One Wharf Investments Pty Ltd:

provided the Developer gives the Council at least 5 Business Days' notice prior to the assignment and provides the Council with a copy of all documents giving effect to the assignment within 5 Business Days after the assignment occurs.

15 *No fetter*

15.1 *Discretion*

This Agreement is not intended to operate to fetter, in any manner, the exercise of any statutory power or discretion of the Council, including but not limited to any statutory power or discretion of the Council relating to the Development Consent (all referred to in this Agreement as a "**Discretion**").

15.2 *No fetter*

No provision of this Agreement is intended to constitute any fetter on the exercise of any Discretion. If, contrary to the operation of this clause, any provision of this Agreement is held by a court of competent jurisdiction to constitute a fetter on any Discretion, the parties agree:

- (a) they will take all practical steps, including the execution of any further documents to ensure the objective of this clause is substantially satisfied;
- (b) in the event that (a) cannot be achieved without giving rise to a fetter on the exercise of a Discretion, the relevant provision is to be severed and the remainder of this Agreement has full force and effect; and
- (c) to endeavour to satisfy the common objectives of the parties in relation to the provision of this Agreement which is to be held to be a fetter to the extent that is possible having regard to the relevant court judgment.

16 General

16.1 *Relationship between parties*

- (a) Nothing in this Agreement:
 - (i) constitutes a partnership between the parties; or
 - (ii) except as expressly provided, makes a party an agent of another party for any purpose.
- (b) A party cannot in any way or for any purpose:
 - (i) bind another party; or
 - (ii) contract in the name of another party.
- (c) If a party must fulfil an obligation and that party is dependent on another party, then that other party must do each thing reasonably within its power to assist the other in the performance of that obligation.

16.2 *Time for doing acts*

- (a) If the time for doing any act or thing required to be done or a notice period specified in this Agreement expires on a day other than a Business Day, the time for doing that act or thing or the expiration of that notice period is extended until the following Business Day.
- (b) If any act or thing required to be done is done after 5.00 pm on the specified day, it is taken to have been done on the following Business Day.

16.3 *Further assurances*

Each party must promptly execute all documents and do all other things reasonably necessary or desirable to give effect to the arrangements recorded in this Agreement.

16.4 *Variation*

A provision of this Agreement can only be varied by a later written document executed by or on behalf of all parties.

16.5 *No assignment*

Subject to clause 14.4, a party cannot assign or otherwise transfer its rights under this Agreement without the prior written consent of the other party.

16.6 Counterparts

This Agreement may be executed in any number of counterparts. All counterparts taken together constitute one instrument.

16.7 Legal expenses and stamp duty

The parties agree to bear their own costs of preparing, negotiating, executing, stamping and registering this Agreement.

16.8 Entire agreement

The contents of this Agreement constitute the entire agreement between the parties and supersede any prior negotiations, representations, understandings or arrangements made between the parties regarding the subject matter of this Agreement, whether orally or in writing.

16.9 Invalidity

- (a) A word or provision must be read down if:
 - (i) this Agreement is void, voidable, or unenforceable if it is not read down;
 - (ii) this Agreement will not be void, voidable or unenforceable if it is read down; and
 - (iii) the provision is capable of being read down.
- (b) A word or provision must be severed if:
 - (i) despite the operation of clause (a), the provision is void, voidable or unenforceable if it is not severed; and
 - (ii) this Agreement will be void, voidable or unenforceable if it is not severed.
- (c) The remainder of this Agreement has full effect even if clause 16.9(b)(i) or (ii) applies.

16.10 Waiver

A right or remedy created by this Agreement cannot be waived except in writing signed by the party entitled to that right. Delay by a party in exercising a right or remedy does not constitute a waiver of that right or remedy, nor does a waiver (either wholly or in part) by a party of a right operate as a subsequent waiver of the same right or of any other right of that party.

16.11 Governing law and jurisdiction

- (a) The laws applicable in New South Wales govern this Agreement.
- (b) The parties submit to the non-exclusive jurisdiction of the courts of New South Wales and any courts competent to hear appeals from those courts.

16.12 Representations and warranties

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

16.13 GST

- (a) Words and expressions which are not defined in this Agreement but which have a defined meaning in GST Law have the same meaning as in the GST Law.
- (b) Unless otherwise expressly stated, all prices or other sums payable or consideration to be provided under this Agreement are exclusive of GST.
- (c) If GST is imposed on any supply made under or in accordance with this Agreement, the Developer must pay the GST or pay to the Council an amount equal to the GST payable on or for the taxable supply, whichever is appropriate in the circumstances.

Schedule 1 Contributions – Additional provisions

1 Plaza Works

1.1 Plaza Works

- (a) The Developer must carry out the Whole Plaza Works prior to occupation of the Development or the issue of any Occupation Certificate for the Development or any part of the Development.
- (b) The Council acknowledges that, as at the date of this Agreement:
 - (i) the Land Owners and the Developer have used their best endeavours to reach an agreement with the Adjoining Landowner and the Adjoining Developer for the construction of the Whole Plaza Works; and
 - (ii) the Land Owners and the Developer have not reached an agreement with the Adjoining Landowner and the Adjoining Developer for the construction of the Whole Plaza Works.
- (c) If the Developer provides the Council with the notice required under condition 92(c) of the Development Consent, electing to carry out only the Part Plaza Works in accordance with the conditions of the Development Consent, the Developer must carry out the Part Plaza Works.
- (d) The Developer will not be required to install the public art identified on the plans at Annexure A and Annexure B, and must not install any fixture (other than paving) or erect any building on the part of the Plaza Land identified on the plans at Annexure A and Annexure B for public art that would prevent the appropriate installation of an art work in the future.

1.2 Adjoining Temporary Works

- (a) If the Developer elects to carry out the Part Plaza Works in accordance with clause 1.1(c) of this Schedule 1 and the conditions of the Development Consent and the Adjoining Plaza Works have not commenced, the Developer must carry out the Adjoining Temporary Works.
- (b) The Developer and the Land Owners must maintain and repair, at the Developer and the Land Owners' cost, the Adjoining Temporary Works to the reasonable satisfaction of the Council, until the Adjoining Plaza Works have commenced.
- (c) The Developer and the Land Owners must obtain:
 - (i) any necessary Approvals and the consent of the Adjoining Landowner and the Adjoining Developer to carry out and maintain the Adjoining Temporary Works; and
 - (ii) an easement over the Adjoining Land that benefits the Land for the purposes of ongoing maintenance of the Adjoining Temporary Works.

1.3 *Temporary Works*

- (a) If the Adjoining Landowner or Adjoining Developer has carried out Temporary Works on the Plaza Land because of any arrangement relating to the Adjoining Plaza Works, the Developer must, at the Developer's cost:
 - (i) remove the Temporary Works located on the Plaza Land; and
 - (ii) remove any Temporary Works on the Adjoining Land, including the balustrade and handrail that will have been constructed as part of the Temporary Works; and
 - (iii) make good the Adjoining Plaza Works to the reasonable satisfaction of Council, including replacement of any damaged pavers.

2 Monetary Contribution

Works Cost Contribution

50% Plaza costs allocation	\$349,888
New laneway costs	\$162,396
Costs Subtotal	\$512,284
GST	\$51,228
Public Benefits - Works	\$563,513

Cash Contribution

S94 Liability at 24/7/13 rates	\$596,740
Shortage (S94- Works)	\$33,228
VPA Contribution 20% in excess of S94	\$119,348
Public Benefits - Cash	\$152,576

Total

TOTAL - WORKS + CASH VPA CONTRIBUTION	\$716,088
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Reconciliation

S94 Liability at 24/7/13 rates	\$596,740
VPA Contribution is excess of S94 Liability	\$119,348
Excess Contribution as percentage of VPA	20%

Schedule 2 Implementation Terms

1 Interpretation

For the purposes of this Schedule 2, the defined terms in clause 1 of this Agreement and the Interpretation principles in clause 2 of this Agreement will apply and, unless context indicates a contrary intention:

Building Contract means the contract to carry out the Works (whether or not that is a contract for the Works only or forms part of a contract for the building of other components of the Development).

Certificate of Practical Completion means a certificate issued by the Project Certifier that the Works, or an item of building works that comprises part of the Works, has achieved practical completion.

Concept Design means the conceptual design for the Works as shown on the Landscape Plan as attached in Annexure A.

Defects Liability Period means in respect of each item of building works which together comprise the Works the period of 12 months from the date on which the Certificate of Practical Completion is issued for the Works.

Design Program means the program in Annexure I.

Detailed Design means the final specifications and finishes for the Works prepared in accordance with clause 4.2 of this Schedule 2 and will include the design of the Works, the location for the Works, installation specifications and estimated costs of construction and / or installation.

Phase means any phase of the development or design of the Building that is designated as such in the Design Program.

Project Certifier means the person engaged under the Building Contract to certify Practical Completion of the Works.

Scope of Works means the Scope of Works for the Works prepared by the Developer and Council based on Annexure I and in accordance with clause 4.1 including performance criteria and an indicative schedule of fittings, fixtures and finishes to comprise part of the Works.

