

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 10/1204873		
(C) REGISTERED DEALING	Number	Torrens Title	
(D) LODGED BY	Document Collection Box	Name, Address or DX, Telephone, and Customer Account Number if any Reference (optional):	CODE R
(E) APPLICANT	CTH STREET PTY LIMITED ACN 163 234 464		
(F) NATURE OF REQUEST	Registration of planning agreement pursuant to section 93H of the Environmental Planning and Assessment Act 1979 (NSW)		
(G) TEXT OF REQUEST	The Applicant requests that the attached voluntary planning agreement between The Council of the City of Ryde and Cth Street Pty Limited ACN 163 234 464 as trustee for the Cth Street Unit Trust be registered		

DATE / /

(H) 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: CTH STREET PTY LIMITED ACN 163 234 464
Authority: Section 127(1) of the Corporations Act 2001

Signature of authorised person:

Signature of authorised person:

Name of authorised person:
Office held:

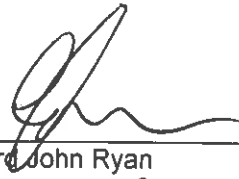
Name of authorised person:
Office held:

(I) *This section is to be completed where a notice of sale is required and the relevant data has been forwarded through eNOS.*

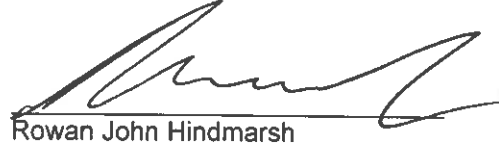
The applicant's solicitor certifies that the eNOS data relevant to this dealing has been submitted and stored under eNOS ID No. Full Name: Signature:

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

Signed by Gerard John Ryan and Rowan John Hindmarsh as Attorneys for **Cth Street Pty Limited ACN 163 234 464**, under Power of Attorney dated 24 March 2015 in the presence of:



Gerard John Ryan



Rowan John Hindmarsh


Signature of witness

ANVA CUNYAKI
Print Name

10/71 CONSTITUTION AVENUE
Address
CAMPBELL AVE 2612

By executing this document each Attorney states that the Attorney has received no notice of revocation of the Power of Attorney

Planning Agreement

The Council of the City of Ryde Council
ABN 81 621 610

Cth Street Pty Limited ACN 163 234 464 as trustee
for the Cth Street Unit Trust ABN 75 793 149 020

A handwritten signature in black ink, appearing to be 'N. J. P.', located in the bottom right corner of the page.

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Agreement

Date 9/4/2015

Parties

First party

Name The Council of the City of Ryde Council
(Council)
ABN 81 621 292 610
Contact The Development Contributions
Coordinator

Second party

Name Cth Street Pty Limited ACN 163 234 464
as trustee for the Cth Street Unit Trust
ABN 75 793 149 020 (Land Owner)

Background

- A. At the time of entering into this Agreement, the Land Owner is the owner of the Land.
- B. Hindmarsh Development Australia Pty Limited has received the Development Consent to carry out the Development on the Land. On completion of the contracts to acquire the Land, Hindmarsh Development Australia Pty Limited will assign its rights and obligations under the Development Consent.
- C. This Agreement records an irrevocable offer by the Land Owner and, on the date this Agreement commences to operate, constitutes an agreement between the Land Owner 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 One Wharf Development Pty Limited ACN 164 783 327.

Adjoining Land means the land described in Folio Identifier A/85916 adjacent to the western boundary of the Land, as shown on the plan at Annexure C, and parts of adjoining roads to be acquired by the Adjoining Landowner.

Adjoining Landowner means the registered proprietor of the Adjoining Land from time to time, being at the time of this Agreement Hilda Chiming Cheong, Joseph Fook Yan Cheong and Windesea Build Pty Ltd;

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 a documentary performance bond that must:

- (a) be an unconditional undertaking;
- (b) be denominated in Australia dollars;
- (c) be signed and issued by an Australian Prudential Regulation Authority (APRA) regulated and authorised deposit taking institution or an insurer authorised by APRA to conduct new or renewal insurance business in Australia;
- (d) have at all times an investment grade security rating from any industry recognised rating agency of at least:
 - (i) BBB + (Standard & Poors and Fitch);
 - (ii) Baa1 (Moody's); or
 - (iii) Bb (Bests);
- (e) have no expiry or end date;
- (f) have the beneficiary as the Council;
- (g) be irrevocable;

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- (h) state either individually, or in total with other lodged compliant forms of Guarantee, the relevant minimum amount required to be lodged as security in accordance with clause 11 of this Agreement; and
- (i) state the purpose of the deposit required in accordance with this Agreement;

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;

Construction PPI means the Producer Price Index published by the Australian Bureau of Statistics and known as "6427.0 Producer Price Indexes, Table 17, Index 30, Building Construction NSW, A2333670L" or its equivalent index as may be determined by the Australian Bureau of Statistics from time to time;

Contributions means the public benefits to be provided by the Landowner in accordance with clause 6.

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 as originally approved under the Development Consent;

Development Consent means development consent LDA2013/0220 as modified in accordance with an application made under section 96 of the Act lodged on 23 December 2014 and, for the purposes of this Agreement, excludes any other modifications that may alter the nature or value of the Contributions to be provided for the Development, unless agreed between the parties;

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 11 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;

Index means the latest quarter index for the Construction PPI,

Insolvent means the occurrence of any of the following:

- (a) a party is liquidated, whether compulsorily or voluntarily (other than for the purpose of amalgamation or reconstruction whilst solvent);
- (b) a party becomes unable to pay its debts as they fall due;
- (c) a party enters into any arrangement with creditors;
- (d) a party becomes subject to external administration within the meaning of Chapter 5 of the *Corporations Act 2001* (Cth), including having a receiver or administrator appointed over all or any part of its assets; or
- (e) anything analogous (such as analogous bankruptcy processes) or having a substantially similar effect to the events specified in clauses (a) to (d) above occurs in relation to a party, including the court appointment of a receiver.

Land means the land upon which the Development will be undertaken being Folio Identifier 10/1204873 (formerly 1/445440, 2/445440, 2/9135, 1/437223, 1/9135, 2/1196667 and 3/1196667).

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 \$114,583.64 inclusive of GST (as applicable).

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 Road means the part of Pearson Lane along the southern boundary of the Land, including the footpath along Pearson Lane, to be re-constructed as part of the Development and if required in the Detailed Design will include the upper stratum of the land on which the road and new footpath are re-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 Land Owner 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;

Private Certifier means a certifier nominated by the Land Owner to certify that the Part Plaza Works has achieved Practical Completion.

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 blue 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 part Lot 1 DP 1204873, formerly Lot 2 and Lot 3 in DP1196667;

Road Works means the works to re-construct the New Road;

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 plan; and

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 Land Owner will carry out the Whole 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 Land Owner that Council or a Private Certifier accepts Practical Completion has been achieved 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 Land Owner 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 the issue of any Occupation Certificate for the Development but, in any event, prior to any occupation of 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 Land Owner 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 Land Owner that Council accepts Practical Completion has been achieved 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 Land Owner 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 the issue of any Occupation Certificate for the Development, but, in any event, prior to any occupation of 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 Land Owner acknowledges and accepts up until any release and discharge of this Agreement in accordance with clause 8, the Land Owner will be solely responsible for the ongoing maintenance and repair of the Public Access Areas and the Land Owner will carry out any maintenance or repair work to the Public Access Areas if directed to do so by the Council.
- (b) The Land Owner 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 Land Owner 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; and
 - (ii) a right to use the accessible toilet and the access path and corridor to the accessible toilet, provided in the building as shown on the plan at Annexure K, 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 accessible toilet and carry out any maintenance or repair work to the Public Access Areas and accessible toilet if directed to do so by the Council (acting reasonably);

- (ii) maintain public liability insurance covering the use of the Public Access Areas and accessible toilet as determined by the Owners Corporation; and
 - (iii) ensure that any rules made by an Owner's Corporation relating to the Public Access Areas and accessible toilet 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 Land Owner 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 Land Owner 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, but, in any event, prior to occupation of the Development.
 - (g) The parties agree that the covenant and the easement in gross over the Public Access Areas and accessible toilet 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 Land Owner will carry out the Road Works in accordance with the Implementation Terms.
- (b) The Road Works will be taken to have been delivered for the purposes of this Agreement when:
 - (i) Council issues a notice to the Land Owner that Council accepts Practical Completion has been achieved 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 Land Owner 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 the New Road 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(d), the Land Owner will dedicate, at no cost to Council, the New Road as a public road under the *Roads Act 1993*.
- (e) Dedication of the New Road 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 the New Road; and
 - (ii) the Land Owner establishes in writing to Council that the approved Stratum Plan and any other plans or documents required to effect the dedication of the New Road to Council as a public road under the *Roads Act 1993* have been registered on the title to the Land.
- (f) The Land Owner must lodge with LPI the Stratum Plan and relevant instruments required to dedicate the New Road as a public road in accordance with clause 6.4(e) prior to the issue of any Occupation Certificate for the Development but, in any event, prior to occupation of the Development.
- (g) The parties agree that the Road Works and the dedication of the New Road 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 Land Owner will pay the Monetary Contribution to Council.
- (b) At least twenty four (24) hours prior to payment of the Monetary Contribution, the Land Owner must notify the Council that it proposes to pay the contribution and provide the Council with reference details for the payment.
- (c) 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.
- (d) The Monetary Contribution must be made prior to the issue of any Construction Certificate for the Development.
- (e) 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 Council's discretion, provided that the repair and renovation of the Heritage Item is attended 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 Owner's Interest

The Land Owner represents and warrants that on the date this Agreement is executed by both parties it is the registered proprietor of the Land.

8.2 Registration of this Agreement

- (a) The Land Owner must on execution of this Agreement, produce to the Council together with this Agreement for execution by the Council:
 - (i) documents in registrable form establishing that each person who has an estate or interest in the Land registered under the Real Property Act 1900 agrees to the registration of this Agreement;
 - (ii) details of the production of the Certificate of Title to LPI for a mortgagee or by the Land Owner for the purposes of registration of this Agreement; and
 - (iii) a bank cheque for payment of the relevant registration fees.
- (b) Subject to clause 8.2(a), the Council will lodge this Agreement for registration on the relevant folios of the Register as soon as reasonably practicable, but in any event no later than 15 Business Days after the execution of this Agreement by the parties.
- (c) The Land Owner must promptly comply with any Requisition that may be raised with regard to registration of this Agreement from LPI.
- (d) The Council will notify the Land Owner following registration of this Agreement by Council and forward the Land Owner's copy of the Agreement to it.

8.3 Release and discharge

- (e) From time to time, the Land Owner 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.
- (f) The Council agrees to provide a release and discharge of this Agreement in accordance with any request made by the Land Owner under clause 1.1(e) 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 paid to Council 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 Stratum 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 Owner 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 Owner acknowledges and agrees that:
 - (i) when this Agreement is executed, Council is deemed to have acquired, and the Land Owner 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 lodge a withdrawal of any caveat in respect of the Land at the same time as lodging this Agreement for registration under clause 8.2(b) so that the withdrawal of the any caveat will take effect on the registration of this Agreement.
- (c) If this Agreement is assigned in accordance with clause 14, Council must within 10 Business Days of the Land Owner giving notice to Council, provide to the Land Owner either a consent to register a transfer to the third party or a withdrawal of caveat to permit registration of the transfer.

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 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 Land Owner; 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 Land Owner 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 as identified in Part 2 of Schedule 1, increased (but not decreased) annually from the date of this Agreement to the date of the Bank Guarantee or Bond in accordance with the Construction PPI;
 - (ii) Streetscape Works Bank Guarantee / Bond – the sum being \$453,653.00 increased (but not decreased) annually from the date of this Agreement to the date of the Bank Guarantee or Bond in accordance with the Construction PPI; and
 - (iii) Road Works Bank Guarantee / Bond – the sum being \$155,000.00 increased (but not decreased) annually from the date of this Agreement to the date of the Bank Guarantee or Bond in accordance with the Construction PPI.

- (b) Two (2) years from the date of the Bank Guarantee or Bond provided under clause 11.1 and thereafter every (2) years, the Land Owner must provide Council with one or more replacement Bank Guarantees or Bonds in the sum equivalent to the amount of the Bank Guarantees or Bonds to be replaced, increased (but not decreased) annually from the date of the original Bank Guarantee or Bond in accordance with the Construction PPI based on the Index applicable at the date of the replacement Bank Guarantee or Bond to be provided to Council. On receipt of such replacement Bank Guarantees or Bonds, the Council must release and return to the Land Owner, as directed, any Bank Guarantees or Bonds which it holds that have been replaced.
- (c) If at any time following the provision of a Bond under clause 11, the investment grade security rating for the Bond is reduced so that it is not at least:
 - (i) BBB + (Standard & Poors and Fitch)
 - (ii) Baa1 (Moody's); or
 - (iii) Bb (Bests)the Land Owner must provide Council with one or more replacement Bonds in the sum equivalent to the Bond to be replaced, which replacement Bonds must, for the avoidance of doubt, have an investment grade security rating equivalent to or better than those specified in clause 11.1(c)(i) to (iii) above.
- (d) At any time following the provision of a Bank Guarantee or Bond, the Land Owner 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 Land Owner, as directed, any Bank Guarantees or Bonds which it holds that have been replaced.
- (e) If the Council calls on a Bank Guarantee or Bond in accordance with this Agreement, the Council may, by notice in writing to the Land Owner, require the Land Owner 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), increased in accordance with clause 11.1(b).
- (f) 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.
- (g) For the avoidance of doubt, the Land Owner 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(f).