Services means all water, gas, electricity, television, drainage, sewerage, cable TV, data communications, telecommunications and other services which are required under a Development Consent or an Approval and which are necessary or desirable for the construction, operation or occupation of the Development.

Variation Costs means any costs which arise because of a written request by the Council for a change to the Works that is not contemplated in the Scope of Works.

2 Requirements of Authorities and Approvals

- (a) These Implementation Terms must be read and construed subject to:
 - (i) any requirements or conditions of a Development Consent;

- (ii) the requirements of and conditions imposed by all relevant Authorities and all laws relating to the Development and the construction of the Development.
- (b) If the Developer requires any Approvals in order to carry out the obligations under this Agreement, then:
 - (i) the Developer will acquire all Approvals necessary to carry out the Works at its own cost; and
 - (ii) the Council will give the Developer a reasonable period to obtain such Approvals and agree to vary any time provisions in this Agreement accordingly.
- (c) The Developer must ensure that the Works carried out under this Agreement are carried out:
 - (i) in accordance with the relevant Development Consents for the Works and all Approvals and the requirements of all Laws, including without limitation, occupational health and safety legislation; and
 - (ii) in a good and workmanlike manner and so that they are diligently progressed until completion;

AND it is acknowledged that to the extent that if there is any inconsistency between this Agreement and any Approval the terms of the Approval shall take precedence provided if such Approval is an approval issued by Council, it does not extend or increase the Developer's obligations under this Agreement

3 Costs of Works

All costs, other than Variation Costs, of the construction of the Works must be borne by the Developer.

4 Design Development and Approvals

4.1 Concept Design

Council and the Developer have worked in consultation with each other to prepare and agree the Landscape Plan as attached in Annexure A.

4.2 Detailed Design

- (a) The Developer must provide a copy of the draft Detailed Design to the Council.
- (b) Within 20 Business Days of receiving the Detailed Design, Council will respond to the Developer with any suggested amendments to the Detailed Design.
- (c) Council and the Developer must work in consultation with each other to prepare and agree the Detailed Design and must both act reasonably and with due expedition in their consultations with each other.
- (d) If the Detailed Design is not completed and agreed within 20 Business Days of Council providing its suggested amendments in accordance with clause 4.2(b) of this Schedule 2, to avoid possible delays to the issue of a Certificate of Practical Completion, the:

- (i) Council will, in its sole discretion, be entitled to decide on any outstanding or undecided matter or item relating to the Public Access Areas provided that any decision made by Council under this clause:
 - (A) is consistent with the intent of the Scope of Works; and
 - (B) is consistent with the Development Consent; and
 - (C) does not materially and adversely affect the development.
- (ii) the Developer will, in its sole discretion, be entitled to decide on any outstanding or undecided matter or item relating to that part of the Works that does not include the Public Access Areas, provided that any decision made by the Developer under this clause:
 - (A) is consistent with the intent of the Scope of Works;
 - (B) is consistent with the Council's decisions relating to the Public Access Areas; and
 - (C) does not materially and adversely affect the use of the Public Access Areas as compared to the use contemplated in the Concept Design.
- (e) The parties may agree to an extension of the time for completion of Phase 2 of the Design Program.
- (f) Any acceptance by the Council of the Detailed Design under this clause 4.2 of Schedule 2 is not to be taken as approval of or to any Construction Certificate for the Works.

4.3 *Variation by Council and Variation Costs*

- (a) The Council may require a change to the Design or the Works that is not contemplated in the Scope of Works and upon request the Developer will determine the cost of such variations acting reasonably and in accordance with market practice and advise Council. If Council is not satisfied with such costs it may require the costs to be determined by a quantity surveyor (at the Council's expense), selected by the Council in its absolute discretion, and the amount determined by the quantity surveyor will be the Variation Costs for such works.
- (b) If there are any Variation Costs for the Works that are authorised or determined in accordance with clause 4.3(a) of this Schedule 2, Council must pay the Variation Costs, except any part of those costs that are the consequence of requirements imposed by another Authority.
- (c) The Variation Costs to be paid by the Council in accordance with clause 4.3(b) must be paid to the Developer within 5 Business Days after delivery by the Developer to Council of a tax invoice for the payment, provided, unless the parties agree otherwise, a Certificate of Practical Completion has been issued for the works attributable to the variation.

4.4 *Override*

Despite any other provision in clause 4 of this Schedule 2, Council is not entitled to propose and the Developer has no obligation to consider or agree to any inclusion in or aspect of the Detailed Design which:

- (a) is a material and adverse departure from the Scope of Works or materially and adversely affects the time for commencement or completion of the Works or the Development;
- (b) would or may have the effect that the Scope of Works could not be complied with;
- (c) does not comply with the conditions of Development Consent or any Approval for the Development or the Works;
- (d) would or may require the Developer to obtain new, additional or modified Development Consents or Approvals; or
- (e) would or may adversely affect the structural integrity, quality, efficiency, functionality or architectural or aesthetic design of any element of the Development.

4.5 *Developer Variations*

- (a) The Developer may make a variation to the Works:
 - (i) to comply with the conditions of Development Consent, any Approval, laws and any requirements;
 - (ii) which does not affect the structural integrity of the Works;
 - (iii) which does not impact adversely on the Services;
 - (iv) which does not materially and adversely impact upon the Council's or the community's use of the Public Access Areas when they are completed.
- (b) The Developer may substitute alternative but not inferior finishes to those described in the Scope of Works in any part of the Works and notify the Council of such substitution, subject to the Council's written agreement to such alternative finish (which agreement shall not be unreasonably withheld or delayed). For the avoidance of doubt, an "unreasonable delay" for the purposes of this clause, means a failure to respond within 10 Business Days of receiving a request to agree to substitute an alternative finish.
- (c) The Developer must pay the additional costs resulting from any variation under this clause.

4.6 *Good faith*

The parties must act promptly and in good faith to consult in relation to and agree the Concept Design and the Detailed Design in accordance with the Design Program.

5 Carrying out of Works

5.1 Communication

- (a) The Developer must keep Council informed of progress of the Works and provide to Council such information about the Works as Council reasonably requests.

5.2 Standard of Works

- (a) Unless otherwise provided, the Developer shall use suitable new materials and proper and tradesmanlike workmanship when carrying out the Works.
- (b) The Works must be designed and constructed to the standards and specifications set out in Schedule 3 and any others in relation to the Detailed Design agreed by Council and the Developer in accordance with either clauses 4.3(c) or 4.3(d) (as the case may be).
- (c) The Developer will obtain the standards and specifications from Council if the Council fails to deliver them to the Developer.

6 Inspection

- (a) The Council may enter the Land to inspect the progress of the Works, subject to:
 - (i) the terms of the Building Contract (save for any clause of the Building Contract which prevents the Council from accessing the Land);
 - (ii) giving reasonable notice to the Developer, the Builder and the Project Certifier;
 - (iii) complying with all reasonable directions of the Developer, the Builder and the Project Certifier;
 - (iv) exercising its rights under this clause entirely at its own risk in all respects; and
 - (v) being accompanied by the Project Certifier or its nominee, or as otherwise agreed.
- (b) The Council may, within 5 Business Days of carrying out an inspection, notify the Developer of any defect or non-compliance in the Works and direct the Developer to carry out work to rectify that defect or non-compliance. Such work may include, but is not limited to:
 - (i) removal of defective or non-complying material from the Land;
 - (ii) demolishing defective or non-complying work;
 - (iii) reconstructing, replacing or correcting any defective or non-complying work; and
 - (iv) not delivering any defective or non-complying material to the site of the Works.
- (c) If the Developer is issued a direction to carry out further work under clause 6(b) of this Schedule 2, the Developer must, at the Developer's

cost, rectify the defect or non-compliance specified in the notice within the time period specified in the notice.

- (d) If the Developer fails to comply with a direction to carry out work given under clause 6(b) of this Schedule 2, the Council will be entitled to refuse to accept that the Works meet the Council's standards and specifications set out in Schedule 3 and any others in relation to the Detailed Design agreed by Council and the Developer in accordance with either clauses 4.3(c) or 4.3(d) (as the case may be), until the required works have been completed to the Council's satisfaction, acting reasonably.
- (e) For the avoidance of doubt, any acceptance by the Council that the Developer has rectified a defect or non-compliance identified in a notice issued under clause 6(b) of this Schedule 2 does not constitute:
 - (i) acceptance by the Council that the Works comply with all Approvals and Laws; or
 - (ii) an Approval by the Council in respect of the Works; or
 - (iii) an agreement or acknowledgment by the Council that the Works or the relevant part of the Works are complete and may be delivered to the Council in accordance with this Agreement.

7 Council Direction

- (a) Subject to clause 7(b) of this Schedule 2, the Developer must comply, at the Developer's cost, with any direction given by the Council about the design or construction of the Works that is intended to ensure consistency between the Works on the Land and similar works to be carried out on the Adjoining Land.
- (b) If the Developer considers that a direction given in accordance with clause 7(a) of this Schedule 2 will result in a variation to the Design or the Works that is not contemplated in the Scope of Works, then the Developer may notify the Council and the costs of the proposed variation will be determined in accordance with clause 4.3 of this Schedule 2.