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 Land Owner 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 Land Owner to carry out the Works.
- (b) If the Council considers (acting reasonably) that the Land Owner has failed to comply with its obligations to carry out the Works, Council may give to the Land Owner a notice stating that the Land Owner has failed to comply with its obligations to carry out the Works and requesting the Land Owner to rectify the non-compliance within three (3) months from the date of receipt of the notice by the Land Owner.
- (c) If the Land Owner fails to rectify the non-compliance within 3 months in accordance with the notice referred to in clause 11.2(b), Council must prior to entering the Land to exercise its rights under clause 11.2(c), give 20 Business Days notice to the Land Owner and any mortgagee in relation to the Land of its intention to enter the Land.
- (d) If the Land Owner and/or the mortgagee in relation to the Land does not rectify the non-compliance within 20 Business Days from the date of the notice referred to in clause 11.2(c), the 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 Land Owner by calling upon the Bank Guarantees or Bonds provided under clause 11.1 and / or as a debt due to the Council by the Land Owner.
- (e) If:
 - (i) the Land Owner is or becomes Insolvent; or
 - (ii) after the Land Owner has commenced construction of any part of the Works, the work ceases for a period of not less than six months as a result of a dispute with the Builder or any other cause other than the agreed works program,

Council must prior to entering the Land to exercise its rights under clause 11.2(f), give 20 Business Days notice to the Land Owner and any mortgagee in relation to the Land of its intention to enter the Land.

- (f) If the Land Owner and/or the mortgagee in relation to the Land does not commence construction or rectify the Insolvency (as the case may be) within 20 Business Days from the date of the notice referred to in clause 11.2(e), the 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 Land Owner by calling upon the Bank Guarantees or Bonds

provided under clause 11.1 and / or as a debt due to the Council by the Land Owner.

- (g) Despite any other provision of this clause 11.2, if the Council considers (acting reasonably) that the Land Owner has failed to comply with its obligations to carry out the Works and as a result works are required to minimise or remove a risk to public health or safety, Council may with its employees, workmen, contractors and consultants, without further notice to the Land Owner or any other person with an interest in the Land, 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 Land Owner by calling upon the Bank Guarantees or Bonds provided under clause 11.1 and/or as a debt due to the Council by the Land Owner.
- (h) In the event the Council exercises its rights to enter the Land and carry out any works on the Land under clauses 11.2(d) or 11.2(f):
 - (i) the Land Owner consents to the Council, its employees, agents, contractors and consultants entering the Land and carrying out any works on the Land necessary to complete the Works or part of the Works and grants an unconditional licence to the Council, its employees, agents, contractors and consultants to access the Land for that purpose; and
 - (ii) Council must ensure all of its employees, agents, contractors and consultants comply with the *Work Health and Safety Act 2011* and any corresponding regulations (as amended from time to time).
- (i) Nothing in this clause 11 prevents or restricts the Council from taking any enforcement action in relation to:
 - (i) any obligation of the Land Owner 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 Land Owner to carry out the Works except to the extent such liability, loss, cost, charge or expense arises or is incurred directly or indirectly by Council's negligence or breach of this Agreement,

that is not or cannot be satisfied by calling on a Bank Guarantee or Bond.

11.3 Part 4A Certificates under the Act

- (a) For the purposes of section 109F(1) of the Act and clause 146A of the Regulation, the Land Owner 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 Land Owner 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 Land Owner 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 *Compulsory Acquisition*

- (a) If:
 - (i) the Land Owner completes the Road Works and does not transfer the New Road in accordance with clause 6.4 of this Agreement after Council giving to the Land Owner and any registered mortgagee 10 Business Days written notice of the failure to transfer the New Road; or
 - (ii) the Council exercises its rights to enter the Land and carry out works under clause 11.2 after having given any notice required under that clause; or
 - (iii) the Development Consent lapses, is surrendered or declared invalid by a Court; or
 - (iv) this Agreement is declared invalid by a Court;

the Council may compulsorily acquire any land comprising part of the New Road and any easements necessary for Council to carry out the Road Works and complete the construction of the New Road in accordance with the *Land Acquisition (Just Terms Compensation) Act 1991* (NSW).

- (b) For the purpose of clause 11.5(a), the compensation payable for the compulsory acquisition of the land or interests in land will be:
 - (i) in the circumstances set out in clause 11.5(a)(i), \$1.00; or
 - (ii) in the circumstances set out in clause 11.5(a)(ii), 11.5(a)(iii) or 11.5(a)(iv), \$148,050.00 less any fees and costs incurred by Council in undertaking the compulsory acquisition, which fees and costs may include any fees or costs incurred in removing

plant, equipment or other items from the land and must not exceed \$50,000.00.

- (c) If:
- (i) the Land Owner fails to register the easement in gross required under clause 6.3 after Council gives to the Land Owner and the mortgagee 10 Business Days written notice of the failure to register the easement;
 - (ii) the Development Consent lapses, is surrendered or declared invalid by a Court; or
 - (iii) this Agreement is declared invalid by a Court;
- the Council may compulsorily acquire the interest required to be granted to the Council under clause 6.3 in accordance with the *Land Acquisition (Just Terms Compensation) Act 1991* (NSW) for the amount of \$1.00.
- (d) Subject to clause 11.5(b)(ii), the Land Owner must reimburse the Council, promptly on demand, an amount equivalent to all reasonable costs incurred by the Council in issuing any notice or acquiring any land or easement pursuant to this clause 11.5 including any taxes or stamp duty.
- (e) The Land Owner indemnifies and agrees to keep indemnified the Council against:
- (i) all Claims made against the Council if the Council must pay compensation under Part 3 of the *Land Acquisition (Just Terms Compensation) Act 1991* (NSW) to any other person, other than the Land Owner, in respect of the compulsory acquisition of any land or easement undertaken in accordance with this clause 11.5; and
 - (ii) all Claims arising from work undertaken by or on behalf of the Land Owner on the Road Land, land adjoining the Road Land or on the land subject to the easement in gross required under clause 6.3 prior to the compulsory acquisition of that land or easement under this clause 11.5, except to the extent that any damage or loss has been caused by any act or omission of the Council,
- (f) The Land Owner and the Council agree that:
- (i) clause 11.5(a) and clause 11.5(c) constitute an agreement or agreements between the Land Owner and the Council for the purpose of section 30 of the *Land Acquisition (Just Terms Compensation) Act 1991* (NSW); and
 - (ii) in clauses 11.5(b), 11.5(c) and 11.5(e), the Land Owner and the Council have agreed on all relevant matters concerning the compulsory acquisition and the compensation to be paid for the acquisition; and
 - (iii) that clauses 11.5 and 11.6 of this Agreement do not merge on completion or termination of this Agreement

- (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 Land Owner 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 Land Owner defaults on the mortgage and the mortgagee takes possession of the Land.

14.3 *Transfer of Land*

- (a) Subject to clause 14.4, the Land Owner 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 Land Owner satisfies Council that the proposed Transferee is financially capable of complying with the Land Owner's obligations under this Agreement;
- (ii) the Land Owner 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 Land Owner under this Agreement; and
- (iv) any default by the Land Owner under any provisions of this Agreement has been remedied by the Land Owner or waived by the Council on such conditions as the Council may determine (acting reasonably);
- (v) the Land Owner and the Transferee pay the Council's reasonable costs in relation to the assignment; and
- (vi) the Transferee has provided to the Council Bank Guarantees or Bonds to replace those provided by the Land Owner in accordance with this Agreement.

14.4 *Assignment permitted*

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

- (a) if the Land is transferred in accordance with clause 14.3; or
- (b) the assignee is a Related Body Corporate of the Land Owner, provided:
 - (c) the Land Owner gives the Council at least 5 Business Days' notice prior to the assignment; and
 - (d) provides the Council with a copy of all documents giving effect to the assignment within 5 Business Days after the assignment occurs; and
 - (e) the assignee has provided to the Council Bank Guarantees or Bonds to replace those provided by the Land Owner in accordance with this Agreement.

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.

16.6 Legal expenses and stamp duty

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

16.7 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.

16.8 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 16.8(b)(i) or (ii) applies.

16.9 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.

16.10 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.

16.11 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.

16.12 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.

If GST is imposed on any supply made under or in accordance with this Agreement, the Land Owner 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) Subject to clause 1.4 below, the Land Owner 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 Owner has used its 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 Owner has not reached an agreement with the Adjoining Landowner and the Adjoining Developer for the construction of the Whole Plaza Works.
- (c) If the Land Owner provides the Council with the notice required under condition 104(c) of the Development Consent, electing to carry out only the Part Plaza Works in accordance with the conditions of the Development Consent, the Land Owner must carry out the Part Plaza Works.
- (d) The Land Owner 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 Land Owner elects to carry out the Part Plaza Works in accordance with clause 1.1(c) of Schedule 1 and the conditions of the Development Consent and the Adjoining Plaza Works have not commenced then subject to clause 1.4 below, the Land Owner must carry out the Adjoining Temporary Works.
- (b) If the Land Owner elects to carry out the Part Plaza Works in accordance with clause 1.1(c) of Schedule 1 and the conditions of the Development Consent but the Adjoining Landowner and/or the Adjoining Developer has commenced construction on the Adjoining Land, the Land Owner will not be required to undertake the Whole Plaza Works or the Adjoining Temporary Works.
- (c) The Land Owner must maintain and repair, at the Land Owner's cost, the Adjoining Temporary Works to the reasonable satisfaction of the Council, until the Adjoining Plaza have commenced.
- (d) The Land Owner 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 has carried out Temporary Works on the Plaza Land because of any arrangement relating to the Adjoining Plaza Works, the Land Owner must, at the Land Owner'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.

1.4 Land Owner not required to undertake Whole Plaza Works or Adjoining Temporary Works

- (a) If the Land Owner elects to carry out the Part Plaza Works in accordance with clause 1.1(c) of Schedule 1 and the conditions of the Development Consent but the Adjoining Landowner and/or the Adjoining Developer has commenced construction on the Adjoining Land, the Land Owner will not be required to undertake the Whole Plaza Works or the Adjoining Temporary Works.

2 Monetary Contribution

Works Cost Contribution

50% Plaza costs allocation	\$546,556.53
New Road, footpath (including land) Accessible toilet Pearson Lane maintenance value	\$262,513.22
	\$15,527.00
	\$14,763.00
Public Benefits - Works	\$839,359.75

Cash Contribution

S94 Liability at 23/04/14 rates	\$781,920.81
Shortage (S94- Works)	-\$68,015.49
VPA Contribution 22% in excess of S94	\$172,022.58
Public Benefits - Cash	\$114,583.64

Total

TOTAL - WORKS + CASH VPA CONTRIBUTION	\$953,943.39
--	---------------------

Reconciliation

S94 Liability at 24/7/13 rates	\$781,920.81
VPA Contribution is excess of S94 Liability	\$172,022.58
Excess Contribution as percentage of VPA	22%

Note: No CPI increase shall be applied to the Monetary Contribution or to the estimated cost of works as set out in this table, so that the monetary contribution is fixed

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 being 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 of 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 Land Owner 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 Land Owner requires any Approvals in order to carry out the obligations under this Agreement, then:
 - (i) the Land Owner will acquire all Approvals necessary to carry out the Works at its own cost; and
 - (ii) the Council will give the Land Owner a reasonable period to obtain such Approvals and agree to vary any time provisions in this Agreement accordingly.
- (c) The Land Owner 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 Land Owner'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 Land Owner.

4 Design Development and Approvals

4.1 *Concept Design*

Council and the Land Owner 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 Detailed Design must be approved by Council in accordance with this clause 4.2 of Schedule 2, prior to the issue of any Construction Certificate for the Works.
- (b) The Land Owner must provide a copy of the draft Detailed Design to the Council.
- (c) Within 20 Business Days of receiving the Detailed Design, Council will respond to the Land Owner with any suggested amendments to the draft Detailed Design.
- (d) Council and the Land Owner 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.

- (e) 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(c) 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 Land Owner 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 Land Owner 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.
- (f) The parties may agree to an extension of the time for completion of Phase 2 of the Design Program.
- (g) 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 Land Owner 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 consequences of requirements imposed by another Authority.
- (c) The Variation Costs to be paid by Council in accordance with clause 4.3(b) must be paid to the Land Owner within 5 Business Days after delivery by the Land Owner 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 Land Owner 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 Land Owner 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 *Land Owner's Variations*

- (a) The Land Owner 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 Land Owner 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 Land Owner 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*

The Land Owner 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 Land Owner 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 in relation to the Detailed Design agreed by Council and the Land Owner in accordance with either clauses 4.3(c) or 4.3(d) (as the case may be).
- (c) The Land Owner will obtain the standards and specifications from Council if the Council fails to deliver them to the Land Owner.

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 Land Owner, the Builder and the Project Certifier;
 - (iii) complying with all reasonable directions of the Land Owner, 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 Land Owner of any defect or non-compliance in the Works and direct the Land Owner 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 Land Owner is issued a direction to carry out further work under clause 6(b) of this Schedule 2, the Land Owner must, at the Land

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

- (d) If the Land Owner 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 Council's standards and specifications set out in Schedule 3 and in relation to the Detailed Design agreed by Council and the Land Owner 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 Land Owner 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) If Council gives to the Land Owner a direction 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 within six (6) months from the date of approval of Phase 2 of the Detailed Design in accordance with clause 4 of this Schedule 2 and subject to clause 7(b) of this Schedule 2, the Land Owner must at the Land Owner's cost comply with the Council's directions in accordance with this clause 7(a) of Schedule 2.
- (b) If the Land Owner 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 Land Owner 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 in relation to the Detailed Design agreed by Council and the Land Owner in accordance with either clauses 4.2(c) or 4.2(d) (as the case may be).
- (b) The Land Owner must obtain the standards and specifications from the Council, if the Council does not deliver them to the Land Owner.

8.2 *Practical Completion*

- (a) When the Land Owner considers that the Works, or any part of the Works, are complete, the Land Owner must provide a Certificate of Practical Completion signed by the Project Certifier.
- (b) The Land Owner must:
 - (i) arrange for the Land Owner, 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; and
 - (ii) provide to the Council a site audit statement prepared by an accredited site auditor that demonstrates that the land on which the relevant Works are located is not contaminated to any extent that would make it unsuitable for the intended use of that land under this Agreement.
- (c) If Council considers that the Works meet the Council's standards and specifications provided to the Land Owner in accordance with clause 8.1(a) of this Schedule 2, Council must issue a notice to the Land Owner 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 Land Owner 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 Land Owner containing a list of further works required to be completed.
- (e) Subject to clauses 8.2(f) and 8.2(g) of this Schedule 2, the Land Owner 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 Land Owner considers the further works have been completed.
- (f) If:
 - (i) the Land Owner 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.

- (g) A Bond or Bank Guarantee equivalent to the estimated cost of the further works specified by Council in the notice under clause 8.2(d) of this Schedule 2 may be accepted by the Council in its absolute discretion, provided that:
 - (i) there is no structural fault or defect in the Works the subject of the notice,
 - (ii) the further works specified in the notice are not required urgently due to the nature of the non-compliance with Council's standards or specifications,
 - (iii) the incomplete Works the subject of the notice do not cause a danger to persons or property,
 - (iv) the incomplete Works the subject of the notice will not cause New Road, the Plaza or any other Works to be unusable,
 - (v) the further works specified in the notice will not cost more than \$40,000.00; and
 - (vi) the total cost of works outstanding at any one time and subject to a Bank Guarantee or Bond under this clause 8.2(g) of Schedule 2 must not exceed \$40,000.00.
- (h) On provision of a Bond or Bank Guarantee under clause 8.2(g) of this Schedule 2, the Works the subject of the notice under clause 8.2(d) of this Schedule 2 will be deemed to be Practically Complete, but only for the purposes of determining whether the Works have been delivered to the Council under clauses 6.1(b), 6.2(b) and 6.4(b) of this Agreement.
- (i) The Land Owner must cause the further works to be carried out and completed within three (3) months from the provision of the Bond or Bank Guarantee under clause 8.2(g) of this Schedule 2 and seek written notification from the Council that the further works have been completed.
- (j) If the further works are not completed within three (3) months from the provision of the Bond or Bank Guarantee, Council may with its employees, workmen, contractors and consultants enter any part of the Land and take all necessary steps complete the further works and may call on the Bank Guarantee or the Bond to pay for the Cost of the further works.
- (k) If the further works are completed within three (3) months from the provision of the Bond or Bank Guarantee, the Bank Guarantee or Bond must be returned to the Land Owner within 10 Business Days of the Council confirming in writing that the further works have been completed.
- (l) For the avoidance of doubt and despite anything in clause 9 of this Schedule 2, the Defects Liability Period for Works the subject of a Bond or Bank Guarantee provided under clause 8.2(g) of this Schedule 2 will commence on the date the Council notifies the Land Owner in writing under clause 8.2(i) of this Schedule 2 that the further works have been completed.

8.3 *Delivery of documents*

- (a) The Land Owner 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 Road 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 Land Owner that the Council may reasonably require; and
 - (iii) copies of all Approvals required for the occupation or use of the New Road.
- (b) The Land Owner 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 Road, provide the Council with a tour of the New Road and provide reasonable instructions on the operation and use of the Services within New Road.

8.4 *Assignment of Warranties and Causes of Action*

- (a) The Land Owner must assign (as beneficial owner) or cause to be assigned to Council the benefit of any warranties and guarantees obtained by the Land Owner 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 Land Owner 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 Land Owner'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 Land Owner a notice (**Rectification Notice**) in writing that identifies a defect in the Works and specifies:
 - (i) action required to be undertaken by the Land Owner to rectify that defect; and
 - (ii) the date on which the defect must be rectified.
- (b) The Land Owner 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 Land Owner and its contractors access to carry out the rectification works.
- (d) When the Land Owner considers that a rectification is complete, the Land Owner 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 Land Owner 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 Land Owner in writing that it is satisfied the rectification work is complete.
- (f) The Land Owner must meet all costs of and incidental to rectification of defects under this clause 9.1.
- (g) If the Land Owner 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 Land Owner, and may:
 - (i) call upon any Bond or Bank Guarantee provided by the Land Owner 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 Land Owner 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 Land Owner 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 Land Owner 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 Land Owner 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 Land Owner.
- (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 Land Owner undertakes the Works entirely at its own risk.

11 Insurance

- (a) Prior to the commencement of the construction of any of the Works, the Land Owner must ensure the Builder effects and the Land Owner 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 Land Owner 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 Land Owner indemnifies the Council, its employees, officers, agents, contractors and workmen from and against all Claims in connection with the carrying out by the Land Owner 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.

Executed as an agreement

Signed by *GAIL CONNOLLY*)
as authorised delegate for **Ryde City**)
Council in accordance with a resolution of)
the Council dated)
in the presence of:)
)
)
)
)
)

Paul Kaye
.....
Signature of Witness

G Connolly
.....
Signature of Authorised Delegate

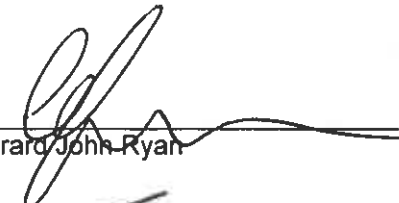
PAUL KAYE
.....
Print name of Witness

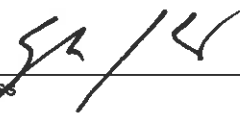
~~Executed by **Cth Street Pty Limited ACN**)
163 234 464 as trustee for the **Cth**
Street Unit Trust ABN 75 793 149 020 in
accordance with section 127 of the
Corporations Act 2001 (Cth) by:~~


.....
Signature of Director

.....
Signature of Director/Secretary

Signed by Gerard John Ryan and Rowan John Hindmarsh as Attorneys for **Hindmarsh Construction Australia Pty Limited ACN 126 578 176**, under Power of Attorney dated 24 March 2015 in the presence of:


Gerard John Ryan


Signature of witness


Rowan John Hindmarsh

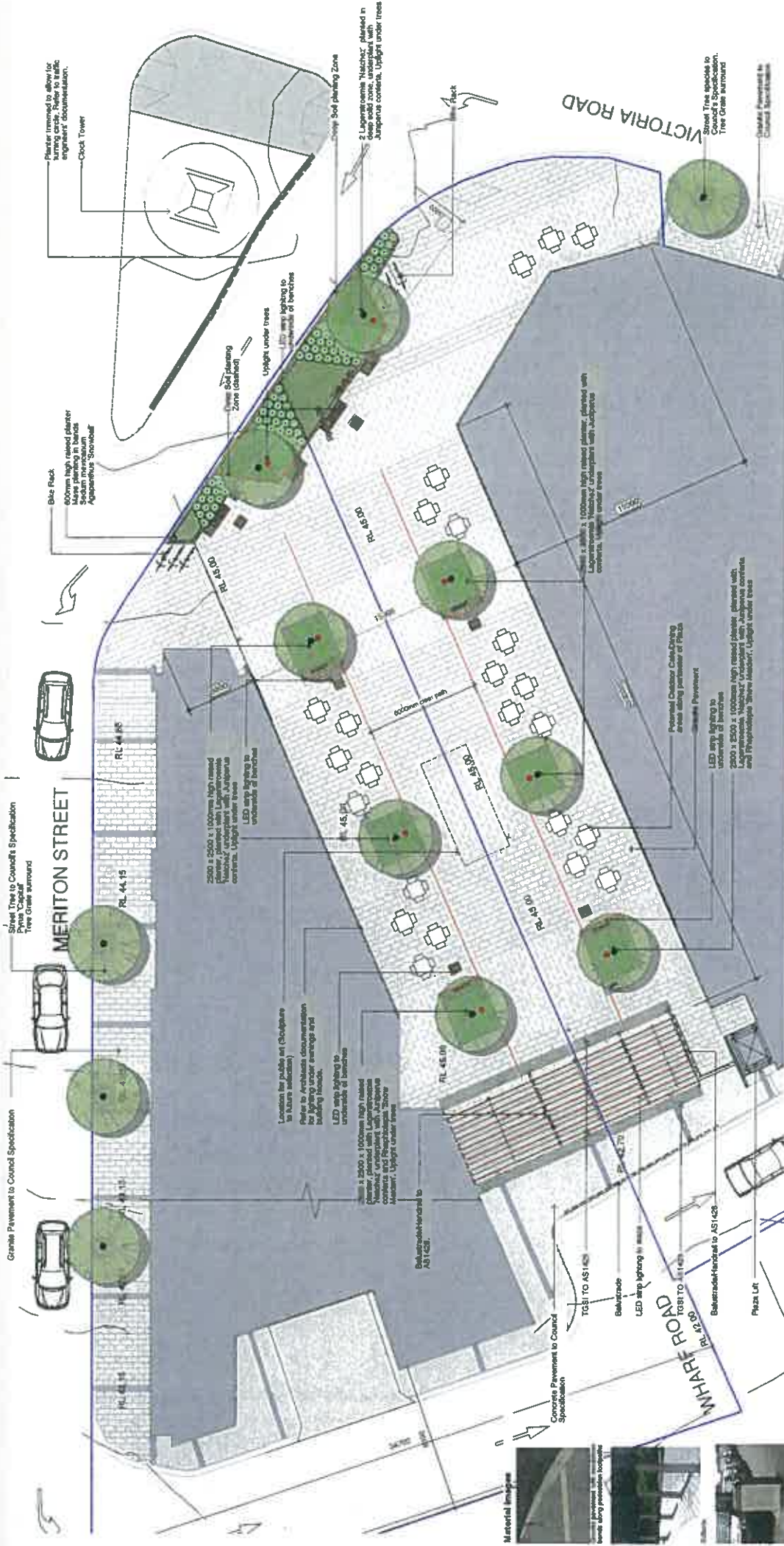
STEPHEN KENNETH MAFEE
Print Name

By executing this document each Attorney states that the Attorney has received no notice of revocation of the Power of Attorney

1/72 RICHARD AVENUE LODGE NSW 2034
Address

Annexure A

Plan showing the Plaza Works



REV	DATE	DOCUMENT STATUS/ AMENDMENTS
P7	04.00.12	FINAL DRAFT FOR DA
P8	15.10.12	ISSUE FOR DA
P9	26.02.13	Amend Planters & Tree Species - ISSUE FOR DA APPROVAL
P10	02.04.13	Amend Tree species - ISSUE FOR DA APPROVAL
P11	19.01.15	Amend Plaza LIT

PROJECT	15.8.2-10 Wheel Road GARDENVILLE NSW
CLIENT	Black Sheds Pty Ltd 63 Stella Street, Cattery Park NSW 2087
DESIGNER	black 33 Stella Street, Cattery Park NSW 2087 email: black@blacksheds.com.au
DATE	04.06.12
SCALE	1:100 @ A1
JOB NUMBER	BB 1035
JOB TITLE	Landscape Plan - Civic Plaza
JOB NUMBER	LPO2/P11

Annexure B

Plan Showing Plaza Land and Part Plaza Works

Material Images

Wharf Road Civic Plaza Design Statement

The plaza creates an attractive open space along Wharf Road and its access provides an important civic area for the local community. The plaza is designed to be a high quality, vibrant, and safe public space that will enhance the relationship between the Wharf Road and its surrounding area. The plaza is designed to be a high quality, vibrant, and safe public space that will enhance the relationship between the Wharf Road and its surrounding area.