8 Completion

8.1 Council's Standards and Specifications

- (a) All Works must be carried out in accordance with the Council's standards and specifications set out in Schedule 3 and any others in relation to the Detailed Design agreed by Council and the Developer in accordance with either clauses 4.3(c) or 4.3(d) (as the case may be).
- (b) The Developer must obtain the standards and specifications from the Council, if the Council does not deliver them to the Developer.

8.2 Practical Completion

- (a) When the Developer considers that the Works, or any part of the Works, are complete, the Developer must provide a Certificate of Practical Completion signed by the Project Certifier.

- (b) The Developer must arrange for the Developer, the Project Certifier and Council to inspect the relevant item of the Works referred to in a Certificate of Practical Completion within 5 Business Days of the Council receiving the Certificate or such other time as agreed between the Parties.
- (c) If Council considers that the Works meet the Council's standards and specifications provided to the Developer in accordance with clause 8.1(a) of this Schedule 2, Council must issue a notice to the Developer to that effect within 5 Business Days of the inspection under clause 8.2(b) of this Schedule 2 or such other time as agreed between the Parties.
- (d) If the Council considers that the Works do not meet the Council's standards and specifications provided to the Developer in accordance with clause 8.1(a) of this Schedule 2, the Council must, within 5 Business Days of the inspection under clause 8.2(b) of this Schedule 2 or such other time as agreed between the Parties, issue a notice to the Developer containing a list of further works required to be completed.
- (e) Subject to clause 8.2(f) of this Schedule 2, the Developer must:
 - (i) cause the further works specified by the Council in the notice issued under clause 8.2(d) of this Schedule 2 to be carried out and completed; and
 - (ii) notify the Council when the Developer considers the further works have been completed.
- (f) If:
 - (i) the Developer does not agree that the further works specified in a notice issued under clause 8.1(f) of this Schedule 2 are required; or
 - (ii) Council does not consider that after being notified in accordance with clause 8.1(e)(ii) of this Schedule 2 that the further works are satisfactory;

then the matter may be referred directly for determination by an expert in accordance with clause 10.6 of this Agreement.

8.3 *Delivery of documents*

- (a) The Developer must as soon as practicable, and no later than 30 days after the date on which the Certificate of Practical Completion is issued in respect of the New Lane deliver to the Council, complete copies of:
 - (i) all "as built" drawings, specifications and relevant operation and service manuals;
 - (ii) all necessary certificates including the certificates of any consultants of the Developer that the Council may reasonably require; and
 - (iii) copies of all Approvals required for the occupation or use of the New Lane.

- (b) The Developer must as soon as practicable, and no later than 20 Business Days after the date on which the Certificate of Practical Completion is issued in respect of the New Lane, provide the Council with a tour of the New Lane and provide reasonable instructions on the operation and use of the Services within New Lane.

8.4 *Assignment of Warranties and Causes of Action*

- (a) The Developer must assign (as beneficial owner) or cause to be assigned to Council the benefit of any warranties and guarantees obtained by the Developer and the Builder (and capable of assignment) with respect to any material or goods incorporated in or forming part of the Road Works.
- (b) To the extent that any such warranties or guarantees cannot be assigned, the Developer must at the request of Council do anything reasonably required by Council to enforce such warranties or guarantees for the benefit of Council, including but not limited to;
 - (i) appointing the Council as its attorney to exercise its rights and powers under any Building Contract, including any right to conduct proceedings or prosecute any action to enforce the Developer's rights against others under any Building Contract;
 - (ii) executing all such documents and doing all such things on the Council's behalf as are necessary or desirable to enable the Council to rectify any defects in accordance with the terms of this Agreement and any Building Contract; and
 - (iii) provide any assistance required for the purpose of defending or settling any claim or the pursuit of any rights of recovery from others under any Building Contract.

9 Defects Liability

9.1 *Defects Liability Period*

- (a) During the Defects Liability Period, the Council (acting reasonably) may give to the Developer a notice (**Rectification Notice**) in writing that identifies a defect in the Works and specifies:
 - (i) action required to be undertaken by the Developer to rectify that defect; and
 - (ii) the date on which the defect must be rectified.
- (b) The Developer must comply with the Rectification Notice by:
 - (i) procuring the performance of the work required to rectify the defect within the time period specified by the Council or such other time as agreed between the parties;
 - (ii) keeping the Council reasonably informed of the action to be taken to rectify the defect; and
 - (iii) carrying out the rectification.
- (c) The Council must give the Developer and its contractors access to carry out the rectification works.

- (d) When the Developer considers that a rectification is complete, the Developer must notify the Council that the works subject to the relevant Rectification Notice are complete and provide relevant documentation, plans or invoices which establish that those works were carried out.
- (e) The Council may inspect the rectification works within 10 Business Days of receiving a notice from the Developer under clause 9.1(d) of this Schedule 2 and:
 - (i) issue a further Rectification Notice if it is not reasonably satisfied that the rectification is complete; or
 - (ii) notify the Developer in writing that it is satisfied the rectification work is complete.
- (f) The Developer must meet all costs of and incidental to rectification of defects under this clause 9.1.
- (g) If the Developer fails to comply with a Rectification Notice, then the Council may do such things or take such action as is necessary to rectify the defect, including accessing and occupying any part of the Land without further notice to the Developer, and may:
 - (i) call upon any Bond or Bank Guarantee provided by the Developer to the Council under clause 9.2 of this Schedule 2 to meet its costs of rectifying the defect; and
 - (ii) recover as a debt due to the Council by the Developer in a court of competent jurisdiction, any difference between the amount of the security deposit and the costs incurred by the Council in rectifying the defect.

9.2 Security

- (a) On the issue of a Certificate of Practical Completion for each item of the Works the Developer must deliver to the Council Bonds or Bank Guarantees in an amount equivalent to 5% of the construction costs for the particular item of Works.
- (b) The Developer advises and the Council acknowledges its awareness that the Bonds or Bank Guarantees may be supplied by the Builder and form a part of the security held by the Developer from the Builder under the terms of the Building Contract, provided that any Bond or Bank Guarantee provided by the Builder benefits the Council and satisfies the requirements of this Agreement.
- (c) Within 10 Business Days after the Defects Liability Period for a particular item of Works has expired Council must (if it has not called on it) return the Bond or Bank Guarantee referred to in clause 9.2(a) of this Schedule 2 for that item of Works (or any remaining balance of it) to the Developer.
- (d) Notwithstanding clause 9.2(c) of this Schedule 2, if during the Defects Liability Period for a particular item of Works, the Council issues a Rectification Notice and the Rectification Notice is not complied with,

then the Council need not deliver the balance of any Bonds or Bank Guarantees provided to it until that defect has been rectified.

10 Risk

The Developer undertakes the Works entirely at its own risk.

11 Insurance

- (a) Prior to the commencement of the construction of any of the Works, the Developer must ensure the Builder effects and the Developer must produce evidence to the Council of the following insurances issued by an insurer approved by the Council (acting reasonably) in a form approved by the Council (acting reasonably):
 - (i) construction works insurance for the value of the Works;
 - (ii) public risk insurance for at least \$20 million;
 - (iii) workers compensation insurance as required by law.
- (b) The Developer must provide evidence of currency of insurance required by clause 11(a) of this Schedule 2 upon request by the Council throughout the term of this Agreement.

12 Indemnities

The Developer indemnifies the Council, its employees, officers, agents, contractors and workmen from and against all Claims in connection with the carrying out by the Developer of the Works except to the extent such Claim arise either directly or indirectly as a result of the Council or its employees, officers, agents, contractors or workmen negligence, default, act or omission.

13 Intellectual Property Rights

The Council acknowledges that the Developer or its contractors holds all rights to copyright and any intellectual property which may exist in the Plaza Works and the Streetscape Works. To the extent the Developer has or receives intellectual property rights for the Road Works, the Developer shall assign those intellectual property rights to Council or permit use thereof.

14 Risk of contamination

The Developer acknowledges to the Council that it is responsible for the management and remediation of any contamination present upon or under the Land and that it fully accepts this obligation and will attend to any necessary remediation at its own costs and to the fullest extent permitted by law releases the Council from any Claim which might arise from any contamination with respect to the Land and the Council warrants to the Developer that at the date of entry into this Agreement it is not aware of any contamination affecting the Land.

Schedule 3 Work Standards

Design Refinement at Construction Certificate Stage

The Works are to be designed so as to ensure:

- The Works are constructed in accordance with City of Ryde's Public Domain Technical Manual for Gladesville Town Centre and Victoria Road Corridor.
- The works marry into and match the Public Domain Works required by any relevant Development Consent, any Development Consent granted for the Adjoining Land and any planning agreement relating to the Adjoining Land.
- The footpath and plaza areas are sufficiently lit by street lights to meet City of Ryde and Australian standards.

General

The standards referred to in this Schedule are included for information purposes only and as a guide to the relevant standards for the general nature of the work of the kind identified as Works in this Agreement.