The existing clock tower is to be retained and the plaza on a traffic island on the corner. The proposed design includes an upgrade to the traffic island including the clock tower, with new landscaping and seating. The plaza is designed to be a high quality, vibrant, and safe public space that will enhance the relationship between the Wharf Road and its surrounding area.

Consulting the layout of the clock tower for planting is important. The planting within the plaza is designed to be a high quality, vibrant, and safe public space that will enhance the relationship between the Wharf Road and its surrounding area. The plaza is designed to be a high quality, vibrant, and safe public space that will enhance the relationship between the Wharf Road and its surrounding area.

When the plaza is finished, it will be a high quality, vibrant, and safe public space that will enhance the relationship between the Wharf Road and its surrounding area. The plaza is designed to be a high quality, vibrant, and safe public space that will enhance the relationship between the Wharf Road and its surrounding area.

Vertical elements include a variety of seating and tables to be placed with the plaza. The plaza is designed to be a high quality, vibrant, and safe public space that will enhance the relationship between the Wharf Road and its surrounding area. The plaza is designed to be a high quality, vibrant, and safe public space that will enhance the relationship between the Wharf Road and its surrounding area.

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 ramp provides access to the plaza. The plaza is designed to be a high quality, vibrant, and safe public space that will enhance the relationship between the Wharf Road and its surrounding area.

Impacted the plaza design is based around the requirements of the Public Realm Act 2007. The plaza is designed to be a high quality, vibrant, and safe public space that will enhance the relationship between the Wharf Road and its surrounding area. The plaza is designed to be a high quality, vibrant, and safe public space that will enhance the relationship between the Wharf Road and its surrounding area.

Area Calculations
 Plaza area 784.0 sqm
 Clock Tower 138.0 sqm
 Meriton Street Footpath 107.1 sqm
 Pearson Lane Footpath 75.3 sqm
 New Lane Footpath 65.9 sqm
 New Lane 255 sqm
 Victoria Road Footpath 234.8 sqm

PLANT SCHEDULE
 Common Name Size (Height) (m)
 Prunus 'Candor' 200L
 Prunus 'Candor' 200L
 Prunus 'Candor' 200L
 Prunus 'Candor' 200L
 Prunus 'Candor' 200L
 Prunus 'Candor' 200L
 Prunus 'Candor' 200L
 Prunus 'Candor' 200L
 Prunus 'Candor' 200L
 Prunus 'Candor' 200L



Bench seating - LUP Cargo range



Bench seating with lighting detail - streetlights



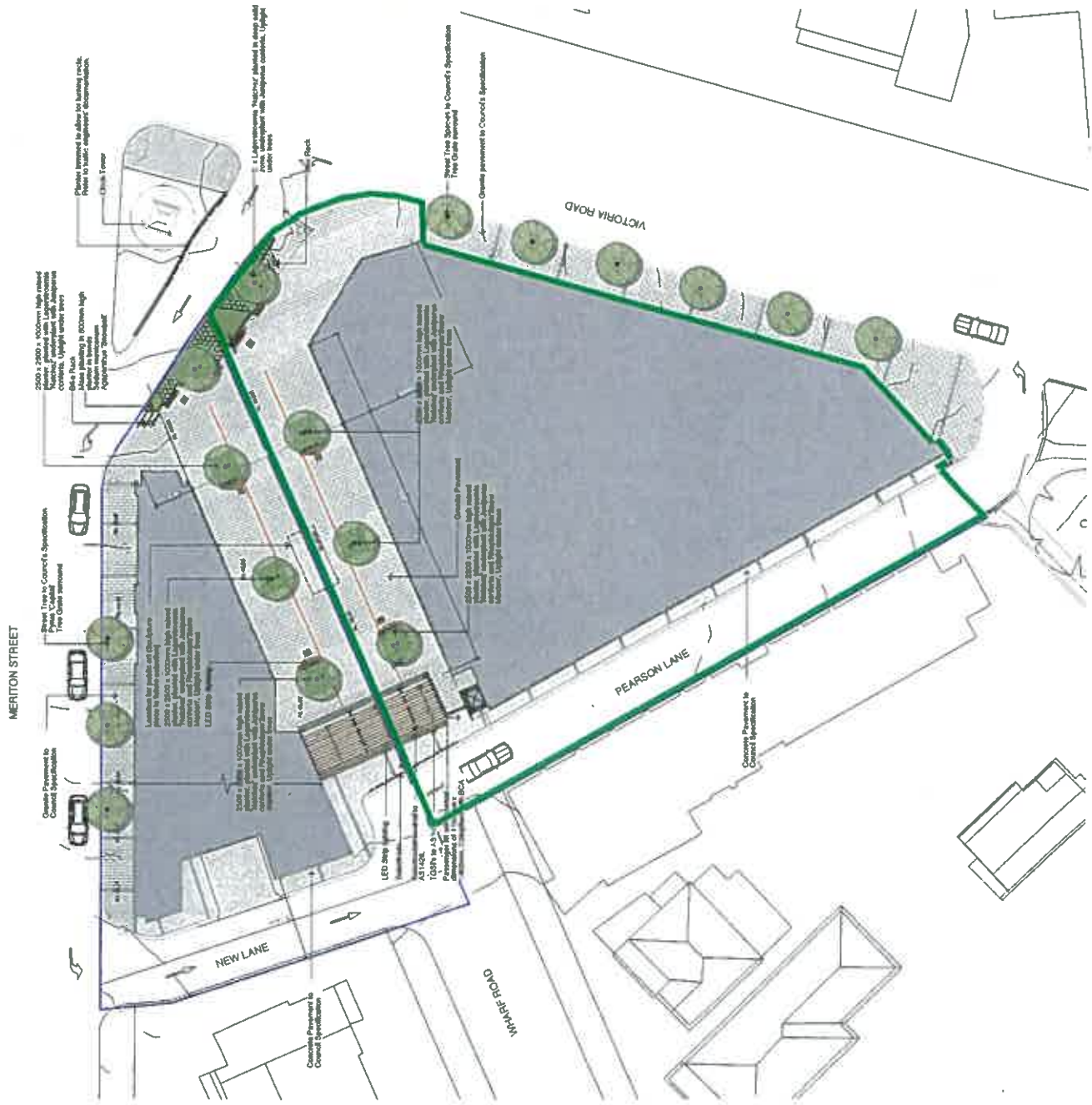
Clock tower to be set out on New Plaza



Plaza area at entrance from Wharf Road



Plaza planter



black
 63 Stille Street, Collingwood VIC 3066
 Tel: 03 9422 1044
 Email: info@blackdesign.com.au

PROJECT
 53 Stille Street / Road
 GARDENVILLE NSW

DATE
 15.07.15

SCALE
 1:200 @ A1

REVISIONS

REV	DATE	DOCUMENT STATUS/ AMENDMENTS
P7	15.07.15	FINAL DRAFT FOR DA
P8	26.02.15	ISSUE FOR DA
P9	26.02.15	Amend Planters & Tree species - ISSUE FOR DA APPROVAL
P10	02.04.15	Amend Tree species - ISSUE FOR DA APPROVAL
P11	19.07.15	Amend Plaza LR

DATE: 15.07.15
 SCALE: 1:200 @ A1

Annexure C

Plan showing Adjoining Land and
Adjoining Plaza Works

Material Images

Wharf Road Civic Plaza Design Statement

The plaza creates an attractive open space along Victoria Road and as such provides an important civic space for the local community. The plaza is designed to be a high quality, safe, and accessible public space that will enhance the surrounding area and provide a focal point for the community. The plaza is designed to be a high quality, safe, and accessible public space that will enhance the surrounding area and provide a focal point for the community.



Plant seating - UAP - Cargo range



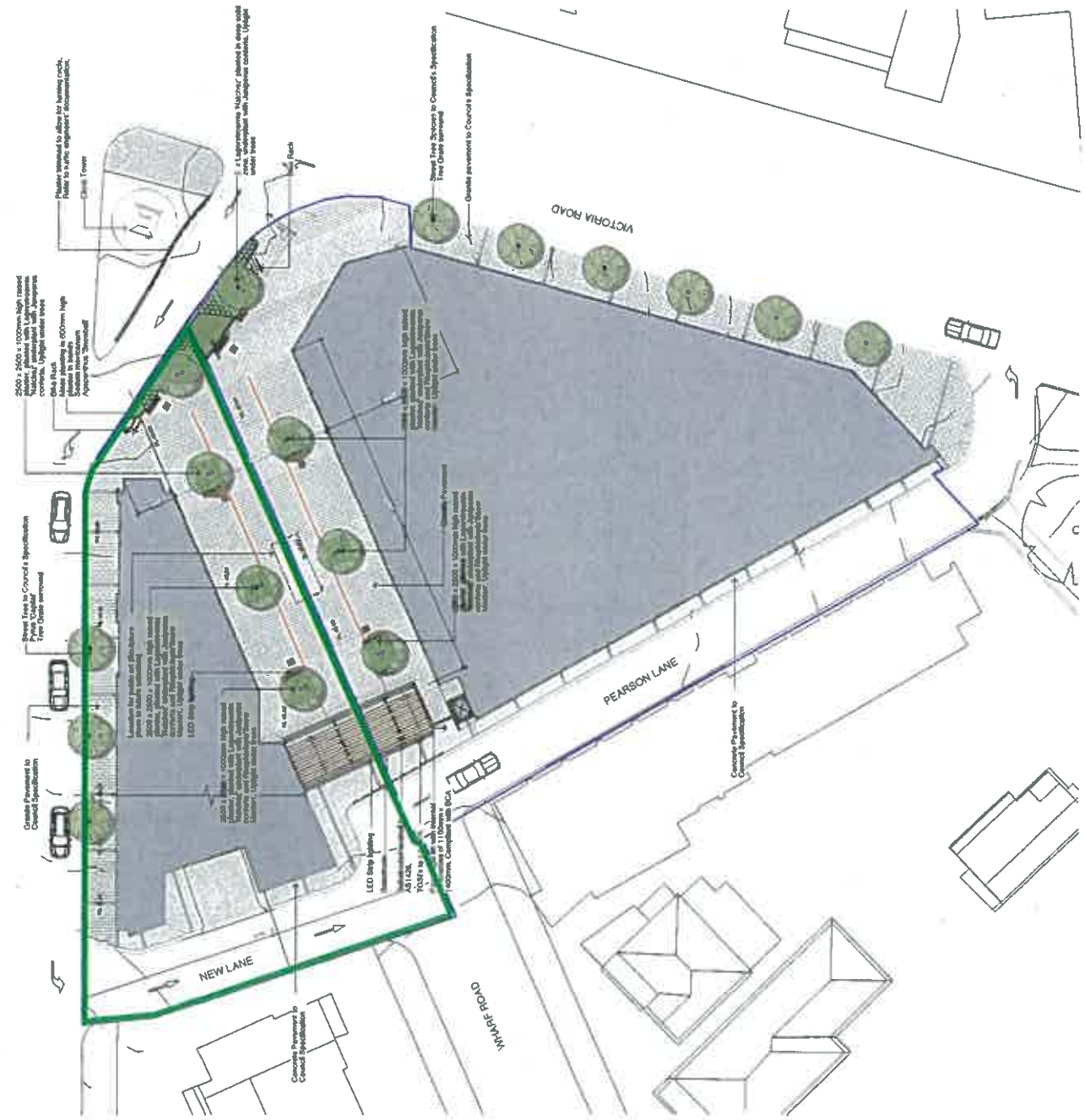
Street seating with lighting and bench



Cafe seating to suit hot and cold drinks



Plant planter



Area Calculations

Plaza area	784.0 sq.m
Meriton Street Footpath	138.0 sq.m
Pearsson Lane Footpath	107.1 sq.m
New Lane Footpath	75.3 sq.m
New Lane	65.9 sq.m
Victoria Road Footpath	235.9 sq.m
Victoria Road Footpath	234.8 sq.m