Relevant Australian Standards

- AS 1725 Geotechnical site investigations
- AS 4455 Masonary units and segmental pavers
- AS 4679 Earth Retaining Structures
- AS 3600 Concrete structures
- AS 2876 Road lighting
- AS 4282 Control of the Obtrusive Effects of Outdoor lighting
- AS 1428 Design for Access and Mobility
- AS 3500 Plumbing and Drainage
- AS 3700 Masonary Structures
- AS 4282 Design for Access and Mobility
- AS 1742 Manual of uniform traffic control devices

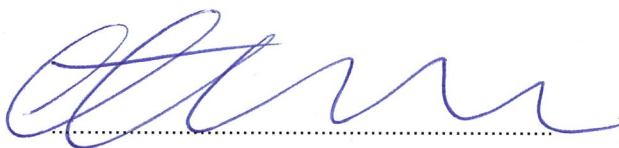
City of Ryde Council Standards referencing

- Public Domain Technical Manual
- Part 4.6 of the Development Control Plan
- Street Design Code
- Lights Design Code
- Access Policy
- Construction Specification for Civil works Design and Construction
- Street Tree Masterplan
- Bicycle Strategy and Masterplan (2007)
- Civic Signage Manual

Executed as an agreement

Signed by **Roy Newsome, Acting**
General Manager as authorised delegate
for **Ryde City Council** in accordance with
a resolution of the Council dated 25 June
2013 in the presence of:

)
)
)
)
)
)
)
)
)



Signature of Witness



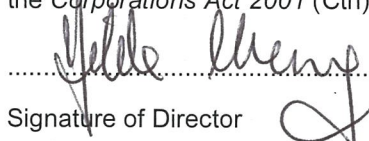
Signature of Authorised Delegate

BUDDY STEPHEN

Print name of Witness

Executed by **One Wharf Development**
Pty Ltd in accordance with section 127 of
the *Corporations Act 2001* (Cth) by:

)
)



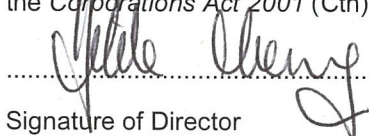
Signature of Director



Signature of Director/Secretary

Executed by **Windesee Build Pty**
Limited in accordance with section 127 of
the *Corporations Act 2001* (Cth) by:

)
)




Signature of Director



Signature of Director/Secretary

Executed by Hilda Chiming Cheong

in the presence of:

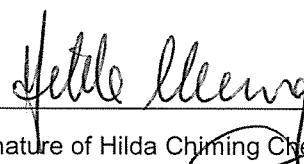


Signature of witness

BUDDY STEPHEN

Full name of witness (print)

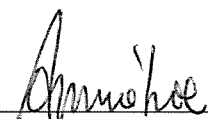
1 DEVLIN STREET
RYDE NSW 2112
Address of witness (print)



Signature of Hilda Chiming Cheong

Executed by Joseph Fook Yan

Cheong in the presence of:



Signature of witness

ANNIE LOE

Full name of witness (print)

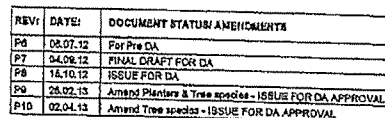
2 Bayview Cres Henley
Address of witness (print)



Signature of Joseph Fook Yan Cheong

Annexure A Plan showing the Plaza Works

Annexure B Plan Showing Plaza Land and Part Plaza
Works



PLANT SCHEDULE		
Botanical Name	Common Name	Size Height (m)
TREES		
<i>Ficus 'Cristata'</i>	Capitol Pear	200L
<i>Lagerströmia indica x L. floral 'Hatchers'</i>	Hatchers Crepe Myrtle	7
SHRUBS AND GROUND COVERS		
<i>Agave 'Snowball'</i>	Snowball Agave	200mm
<i>Juniperus communis</i>	Shore Juniper	0.5
<i>Myrica floribunda 'Snow Maiden'</i>	Snow Maiden Indian Hawthorn	300mm
<i>Sedum maderense</i>	Medusa Sedum	160mm

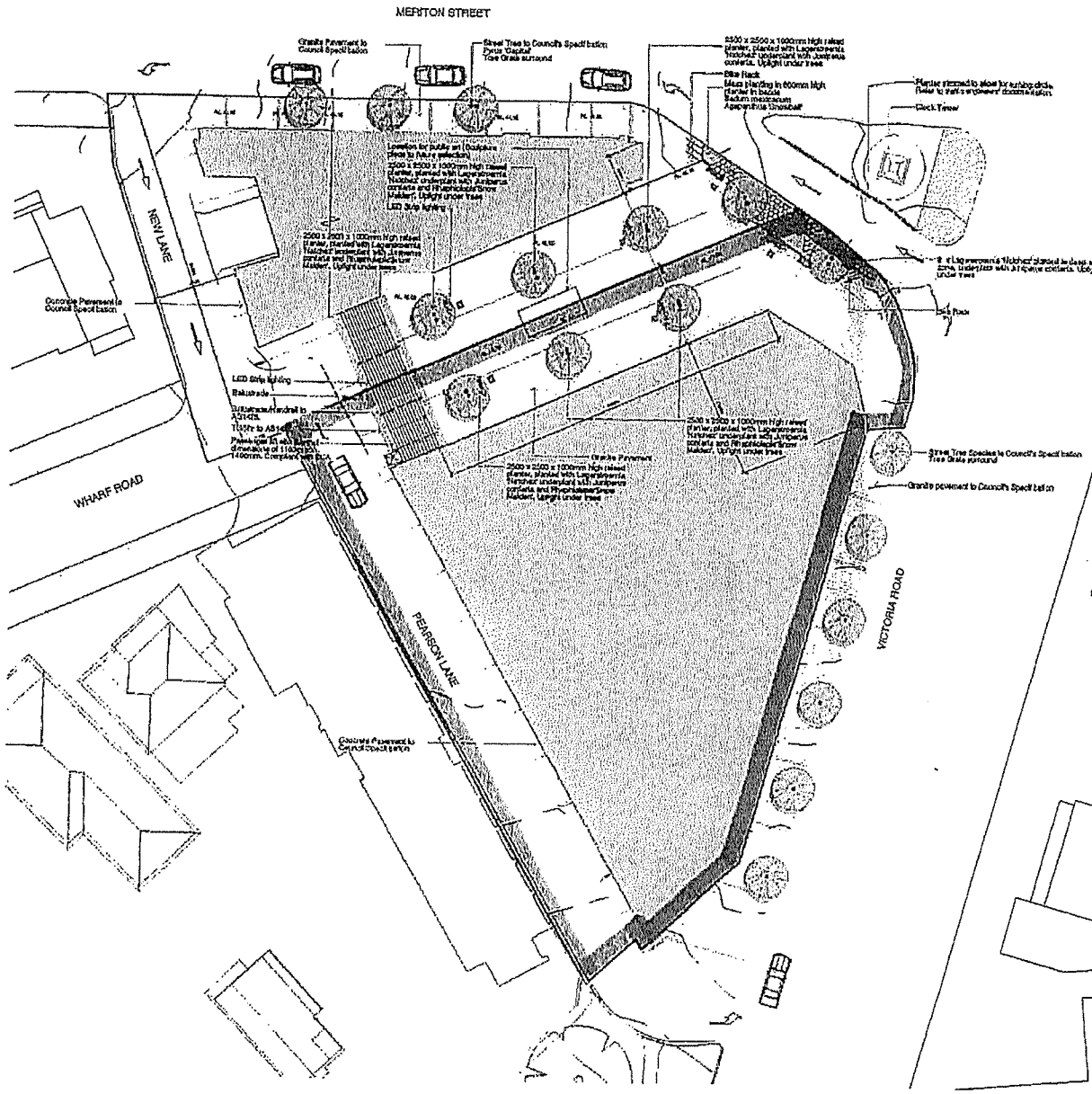
PROJECT	Sheet: 03	Date: 04.02.12
1-3 & 2-10 Wharf Road GLASGOW NW4	Client: Architect: IKGB	Scale: 1:200 @ A1
	Client: Jackie Christopherson Pty Ltd & Partnerships, Balfour Pty Ltd	Scheme: Development Application
DRAWING TITLE	<small>This drawing is the property of Balfour Pty Ltd and is not to be used for any other project without the written consent of Balfour Pty Ltd. It is to be used only for the project and site described on the title block. It is to be kept confidential and not to be disclosed to any third party without the written consent of Balfour Pty Ltd. It is to be destroyed when no longer required.</small>	
Landscape Plan - Streetscape	BB 1035	DATE/REV: 08/08/11/01/01 LP01/P-10

Place partners

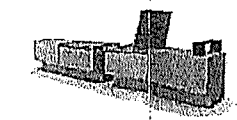
Area Calculations	
Plaza area	784.0 sq.m
Clock Tower	138.0 sq.m
Merton Street Footpath	107.1 sq.m
Pearson Lane Footpath	75.3 sq.m
New Lane Footpath	65.9 sq.m
New Lane	253 sq.m
Victoria Road Footpath	234.8 sq.m

Annexure C

Plan showing Adjoining Land and
Adjoining Plaza Works



Material Images



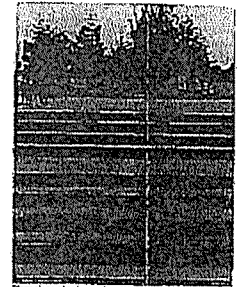
Plaza seating - UAP Cargo range



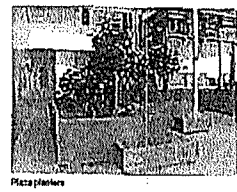
Plaza seating with lighting and shelter



Cafe seating to split out into plaza



Plaza seating at entrance from Wharf Road



Plaza planters

Wharf Road Civic Plaza Design Statement

The plaza creates an attractive open space along Wharf Road and as such provides an important civic area for the local community. The plaza is designed to become a focal point along Wharf Road and strengthen the relationship between the heritage clock tower and proposed development integrating it into the new urban plaza setting.

The existing clock tower is located just outside the plaza on a traffic island on Merton Street. The proposed design includes an upgrade to the traffic island surrounding the clock tower, with new pedestrian pavement along Victoria Road leading the eye to Merton Street with the slipway plaza crossing.

Surrounding the base of the clock tower for planting is proposed. This planting mirrors the proposed planting on the other side of the slipway within the plaza vicinity by using the clock tower as the focal point. The proposed low planting will not impede views from motor vehicles and pedestrians, but will protect the base of the clock tower and improve safety as it directs pedestrians to the crossing.

Within the plaza, pedestrian safety is improved as access to the slipway is blocked by a planter along its length. Again this low planting will not impede views through the plaza. A grid of planters and occasional bench seating forms a public amenity, providing a place for small groups to sit. The clock tower provides an adaptable seating that can cater for community events, markets, retail outlets and outdoor dining. Furniture within the plaza including seating, bins, and litter racks on the vehicle side conform with the City of Ryde's standard specifications, however the bench seating proposed is a bespoke feature of the square with recycled materials underneath to provide a sense that they are 'floating'.

Vertical elements provide a sense of enclosure and scale to the plaza with a screen of trees (Pyrus 'Aristocrat' and 'Aristocrat' 'Lapins') and a proposed sculpture. These elements further define the clock tower with the clock plaza and frame views from the Wharf Road end of the plaza to the clock tower. The trees have been located in positions that will provide an uninterrupted view to the clock tower. Along Merton St, 'Pyrus 'Aristocrat' (Aristocrat) are planted as street trees with the foliage further enhancing the development and creating the plaza. The trees provide shade in summer and provide a continuous green backdrop.

Access from the southern section of Wharf Road into the plaza is via the plaza steps. The steps are set back from the road and a safety fence is provided at the street edge. The steps provide easy access with a wheel chair lift to ensure disabled access into the plaza. Access through the plaza provides an important pedestrian link from Wharf Road to Victoria Road providing an unimpeded pedestrian route and connects the retail buildings with the urban plaza.

In general, the plaza design is based around the requirements of the Public Domain Design Manual through the following:

- Pedestrian paths are maintained and enhanced
- Access is improved along Victoria Road with new pavements and street tree planting
- The streetscape is improved with the new plaza providing seating, gardens and public art
- The plaza remains visually connected to Victoria Road, but also provides seating sheltered from the roads through the landscaping
- The new plaza provides for additional street activation with the opportunity for ground floor retail spaces to spill out into the plaza. The large paved plaza provides opportunities for local events such as markets.

Area Calculations

Plaza area	784.0 sq.m
Clock Tower	138.0 sq.m
Merton Street Footpath	107.1 sq.m
Pearson Lane Footpath	75.3 sq.m
New Lane Footpath	65.9 sq.m
New Lane	255 sq.m
Victoria Road Footpath	134.8 sq.m

REV	DATE	DOCUMENT STATUS/AMENDMENTS
P6	05.07.12	For Pre DA
P7	04.09.12	FINAL DRAFT FOR DA
P8	16.10.12	ISSUE FOR DA
P9	28.02.13	Amend Planters & Tree species - ISSUE FOR DA APPROVAL
P10	02.04.13	Amend Tree species - ISSUE FOR DA APPROVAL



black
 black & white Pty Ltd
 63 Stuffs Street, Coffs Harbour NSW 2257
 Tel: 0432 104 415
 email: black@blackandwhite.com.au

PROJECT	Site: GB Project: 1300 sq m 1300 sq m	Date: 04.09.12
CLIENT	Development Application	
DESIGNER	Development Application	
DATE	04.09.12	
PROJECT NO.	BB 1035	LP01/P10

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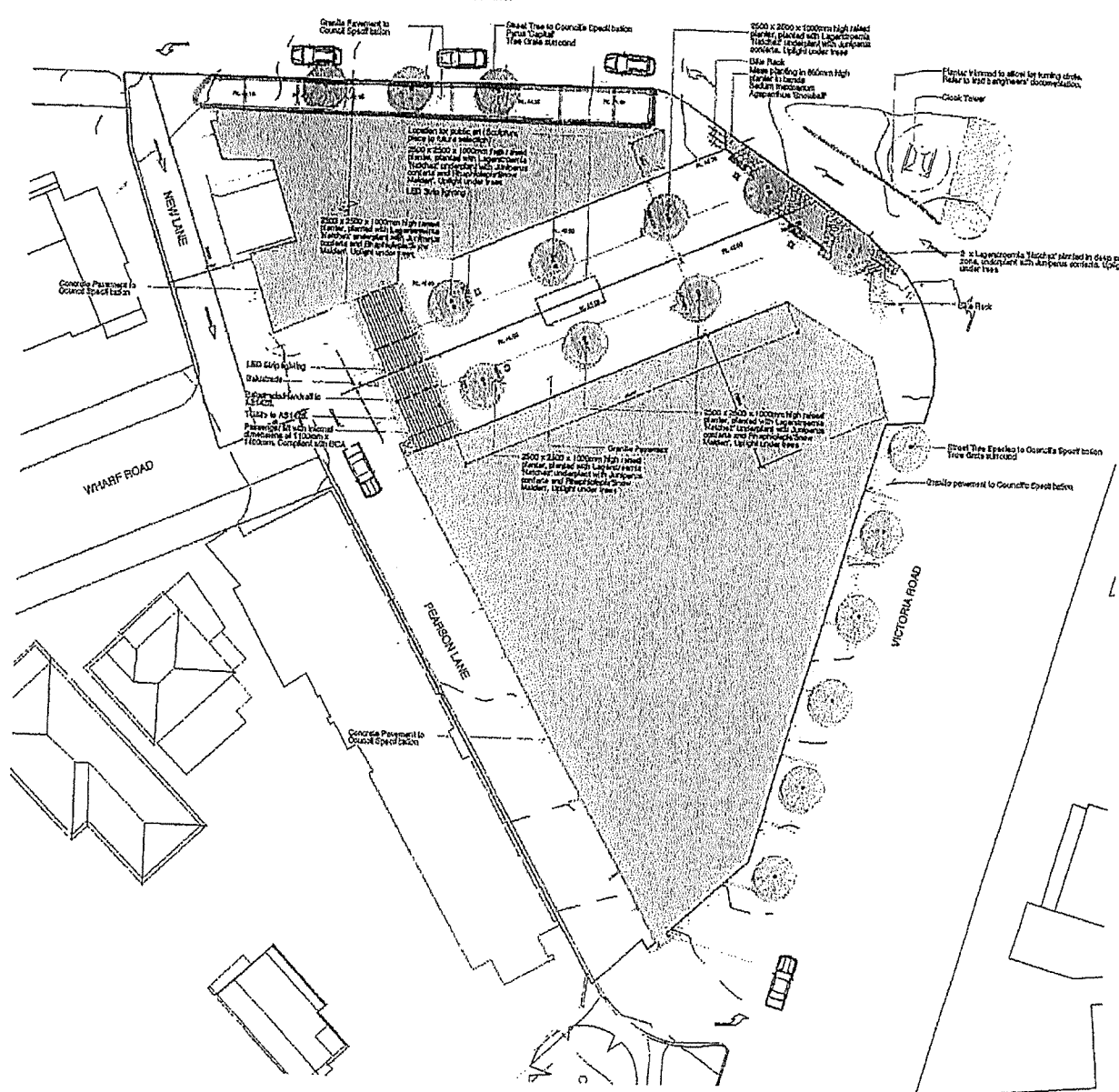
Annexure D

Plan showing Adjoining Temporary Works

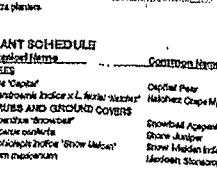
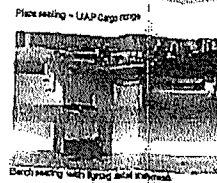
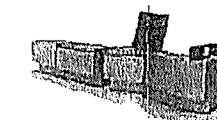
Annexure E Plan showing Temporary Works

Annexure F Plan showing Streetscape Works

MERTON STREET



Material Images



Wharf Road Civic Plaza Design Statement

The plaza creates an attractive open space along Victoria Road and as such provides an important role area for the local community. The plaza is designed to become a focal point along Victoria Road and strengthen the relationship between the historic clock tower and proposed development integrating it into the new urban place setting.