PLANT SCHEDULE

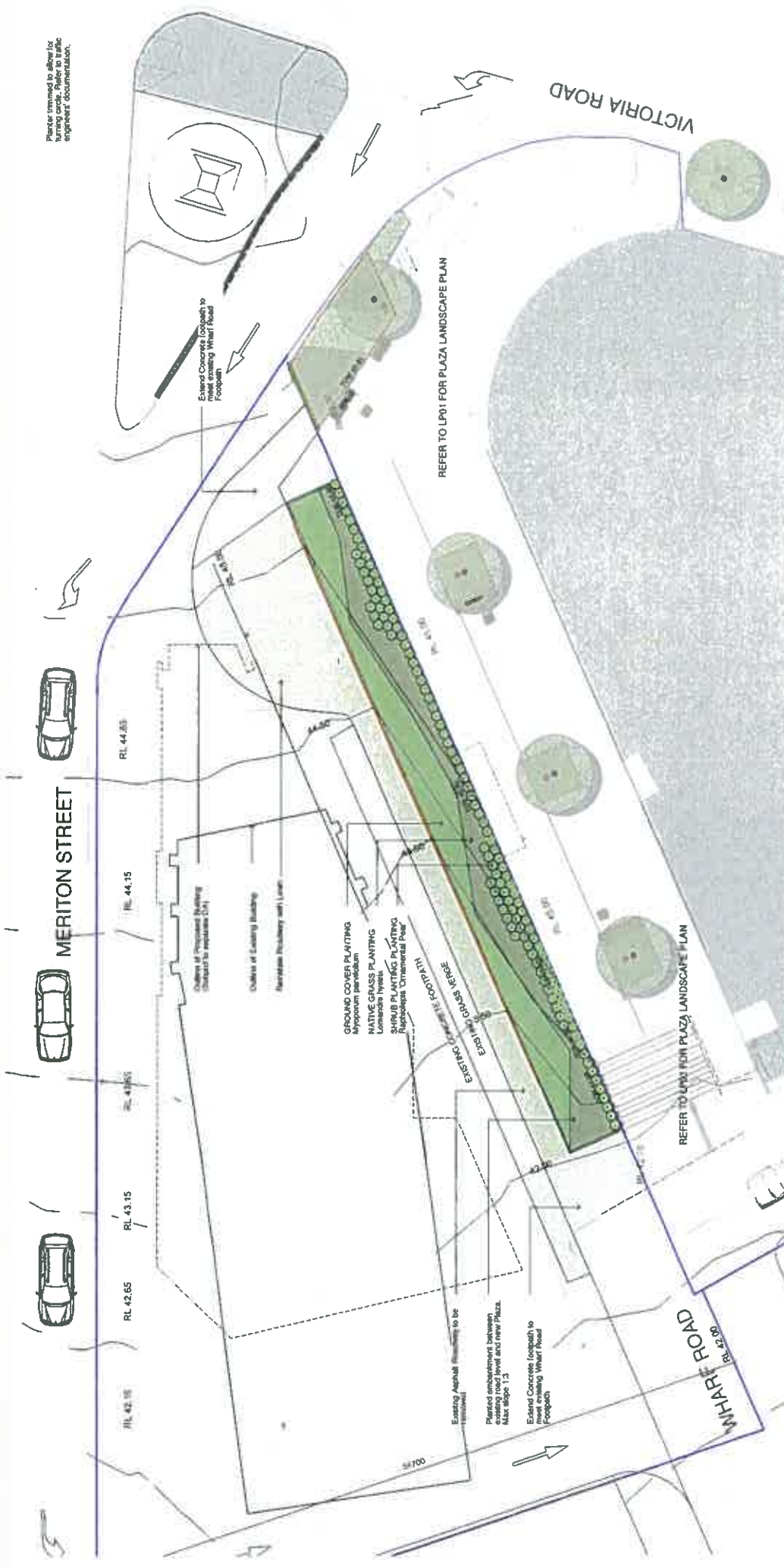
Species Name	Common Name	Size	Height (m)
Tree	Plant	200L	200L
Tree	Plant	200L	200L
Shrub	Plant	200mm	0.5
Shrub	Plant	200mm	0.3
Shrub	Plant	300mm	0.2
Shrub	Plant	150mm	0.2

<p>63 South Street, Collyer Building 1200 2007 email: hick@blackandwhite.com.au</p>	<p>PROJECT 153 S. D'Urville Road GLAISEVILLE NSW</p> <p>DATE: 18.01.15 TITLE: Landscape Plan - Streetscape</p>	<p>REV: DATE: DOCUMENT STATUS/AMENDMENTS</p> <table border="1"> <tr> <td>P1</td> <td>04.09.12</td> <td>FINAL DRAFT FOR DA</td> </tr> <tr> <td>P2</td> <td>15.10.12</td> <td>ISSUE FOR DA</td> </tr> <tr> <td>P3</td> <td>26.02.13</td> <td>Amend Planters & Tree species - ISSUE FOR DA APPROVAL</td> </tr> <tr> <td>P10</td> <td>02.04.13</td> <td>Amend Tree species - ISSUE FOR DA APPROVAL</td> </tr> <tr> <td>P11</td> <td>18.01.15</td> <td>Amend Plaza LIR</td> </tr> </table>	P1	04.09.12	FINAL DRAFT FOR DA	P2	15.10.12	ISSUE FOR DA	P3	26.02.13	Amend Planters & Tree species - ISSUE FOR DA APPROVAL	P10	02.04.13	Amend Tree species - ISSUE FOR DA APPROVAL	P11	18.01.15	Amend Plaza LIR
P1	04.09.12	FINAL DRAFT FOR DA															
P2	15.10.12	ISSUE FOR DA															
P3	26.02.13	Amend Planters & Tree species - ISSUE FOR DA APPROVAL															
P10	02.04.13	Amend Tree species - ISSUE FOR DA APPROVAL															
P11	18.01.15	Amend Plaza LIR															

Annexure D

Plan showing Adjoining Temporary Works

Plants removed to allow for turning circle. Refer to traffic engineer's documentation.



PLANT SCHEDULE

Scientific Name	Common Name	Size	Height (m)
<i>Myoporum parvifolium</i>	Maui Bush	150mm	0.8
<i>Lomandra lutea</i>	Ground Covering Lily	150mm	0.2
<i>Raphiophetis Ornamental Pear</i>	Ornamental Pear / Pear Tree	200mm	1.5

PLANT IMAGES



<p>Black Bevels Pty Ltd 63 Stells Street, Cattery Plains NSW 2087 Tel: 0422 100 418 Email: blackbevels@blackbevels.com.au</p>	<p>PROJECT 126-130 Victoria Road & 2-10 Wharf Road GLADESVILLE NSW</p>	<p>Scale: 1:100 @ A1 Date: 10/03/13</p>						
	<p>BB 1058 LPO3/P2</p>	<p>BB 1058 LPO3/P2</p>						
<p>REVISIONS</p> <table border="1"> <thead> <tr> <th>NO.</th> <th>DATE</th> <th>DESCRIPTION</th> </tr> </thead> <tbody> <tr> <td>P3</td> <td>19/01/15</td> <td>Amend Plaza LR</td> </tr> </tbody> </table>	NO.	DATE	DESCRIPTION	P3	19/01/15	Amend Plaza LR	<p>DOCUMENT STATUS AMENDMENTS</p> <p>For Pre DA</p> <p>Amend Plaza LR</p>	<p>1:100 @ A1</p>
NO.	DATE	DESCRIPTION						
P3	19/01/15	Amend Plaza LR						

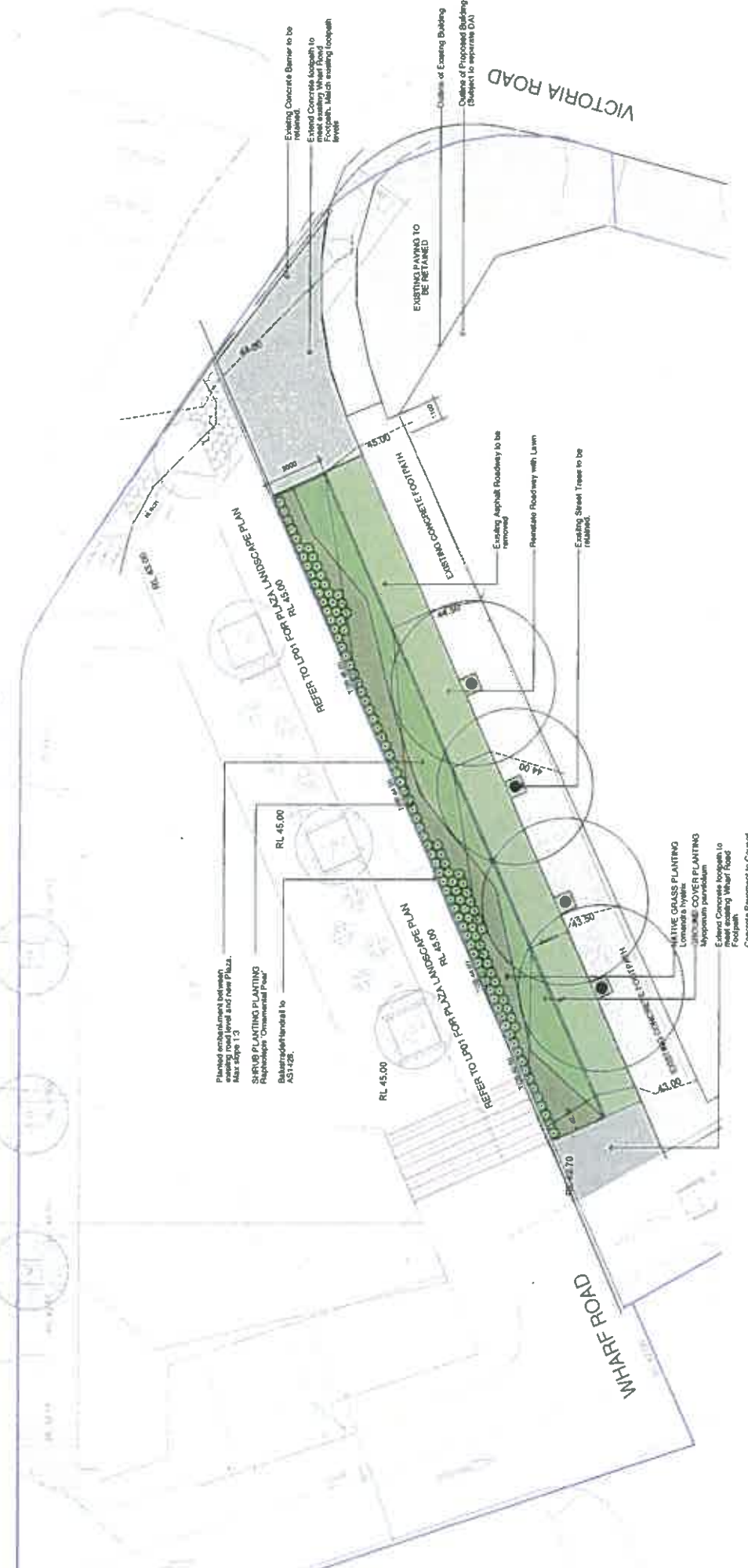
Annexure E

Plan showing Temporary Works

MERITON STREET

VICTORIA ROAD

WHARF ROAD



GENERAL NOTES

1. ALL WORKS TO BE FIELD IN CONFORMANCE WITH ANTI-CORROSION AND STRUCTURAL AND ENGINEERING STANDARDS.
2. ALL MATERIALS AND WORKMANSHIP SHALL BE IN ACCORDANCE WITH THE RELEVANT STANDARDS AND CURRENT BEST PRACTICE STANDARDS AND WITH THE BUILDING AND CITY COUNCIL'S REQUIREMENTS FOR BUILDING AUTHORITIES.
3. ALL DIMENSIONS TO BE UNLESS OTHERWISE SPECIFIED.
4. SOILS TO CONFORM TO AS 4576-2006 FOR ROADWORKS AND TO AS 4576-2006 FOR ROADWORKS AND TO AS 4576-2006 FOR ROADWORKS AND TO AS 4576-2006 FOR ROADWORKS.
5. SOILS TO CONFORM TO AS 4576-2006 FOR ROADWORKS AND TO AS 4576-2006 FOR ROADWORKS AND TO AS 4576-2006 FOR ROADWORKS AND TO AS 4576-2006 FOR ROADWORKS.
6. ALL WORKS SHALL BE DONE IN ACCORDANCE WITH THE CONTRACT SPECIFICATIONS AND AS 4576-2006 FOR ROADWORKS AND TO AS 4576-2006 FOR ROADWORKS AND TO AS 4576-2006 FOR ROADWORKS AND TO AS 4576-2006 FOR ROADWORKS.
7. ALL WORKS SHALL BE DONE IN ACCORDANCE WITH THE CONTRACT SPECIFICATIONS AND AS 4576-2006 FOR ROADWORKS AND TO AS 4576-2006 FOR ROADWORKS AND TO AS 4576-2006 FOR ROADWORKS AND TO AS 4576-2006 FOR ROADWORKS.
8. PLANTING SPECIFICATIONS - SPECIES, SIZES, SPACING, PLACEMENT, MAINTENANCE AND IRRIGATION.
9. PLANTING SPECIFICATIONS - SPECIES, SIZES, SPACING, PLACEMENT, MAINTENANCE AND IRRIGATION.