The existing clock tower is located just outside the plaza on a traffic island on Merton Street. The proposed design includes an upgrade to the traffic island surrounding the clock tower, with new parking to permanent along Victoria Road along the right at Merton Street with the plaza area.

Surrounding the base of the clock tower low planting is proposed. The planting provides the proposed planting on the outer side of the plaza with the plaza visually linking the clock tower island with the plaza. The proposed low planting will not impede views from motor vehicles and pedestrians, but will soften the base of the clock tower and improve safety as it directs pedestrians to the crossing.

Within the plaza, pedestrian safety is improved by access to the plaza is located by a planter along its length. Again the low and commercial bench seating improves public movement, providing a place to sit under the shade of trees. Seating is grouped to provide a place for small groups to interact. The clock tower provides an adaptable seating that can cater for community events, markets, including reading, view, and take note on the whole will conform with the City of Wyndham's design specifications. However, the bench seating proposed is a key feature of the square with lighting elements underneath to provide a sense that they are seating.

Vertical elements provide a sense of enclosure and scale to the plaza with deciduous trees (Fraxinus excelsior) and a proposed sculpture. These elements further link the clock tower with the plaza and frame views from the Merton road end of the plaza to the clock tower. The trees have been located in positions that will provide an anticipated view to the clock tower. Along Merton St, three footpaths further extending the development and meeting the plaza. The trees provide shade in summer and provide a continuous green landscape.

Access from the southern section of Merton Road into the plaza is via the plaza steps. The steps are set back from the road and a safety fence is provided at the street edge. The steps provide easy access with a wheel chair lift to events disabled access into the plaza. Access through the plaza provides an important pedestrian link from Merton Road to Victoria Road providing an anticipated pedestrian route and connects the retail buildings with the urban place.

In general, the plaza design is based around the requirements of the Public Domain Design Manual through the following:

- Pedestrian links are maintained and enhanced
- Amenity is improved along Victoria Road with new pavements and street tree planting
- The streetscape is improved with the new plaza providing seating, gardens and public art
- The plaza visually connects to Victoria Road but also provides seating sheltered from the sun throughout the landscape
- The new plaza provides for additional street activation with the opportunity for ground floor retail spaces to roll out into the plaza. The large paved plaza provides opportunities for local events such as markets.

Area Calculations

Plaza area	784.0 sq.m
Clock Tower	138.0 sq.m
Merton Street Footpath	107.1 sq.m
Pearson Lane Footpath	76.8 sq.m
New Lane Footpath	86.9 sq.m
New Lane	266 sq.m
Victoria Road Footpath	254.8 sq.m

PLANT SCHEDULE

Retained Name	Common Name	Size	Height
Trees			
Prunus Virginiana	Prunella	200L	7
Lagerströmia Indica x L. indica 'Kirsten'	Prunella	200L	6
SHRUBS AND GROUND COVERS			
Agave attenuata 'Broadleaf'	Agave attenuata	200mm	0.3
Juniperus communis	Juniperus communis	200mm	0.3
Arctostaphylos indica 'Snow White'	Arctostaphylos indica	200mm	1
Sedum spectabile	Sedum spectabile	150mm	0.2

REV	DATE	DOCUMENT STATUS/AMENDMENTS
P5	05.07.12	For Pre DA
P7	04.08.12	FINAL DESIGN FOR DA
P8	18.10.12	ISSUE FOR DA
P9	26.02.13	Amend Planting & Tree species - ISSUE FOR DA APPROVAL
P10	02.04.13	Amend Tree species - ISSUE FOR DA APPROVAL

1:200 @ A1



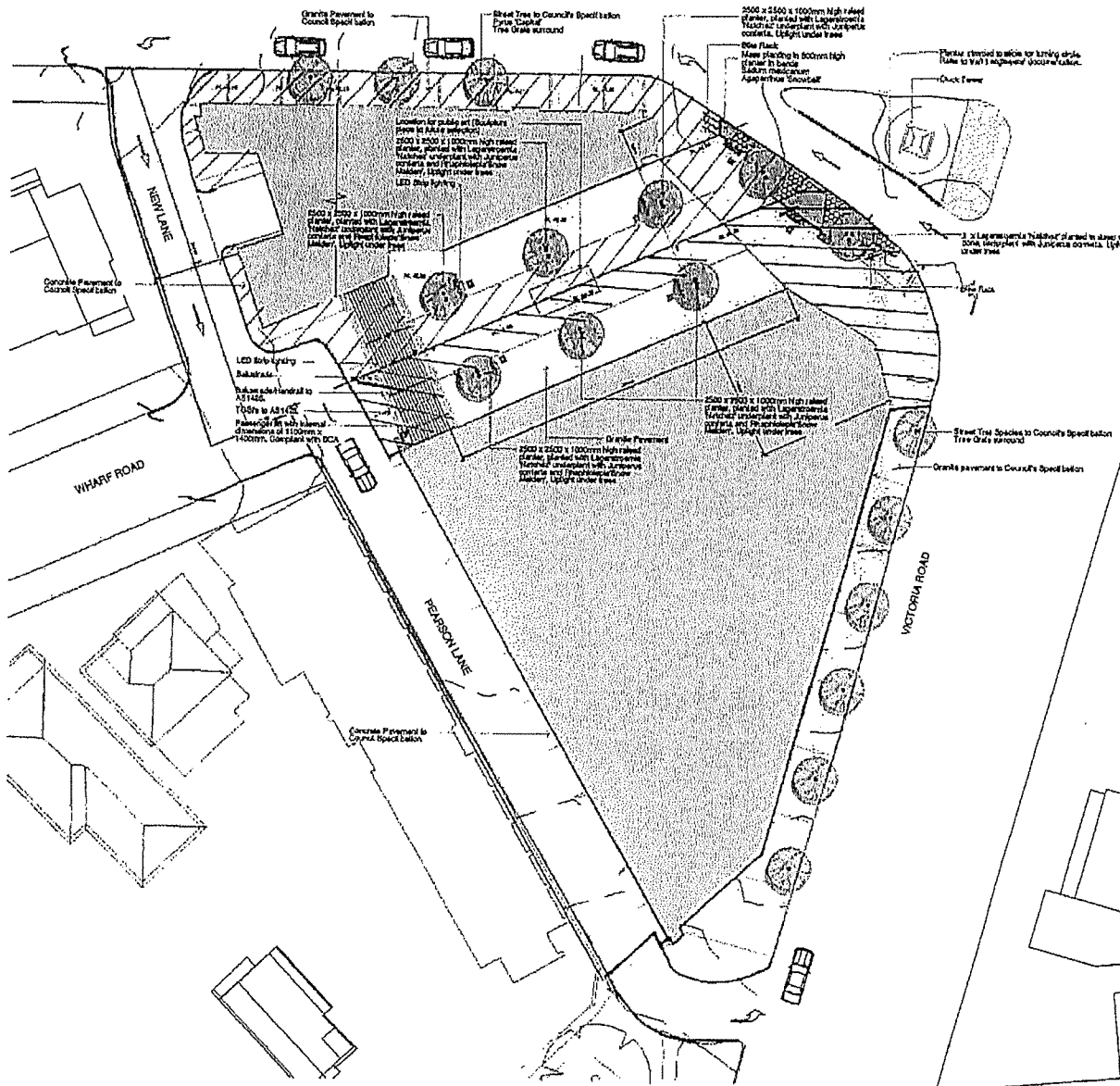
black
Black Design Pty Ltd
63 State Street, Coleray VIC 3077
Tel: 03 9333 1041
Email: black@blackdesign.com.au

PROJECT	13 & 140 Wharf Road BLADESWILLE NSW
DATE	04.09.12
SCALE	1:200 @ A1
DESIGNER	Development Application
DRAWN BY	BB 1035
CHECKED BY	LP01/P-10

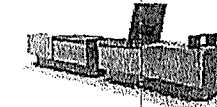
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Annexure G Plan showing Public Access Areas

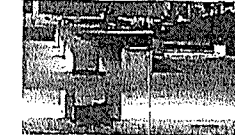
MERTON STREET



Material Images



Plaza Seating - UAP Cargo range



Plaza Seating with lighting detail (underneath)



Plaza Seating to match the plaza



Plaza Seating to match the plaza



Plaza Seating to match the plaza

PLANT SCHEDULE

Species Name	Quantity	Notes
Plaza Seating	7	UAP Cargo range
Plaza Seating	6	UAP Cargo range
Plaza Seating	0.5	UAP Cargo range
Plaza Seating	0.5	UAP Cargo range
Plaza Seating	1	UAP Cargo range
Plaza Seating	0.2	UAP Cargo range

Wharf Road Civic Plaza Design Statement

The plaza creates an attractive open space along Wharf Road and as such provides an important civic area for the local community. The plaza is designed to become a focal point along Wharf Road and strengthen the relationship between the existing clock tower and proposed development integrating it into the new urban plaza setting.

The existing clock tower is located just outside the plaza on a traffic island on Merton Street. The proposed design includes an upgrade to its traffic lights surrounding the clock tower, with new pedestrian pavements along Wharf Road linking the lights at Merton Street with the plaza area.

Surrounding the base of the clock tower low planting is proposed. This planting screens the proposed planting on the other side of the highway within the plaza visually linking the clock tower island with the plaza. The proposed low planting will improve views from motor vehicles and pedestrians, but will retain the trees of the clock tower and improve safety as it directs pedestrians to the crossing.

Within the plaza, pedestrian safety is improved as access to the site is blocked by a glass barrier along its length. Again this low planting will not block views through the plaza. A grid of planters and seasonal bench seating creates a public assembly, providing a place to sit under the shade of trees. Seating is provided to provide a place for small groups to interact. The civic plaza provides an outdoor seating area for outdoor dining, cafe, and other uses. The seating, tables, and other uses on the whole will customise with the city of Perth's standard specifications, however the bench seating, proposed as a bench seating of the area with lighting elements underneath to provide a sense that they are lighting.

Vertical elements provide a sense of enclosure and scale to the plaza with deciduous trees (Prunus serotina) and a proposed sculpture (Lagerstroemia 'Majestic') and a proposed sculpture. These elements further link the clock tower with the civic plaza and frame views from the Wharf Road end of the plaza to the clock tower. The trees have been located in positions that will provide an unobstructed view to the clock tower. Along Merton St, 'Prunus 'Serotina' (Majestic) trees are planted as street trees within the footpath further enhancing the development and making the plaza. The trees provide shade in summer and provide a continuous green backdrop.

Access from the southern section of Wharf Road into the plaza is via the plaza steps. The steps are not built from the road and a safety fence is provided at the street edge. The steps provide easy access with a wheel chair to access the plaza from the road. Access through the plaza provides an important pedestrian link from Wharf Road to Victoria Road providing an unobstructed pedestrian route and connects the retail buildings with the urban plaza.

In general, the plaza design is based around the requirements of the Public Domain Design Manual through the following:

- Pedestrian links are maintained and enhanced.
- Access is improved along Victoria Road with new pavements and street tree planting.
- The streetscape is improved with the new plaza providing seating, gardens and public art.
- The plaza provides a visually connected to the road but also provides seating sheltered from the road through the footpath.
- The new plaza provides for additional street activation with the opportunity for ground floor retail space is well suited to the plaza. The large paved plaza provides opportunities for local events such as markets.

Area Calculations

Plaza area	764.0 sq.m
Clock Tower	138.0 sq.m
Merton Street Footpath	107.5 sq.m
Pearson Lane Footpath	75.3 sq.m
New Lane Footpath	65.9 sq.m
New Lane	265 sq.m
Victoria Road Footpath	234.8 sq.m

REV	DATE	DOCUMENT STATUS/AMENDMENTS
P6	06.07.12	For Pre DA
P7	04.09.12	FINAL DRAFT FOR DA
P8	16.10.12	ISSUE FOR DA
P9	24.02.13	Amend Planters & Tree species - ISSUE FOR DA APPROVAL
P10	02.04.13	Amend Tree species - ISSUE FOR DA APPROVAL

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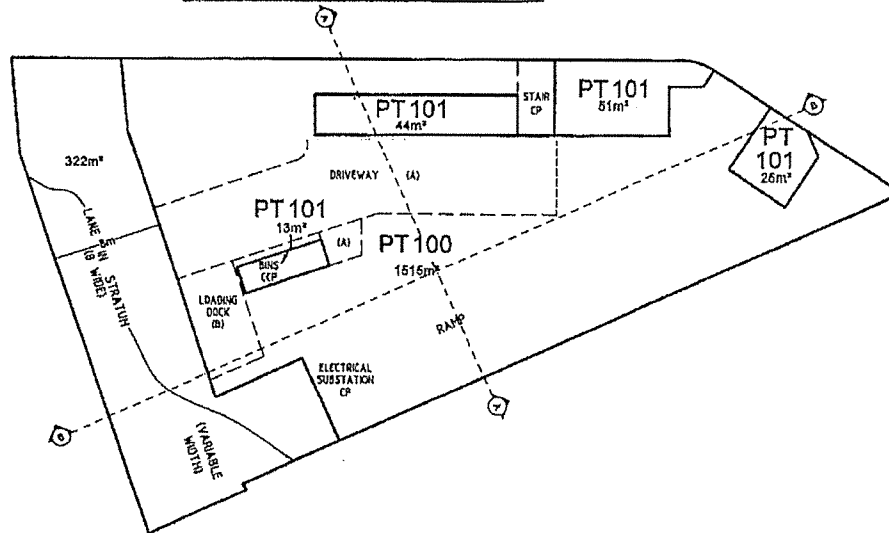
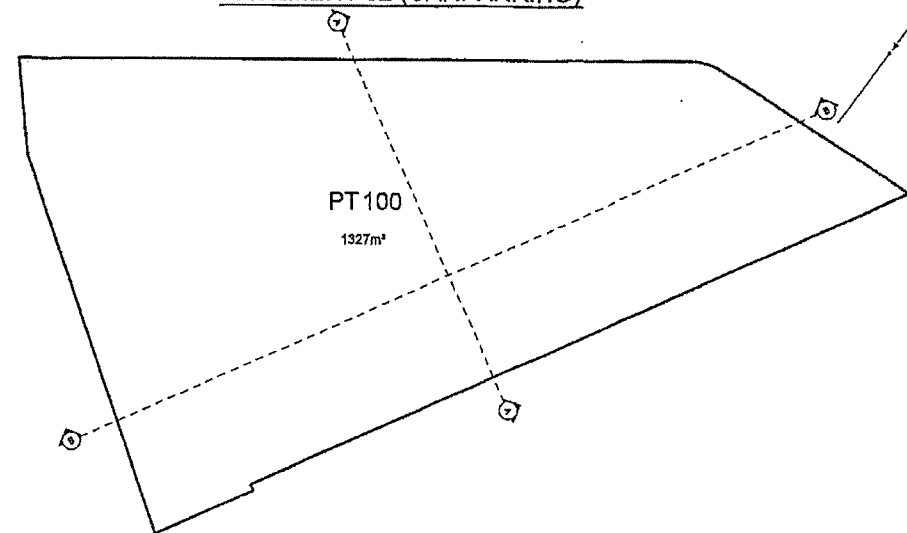
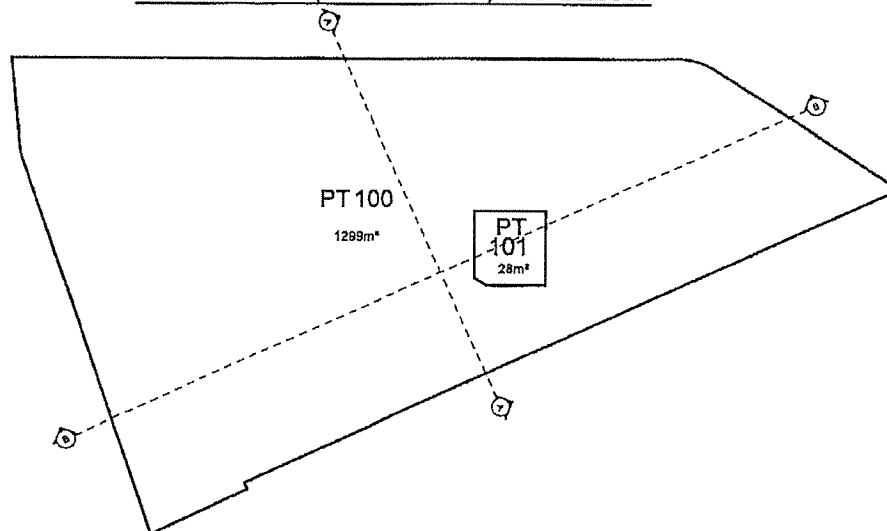
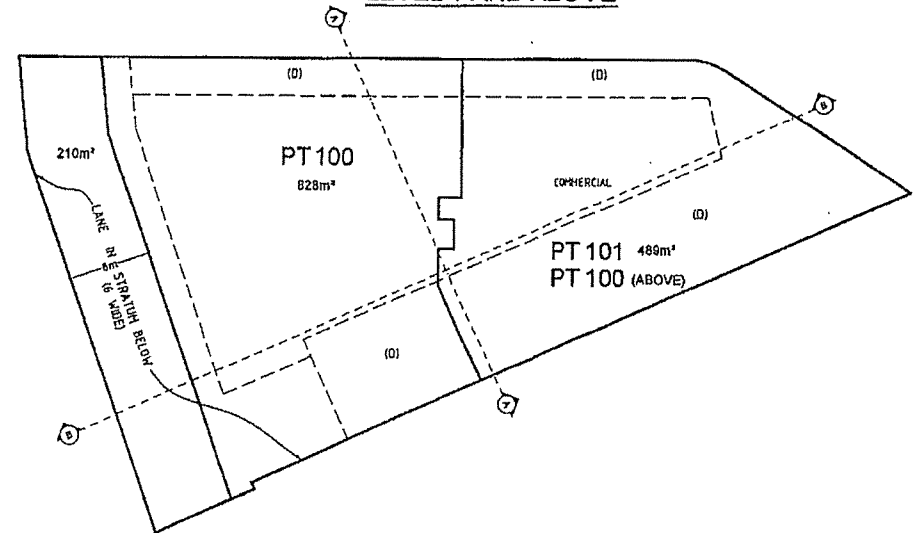
Black Design Pty Ltd
63 State Street, Colacoy Plateau NSW 2007
Tel: 0422 104 415
email: blackdesign@blackdesign.com.au