PLANT SCHEDULE

Botanical Name	Common Name	Size	Height (m)
<i>Lomandra hystrix</i>	Miniature Glass Planting	150mm	0.8
<i>Myoporum pennicellum</i>	Junction Cover Planting	150mm	0.2
	General Planting	200mm	1.5



REV: DATE	DOCUMENT STATUS/ AMENDMENTS	DATE FOR DA APPROVAL
P1	06.09.13 Issue for DA Approval	

PROJECT
2-10 Wharf Road & 136-140 Victoria Road
GLADEVILLE NSW

CLIENT
Meriton Land Pty Ltd
Development Application

JOB NUMBER
BB 1035

PROJECT TITLE
Staging Plan - Civic Plaza

DATE
06.09.13

SCALE
1:100 @ A1

BLACK & VEATCH
Black & Veatch Pty Ltd
63 South Street, Colyton, NSW 2097
Tel: 0422 104 418
email: blackveatch@blackveatch.com.au

Annexure F

Plan showing Streetscape Works

Annexure G

Plan showing Public Access Areas

Material Images



Plaza seating - LWP Cargo ramp



Plaza seating with lighting street landscaping



View of plaza from ramp



View of plaza from ramp



View of plaza from ramp

Wharf Road Civic Plaza Design Statement

The plaza creates an attractive open space along Victoria Road... The plaza is designed to become a focal point along... Victoria Road and to engage the relationship between the... Wharf Road and the surrounding development... The plaza is designed to become a focal point along... Victoria Road and to engage the relationship between the... Wharf Road and the surrounding development... The plaza is designed to become a focal point along... Victoria Road and to engage the relationship between the... Wharf Road and the surrounding development...

The existing clock tower is located just outside the plaza on a... The proposed design includes an... The plaza is designed to become a focal point along... Victoria Road and to engage the relationship between the... Wharf Road and the surrounding development... The plaza is designed to become a focal point along... Victoria Road and to engage the relationship between the... Wharf Road and the surrounding development...

Surrounding the base of the clock tower floor planing to support... The plaza is designed to become a focal point along... Victoria Road and to engage the relationship between the... Wharf Road and the surrounding development... The plaza is designed to become a focal point along... Victoria Road and to engage the relationship between the... Wharf Road and the surrounding development...

Within the plaza, pedestrian safety is improved as access to the... The plaza is designed to become a focal point along... Victoria Road and to engage the relationship between the... Wharf Road and the surrounding development... The plaza is designed to become a focal point along... Victoria Road and to engage the relationship between the... Wharf Road and the surrounding development...

Vertical elements provide a sense of enclosure and scale to the... The plaza is designed to become a focal point along... Victoria Road and to engage the relationship between the... Wharf Road and the surrounding development... The plaza is designed to become a focal point along... Victoria Road and to engage the relationship between the... Wharf Road and the surrounding development...

Access from the southern western of Wharf Road into the plaza is... The plaza is designed to become a focal point along... Victoria Road and to engage the relationship between the... Wharf Road and the surrounding development... The plaza is designed to become a focal point along... Victoria Road and to engage the relationship between the... Wharf Road and the surrounding development...

In general, the plaza design is based around the requirements of... The plaza is designed to become a focal point along... Victoria Road and to engage the relationship between the... Wharf Road and the surrounding development... The plaza is designed to become a focal point along... Victoria Road and to engage the relationship between the... Wharf Road and the surrounding development...

The plaza is designed to become a focal point along... Victoria Road and to engage the relationship between the... Wharf Road and the surrounding development... The plaza is designed to become a focal point along... Victoria Road and to engage the relationship between the... Wharf Road and the surrounding development...

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The plaza is designed to become a focal point along... Victoria Road and to engage the relationship between the... Wharf Road and the surrounding development... The plaza is designed to become a focal point along... Victoria Road and to engage the relationship between the... Wharf Road and the surrounding development...

PLANT SCHEDULE

Botanical Name	Common Name	Size	Height (m)
Plant Carex	Canada Pear	20L	4
Plant Carex	Historic Copp Maple	20L	4
Plant Carex	Shoreland Apples	200mm	0.5
Plant Carex	Shoreland Apples	200mm	0.3
Plant Carex	Shoreland Apples	200mm	0.2
Plant Carex	Shoreland Apples	200mm	0.2

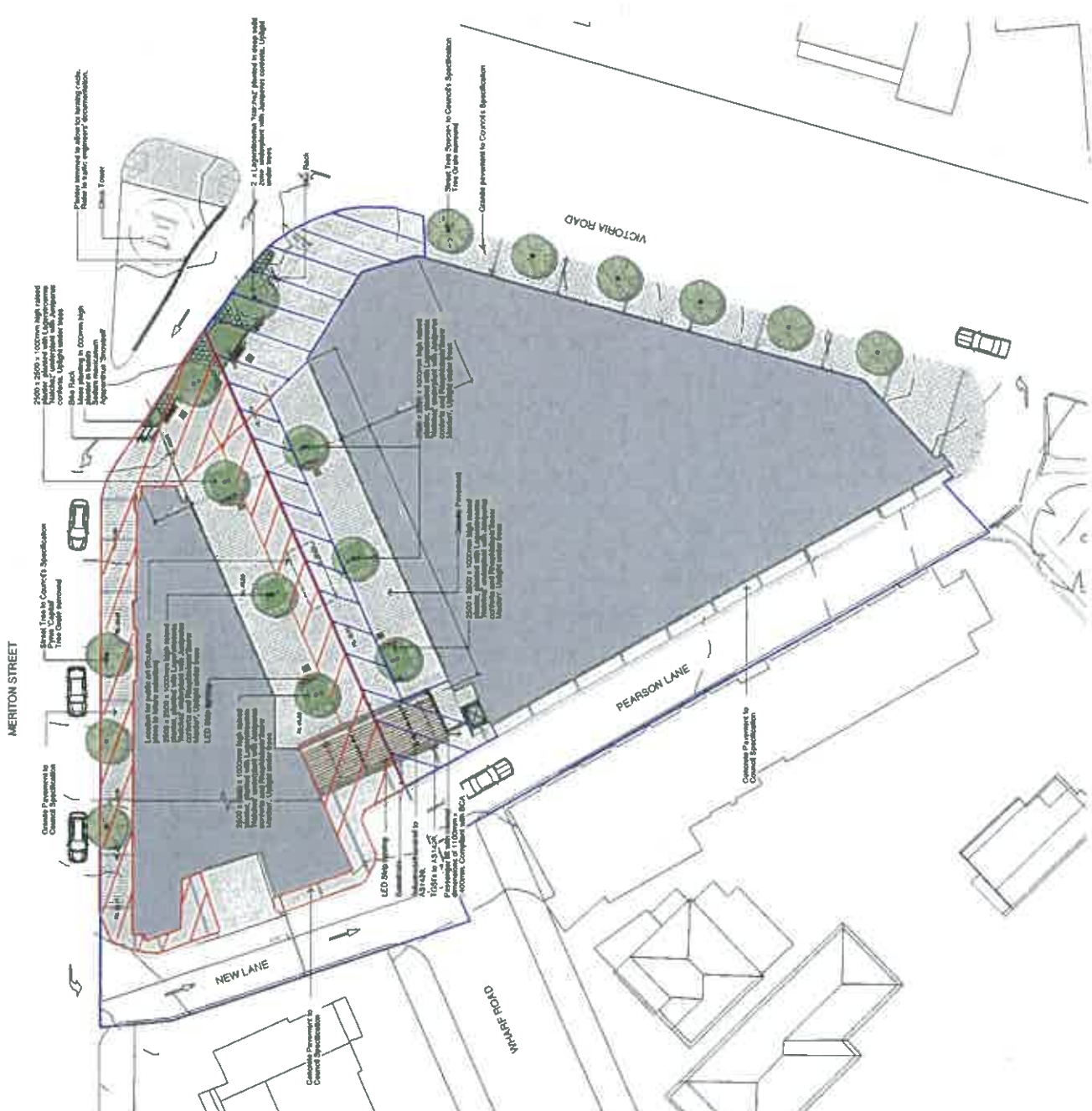
Rev	Date	Description
P7	04.09.12	FINAL DRAFT FOR DA
P8	15.10.12	ISSUE FOR DA
P9	25.02.13	Amend Plans & Tree schedule - ISSUE FOR DA APPROVAL
P10	05.04.13	Amend Tree schedule - ISSUE FOR DA APPROVAL
P11	18.04.13	Amend Plans L&S

Project Name	BB 1035
Client	BB 1035
Location	BB 1035
Scale	1:200 @ A1
Drawn By	BB 1035
Checked By	BB 1035
Approved By	BB 1035
Date	04.09.12

black
BlackBerry Pty Ltd
63 Stables Street, Collingwood VIC 3068
Tel: 03 9320 0418
Email: blackberry@blackberry.com.au



PROJECT
125-130 Wharf Road
GLADESVILLE NSW
BR 1035
Landscape Plan - Streetscape



**Wharf Road Developments
Easements**

Reference
Hatched Plan – Easements

LEGEND

Red Hatching

1-3 Wharf Road – public access over privately maintained land

Blue Hatching

2-10 Wharf Road/136-140 Victoria Road – public access over privately maintained land

Green Boundary Areas

Council owned and maintained land with public access

Unhatched Plaza Areas

Private land – no general public easement over privately maintained land.

However note that the public will need access across this land to access the public disabled toilets (one unisex facility in each development) and to travel from the chair lift (south eastern corner of the Plaza stairs) stopping point at the top of the steps to the central public easement area.

Version 130925MH

Annexure H

Plan showing the New Road

DEPOSITED PLAN ADMINISTRATION SHEET

Sheet 1 of 2 sheet(s)

SIGNATURES, SEALS AND STATEMENTS of intention to dedicate public roads, public reserves and drainage reserves or create easements, restrictions on the use of land and positive covenants

Office Use Only

PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT, 1919 IT IS INTENDED TO CREATE:

1. EASEMENT FOR SUPPORT AND SHELTER (WHOLE OF LOT)
2. EASEMENT FOR SERVICES (WHOLE OF LOT)
3. RIGHT OF ACCESS VARIABLE LIMITED IN STRATUM (A)
4. EASEMENT FOR USE OF LOADING DOCK (B) LIMITED IN STRATUM
5. RIGHT OF FOOTWAY LIMITED IN STRATUM (C)
6. EASEMENT FOR PUBLIC ACCESS OVER PLAZA AND PATHWAY VARIABLE WIDTH LIMITED IN STRATUM (D)
7. EASEMENT FOR SUPPORT OF ROAD (E)

Office Use Only

Registered:
Title System: TORRENS
Purpose: SUBDIVISION (STRATUM)

PLAN OF SUBDIVISION OF PROPOSED LOT 11

LGA: RYDE
Locality: GLADESVILLE
Parish: HUNTERS HILL
County: CUMBERLAND

Survey Certificate

I, JOSEPH MONARDO

of LOCKLEY LAND TITLE SOLUTIONS PO BOX 400 GLADESVILLE 1675

a surveyor registered under the Surveying and Spatial Information Act, 2002, certify that the survey represented in this plan is accurate, has been made in accordance with the Surveying and Spatial Information Regulation, 2006 and was completed on:

The survey relates to AS ABOVE

(specify the land actually surveyed or specify any land shown in the plan that is not the subject of the survey)

Signature Dated:
Surveyor registered under the Surveying and Spatial Information Act, 2002

Datum Line: 'A' - 'B'

Type: Urban/Rural

IT IS INTENDED TO DEDICATE 'PEARSON LANE' 1.5 & 8 WIDE, TO THE PUBLIC AS PUBLIC ROAD IN STRATUM

If space is insufficient use PLAN FORM 6A annexure sheet

Crown Lands NSW/Western Lands Office Approval

I, in approving this plan certify
(Authorised Officer)
that all necessary approvals in regard to the allocation of the land shown herein have been given

Signature:

Date:

File Number:

Office:

Subdivision Certificate

I certify that the provisions of s.109J of the Environmental Planning and Assessment Act 1979 have been satisfied in relation to:

the proposed set out herein
(insert 'subdivision' or 'new road')

.....
* Authorised Person/*General Manager/*Accredited Certifier

Consent Authority:

Date of Endorsement:

Accreditation no:

Subdivision Certificate no:

File no:

Plans used in the preparation of survey/compilation

DP85916

If space is insufficient use PLAN FORM 6A annexure sheet

Surveyor's Reference: 34444 POS [SITE 1 STRATUM 2 LOTS]

* Strike through inapplicable parts.

DEPOSITED PLAN ADMINISTRATION SHEET

Sheet 2 of 2 sheet(s)

PLAN OF SUBDIVISION OF PROPOSED LOT 11

Office Use Only

Office Use Only

Registered:

Subdivision Certificate No.:

Date of Endorsement:

Signatures, seals and statements of intention to create easements, restrictions on the use of land or positive covenants
(If space is insufficient use additional annexure sheet)

EXECUTED by
PROPRIETOR

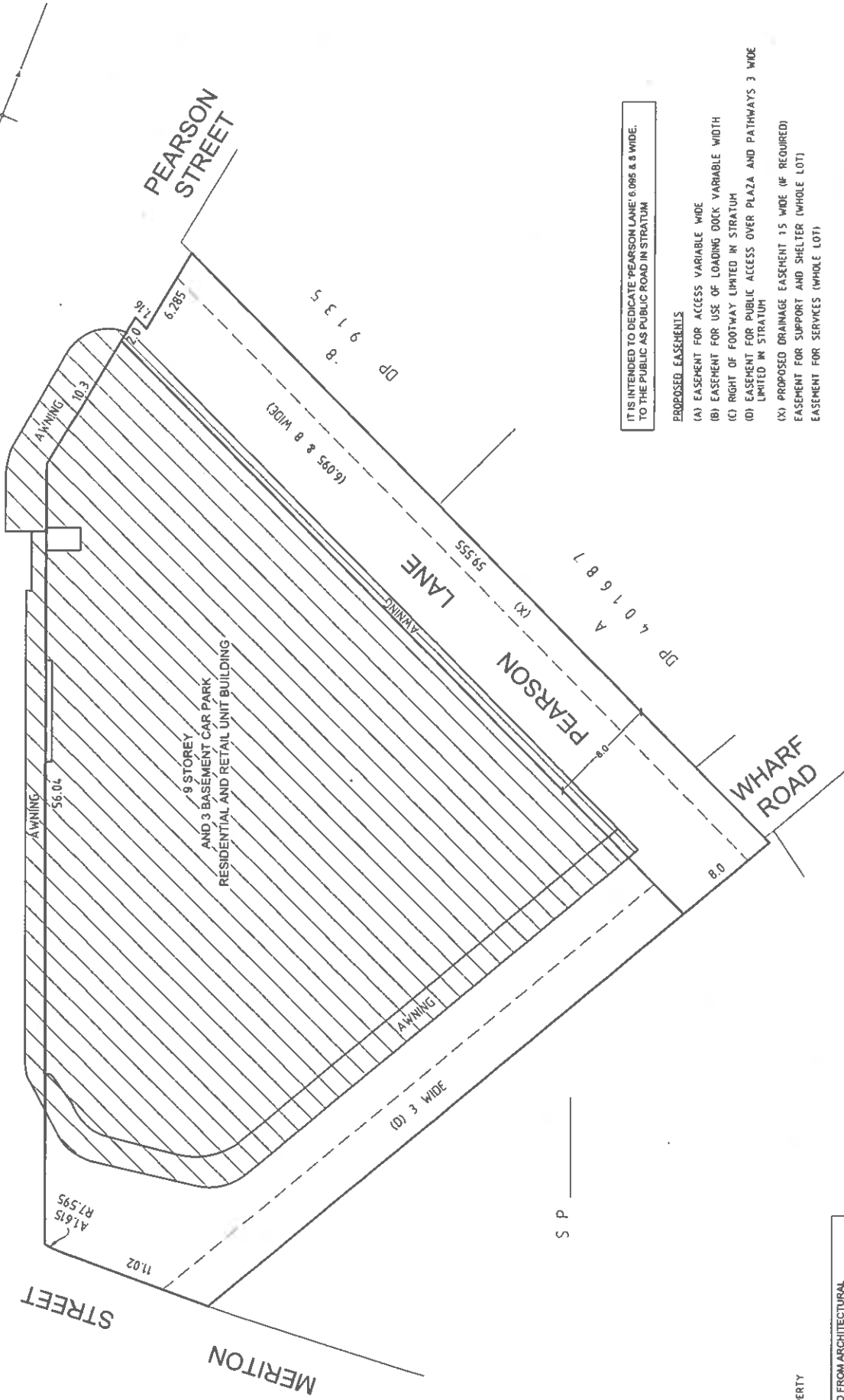
MORTGAGEE

Surveyor's Reference: 34444 POS [SITE 1 STRATUM 2 LOTS]

STRATUM PLAN AND LANE DEDICATION

LOCATION PLAN

VICTORIA ROAD



IT IS INTENDED TO DEDICATE 'PEARSON LANE' 6.095 & 8 WIDE,
TO THE PUBLIC AS PUBLIC ROAD IN STRATUM

PROPOSED EASEMENTS

- (A) EASEMENT FOR ACCESS VARIABLE WIDE
- (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 3 WIDE LIMITED IN STRATUM
- (X) PROPOSED DRAINAGE EASEMENT 1.5 WIDE (IF REQUIRED) EASEMENT FOR SUPPORT AND SHELTER (WHOLE LOT) EASEMENT FOR SERVICES (WHOLE LOT)

B - BALCONY
CP - COMMON PROPERTY

THIS PLAN PREPARED FROM ARCHITECTURAL PLANS BY MARCHESI PARTNERS PTY LTD REF: 10008
BASEMENT LEVEL 03 DA2.01 REV. C DATED 19/02/14
BASEMENT LEVEL 02 DA2.02 REV. C DATED 19/02/14
BASEMENT LEVEL 01 DA2.03 REV. B DATED 19/02/14
LEVEL GROUND DA2.04 REV. B DATED 19/02/14
LEVEL 01 DA2.05 REV. B DATED 19/02/14
LEVEL 02-03 DA2.06 REV. B DATED 19/02/14
LEVEL 04-05 DA2.07 REV. B DATED 19/02/14
LEVEL 06 DA2.08 REV. C DATED 19/02/14

Surveyor: JOSEPH MONARDO
Date of Survey: 2011
Surveyor's Ref: 34444-34444ST

PLAN OF SUBDIVISION OF PROPOSED LOT 11

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

Registered:

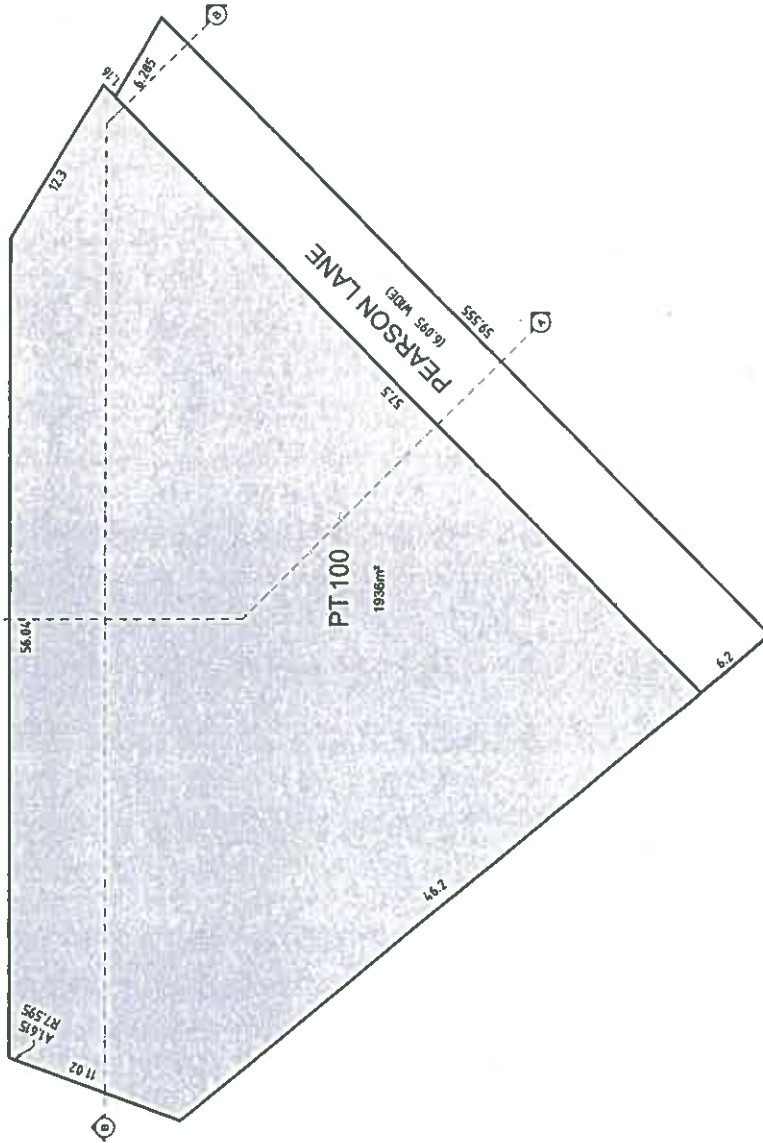
DP DRAFT

ENR 11 04 09 14

10 20 30 40 50 60 70 80 90 100 110 120 130 140 150



BASEMENT 03 & BELOW (CARPARKING)



IT IS INTENDED TO DEDICATE 'PEARSON LANE' 6.095 & 6 WIDE TO THE PUBLIC AS PUBLIC ROAD IN STRATUM

PROPOSED EASEMENTS
(E) EASEMENT FOR SUPPORT OF ROAD

Surveyor: JOSEPH MONARDO
Date of Survey: 2011
Surveyor's Ref: 34444-34444ST

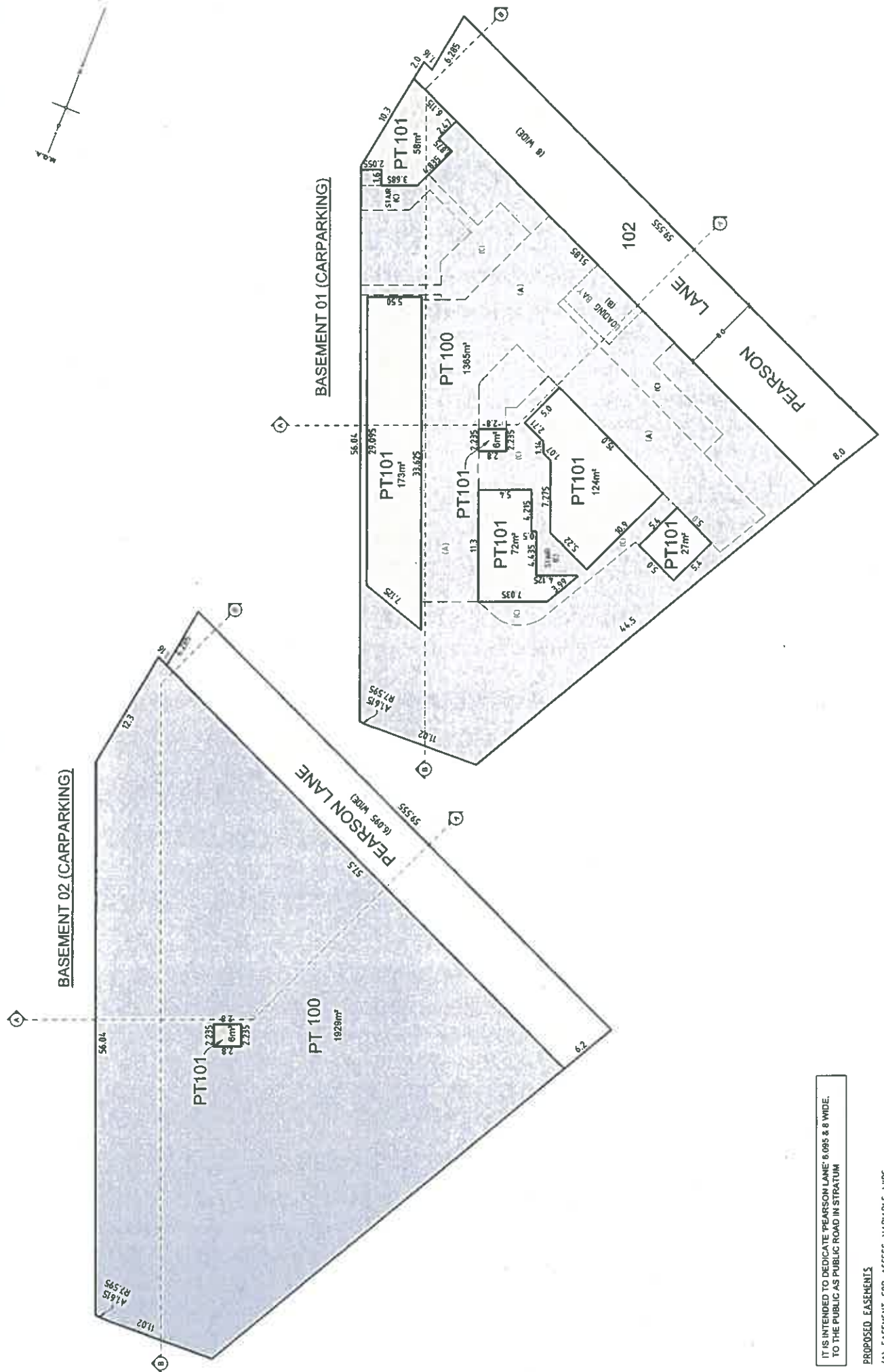
PLAN OF SUBDIVISION OF PROPOSED LOT 11

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

Registered:

DP DRAFT





IT IS INTENDED TO DEDICATE 'PEARSON LANE' 6.095 & 6 WIDE, TO THE PUBLIC AS PUBLIC ROAD IN STRATUM

PROPOSED EASEMENTS

- (A) EASEMENT FOR ACCESS VARIABLE WIDE
- (B) EASEMENT FOR USE OF LOADING DOCK VARIABLE WIDTH
- (C) RIGHT OF FOOTWAY LIMITED IN STRATUM
- (E) EASEMENT FOR SUPPORT OF ROAD
- (X) PROPOSED DRAINAGE EASEMENT 1.5 WIDE