Project	Drawn	Date
1-3 & 2-10 Wharf Road GLADESVILLE NSW	GB	04.02.12
Client	Black Design Pty Ltd	12.02.12 @ A1
Project Title	Development Application	
Drawings Title	Landscaping Plan - Streetscape	
Job Number	BB 1035	LP01/P10

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Annexure H

Plan showing New Lane

BASEMENT 01 (CARPARKING)BASEMENT 02 (CARPARKING)BASEMENT 03 (CARPARKING) AND BELOWLEVEL 1 AND ABOVEPROPOSED EASEMENTS

- (A) EASEMENT FOR ACCESS VARIABLE WIDTH
 (B) EASEMENT FOR USE OF LOADING DOCK VARIABLE WIDTH
 (C) RIGHT OF FOOTWAY LIMITED IN STRATUM
 (D) EASEMENT FOR PUBLIC ACCESS OVER PLAZA AND PATHWAYS VARIABLE WIDTH LIMITED IN STRATUM
 (E) EASEMENT FOR SUPPORT OF ROAD 8 WIDE AND VARIABLE WIDTH

Surveyor: JOSEPH MONARDO
 Date of Survey:
 Surveyor's Ref: 33351-34196ST

PLAN OF SUBDIVISION OF PROPOSED LOT 10

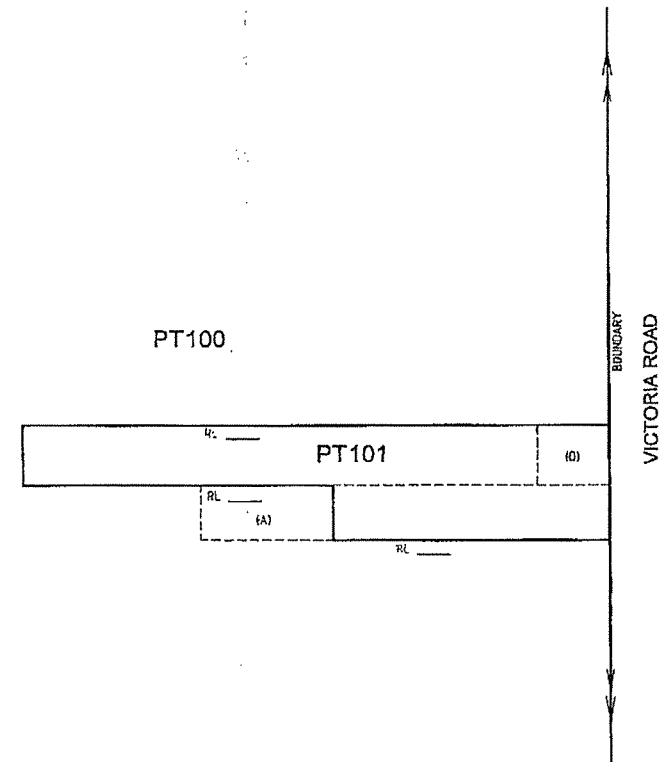
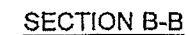
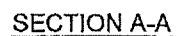
LGA: RYDE
 Locality: GLADESVILLE
 Subdivision No: -
 Lengths are in metres Reduction Ratio 1:250

Registered:

DP DRAFT

ISSUE D 21-10-13 RMS SUBMISSION

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(A) EASEMENT FOR ACCESS VARIABLE WIDTH
(B) EASEMENT FOR USE OF LOADING DOCK VARIABLE WIDTH
(C) RIGHT OF FOOTWAY LIMITED IN STRUTUM
(D) EASEMENT FOR PUBLIC ACCESS OVER PLAZA AND PATHWAYS VARIABLE WIDTH LIMITED IN STRUTUM
(E) EASEMENT FOR SUPPORT OF ROAD 8' WIDE AND VARIABLE WIDTH

Surveyor: JOSEPH MONARDO
Date of Survey:
Surveyor's Ref: 33351-34196ST

PLAN OF SUBDIVISION OF PROPOSED LOT 10

LGA: RYDE
Locality: GLADESVILLE
Subdivision No: -
Lengths are in metres Reduction Ratio 1 200

Registered:

DP DRAFT

ISSUE D 21-10-13 RMS SUBMISSION

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Annexure I Design Program

Phase 1: **Landscape Plan** submitted as part of the Development Application

Phase 2: **Detailed Design of the Works**

Comprises design detail of the Works sufficient for the preparation and lodgement of a Construction Certificate for the Works.

Commences upon receipt of an acceptable Development Consent for the Development.

Annexure J Scope of Works

1 Road Works

The general extent of New Lane is shown on the plan at Annexure H.

The general Scope of the Road Works is:

- Reconstruct subgrade and road pavement to Council requirements, over constructed basement, and suitable for appropriate traffic loadings; and
- Construct kerb and gutter to Council requirements; and
- Construct footpath to Council's requirements; and
- Install lighting and new electrical supply along New lane
- Procure and install signage in New Lane.
- All work will be carried out in accordance with Council's reasonable requirements, the Building Code of Australia, applicable NSW Codes of Practice, and applicable and relevant Service Codes.

As part of the design of the Road Works, the Developer will be required to provide certification from an appropriately qualified person that any structures built in the stratum underneath the Road Works have been designed and will be constructed to support the weight and load of New Road.

2 Plaza Works

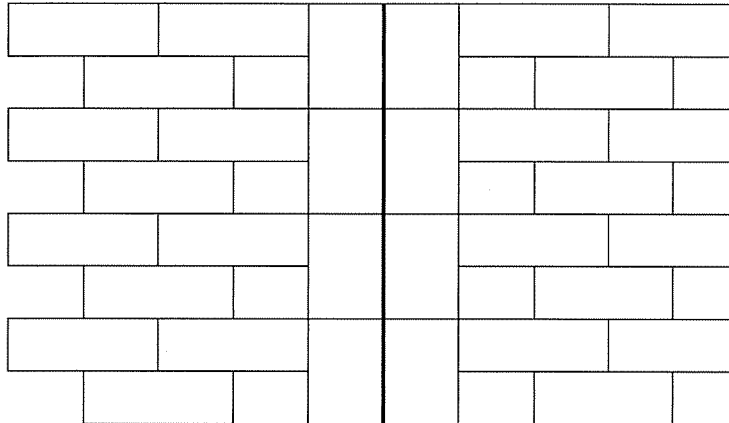
The general extent of the Plaza Works is shown on the plan at Annexure A.

The general scope of the Plaza Works is:

- The plaza area will include granite paving, stormwater drainage, electrical services, lighting, planting and landscaping.
- All work will be carried out in accordance with Council's requirements, RMS requirements where applicable, the Building Code of Australia, applicable NSW Codes of Practice, and applicable and relevant Service Codes.

The paving design for the Plaza Works will be in accordance with the sketch below.

**Preferred Pattern to mask delayed stage
construction
Boundary line in
Bold**



Note that central pavers either side of central property line are parallel to the boundary line. This pattern is to be continued from the top of the stairs to the boundary of the soft landscaped area bordering the left slip lane from Victoria Road into Meriton Street.

Any balustrade/handrail installed as a temporary measure by a developer, pending completion of the adjoining part of the Plaza by the adjoining owner, is to be placed on the pavers parallel to the boundary line on the developer's land

3 Streetscape Works

The general Scope of Works for the Streetscape Works is shown on the plan at Annexure F. Broadly they are defined as follows:

- Reconstruct footpath along Meriton Street from Victoria Road to Meriton Street, to Council and RMS requirements; and
- Construct granite paving to Council's requirements; and
- Make good Meriton Street kerb and gutter to Council and RMS requirements if necessary; and
- Supply and install street trees to Council's specification and generally in accordance with the attached Landscape Plan; and
- Procure and install traffic signs, as required by RMS, for Meriton Street and slip lane;
- As necessary, make good or construct new, stormwater drainage, electrical services, and street lighting.

- All work will be carried out in accordance with Council's requirements, RMS requirements where applicable, the Building Code of Australia, applicable NSW Codes of Practice, and applicable and relevant Service Codes.

A handwritten signature in black ink, consisting of a stylized 'R' followed by a horizontal line.A handwritten signature in black ink, appearing to be 'Y. Meng'.