Surveyor: JOSEPH MONARDO
 Date of Survey: 2011
 Surveyor's Ref: 34444-34444ST

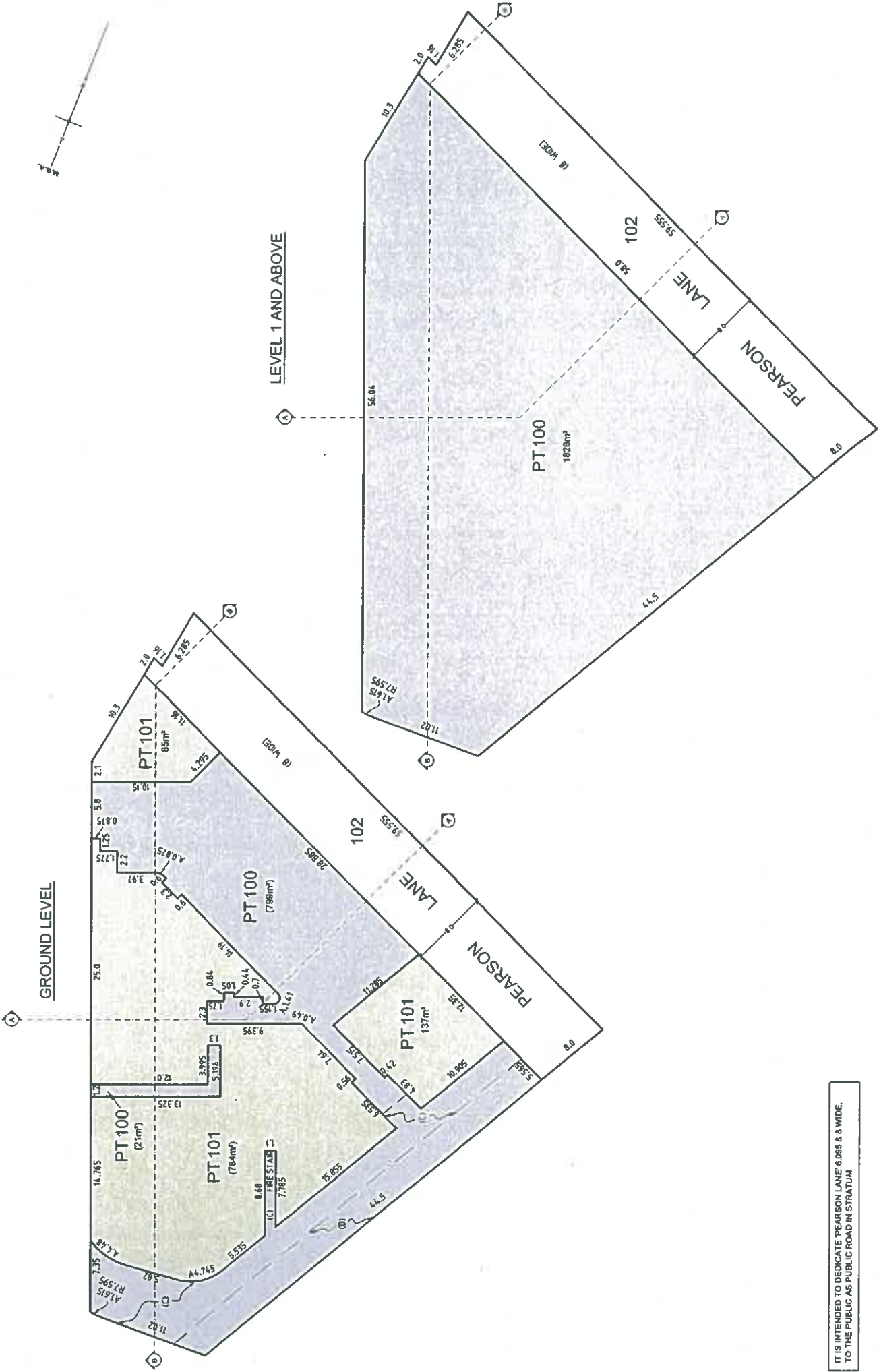
PLAN OF SUBDIVISION OF PROPOSED LOT 11

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

Registered:

DP DRAFT





IT IS INTENDED TO DEDICATE 'PEARSON LANE' 6.095 & 8 WIDE,
TO THE PUBLIC AS PUBLIC ROAD IN STRATUM

PROPOSED EASEMENTS

- (A) EASEMENT FOR ACCESS VARIABLE WIDE
- (B) RIGHT OF FOOTWAY LIMITED IN STRATUM
- (C) EASEMENT FOR PUBLIC ACCESS OVER PLAZA AND PATHWAYS 3 WIDE LIMITED IN STRATUM

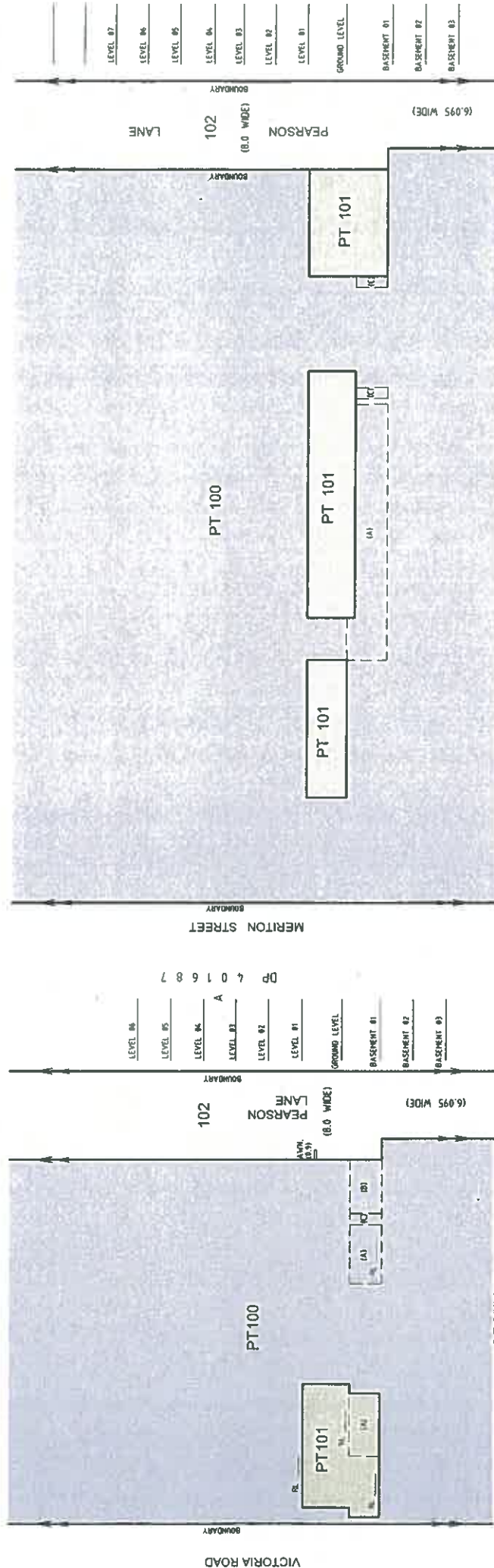
Surveyor: JOSEPH MONARDO
Date of Survey: 2011
Surveyor's Ref: 34444-34444ST

PLAN OF SUBDIVISION OF PROPOSED LOT 11

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

Registered

DP DRAFT



IT IS INTENDED TO DEDICATE 'PEARSON LANE' 6.095 & 8.0 WIDE TO THE PUBLIC AS PUBLIC ROAD IN STRATUM

- PROPOSED EASEMENTS
- (A) EASEMENT FOR ACCESS VARIABLE WIDE
 - (B) EASEMENT FOR USE OF LOADING DOCK VARIABLE WIDTH
 - (C) RIGHT OF FOOTWAY LIMITED IN STRATUM
 - (E) EASEMENT FOR SUPPORT OF ROAD
 - (X) PROPOSED DRAINAGE EASEMENT 1.5 WIDE

Surveyor: JOSEPH MONARDO Date of Survey: 2011 Surveyor's Ref: 34444-34444ST	PLAN OF SUBDIVISION OF PROPOSED LOT 11	LGA: RYDE Locality: GLADESVILLE Subdivision No: - Lengths are in metres. Reduction Ratio 1:250	Registered:	DP DRAFT
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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 the New Road 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 the New Road
- Procure and install signage in the New Road.
- 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 Land Owner 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 the New Road.

2 Plaza Works

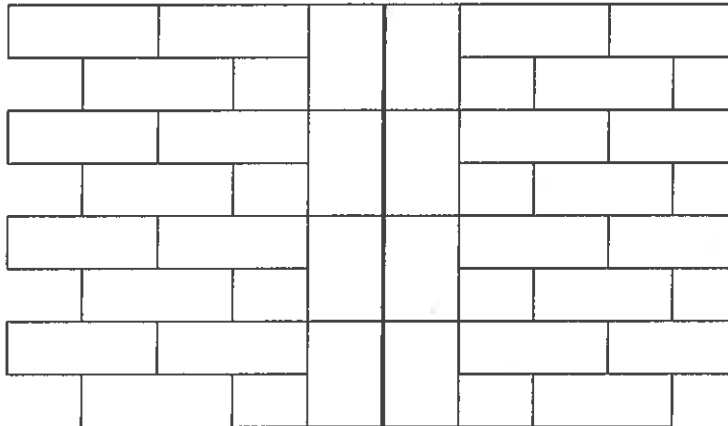
The general extent of the Plaza Works is shown on the plan at Annexure A.

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

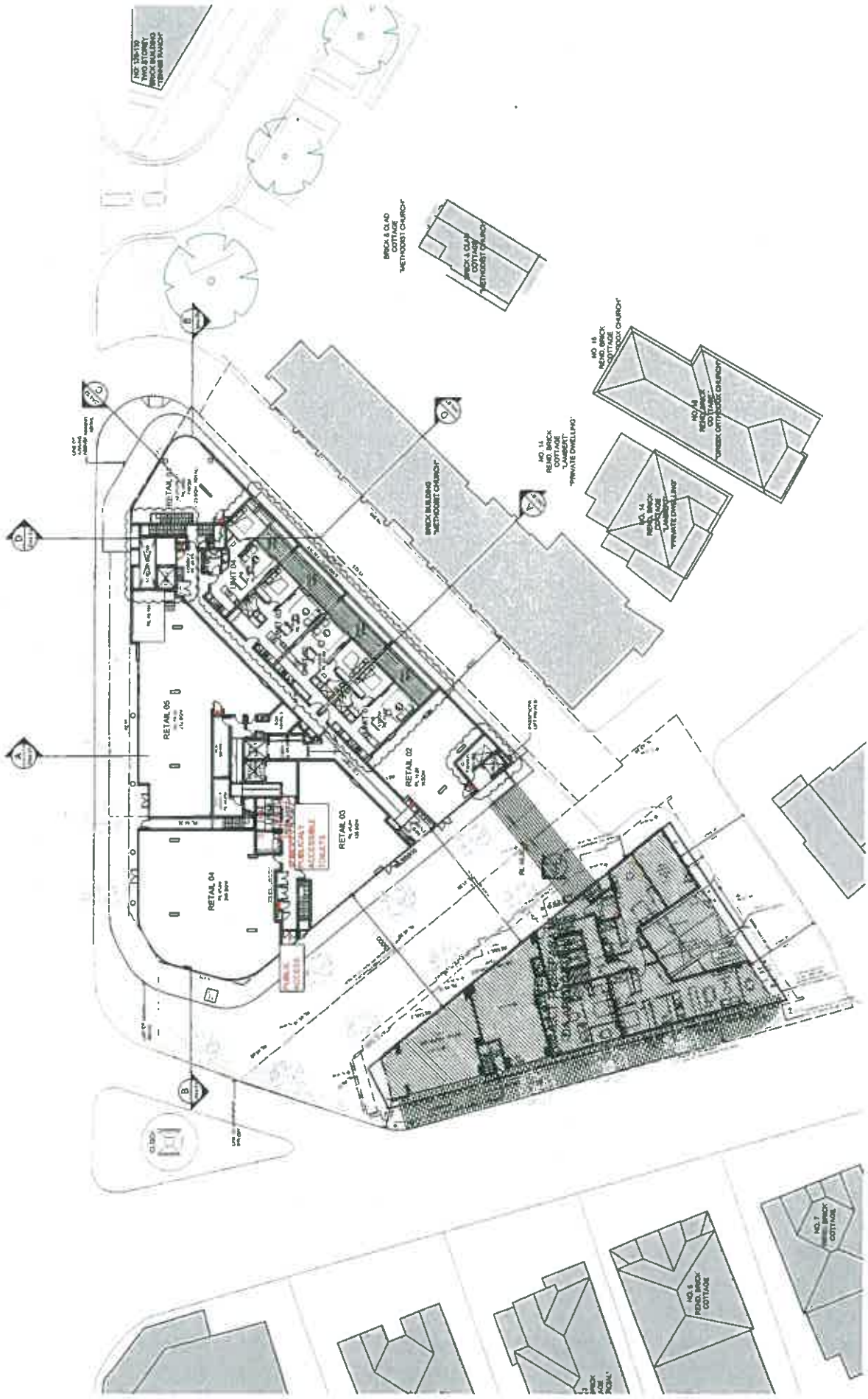
The general Scope of Works for the Streetscape Works is shown on the plan at Annexure F. Broadly they are defined as follows:

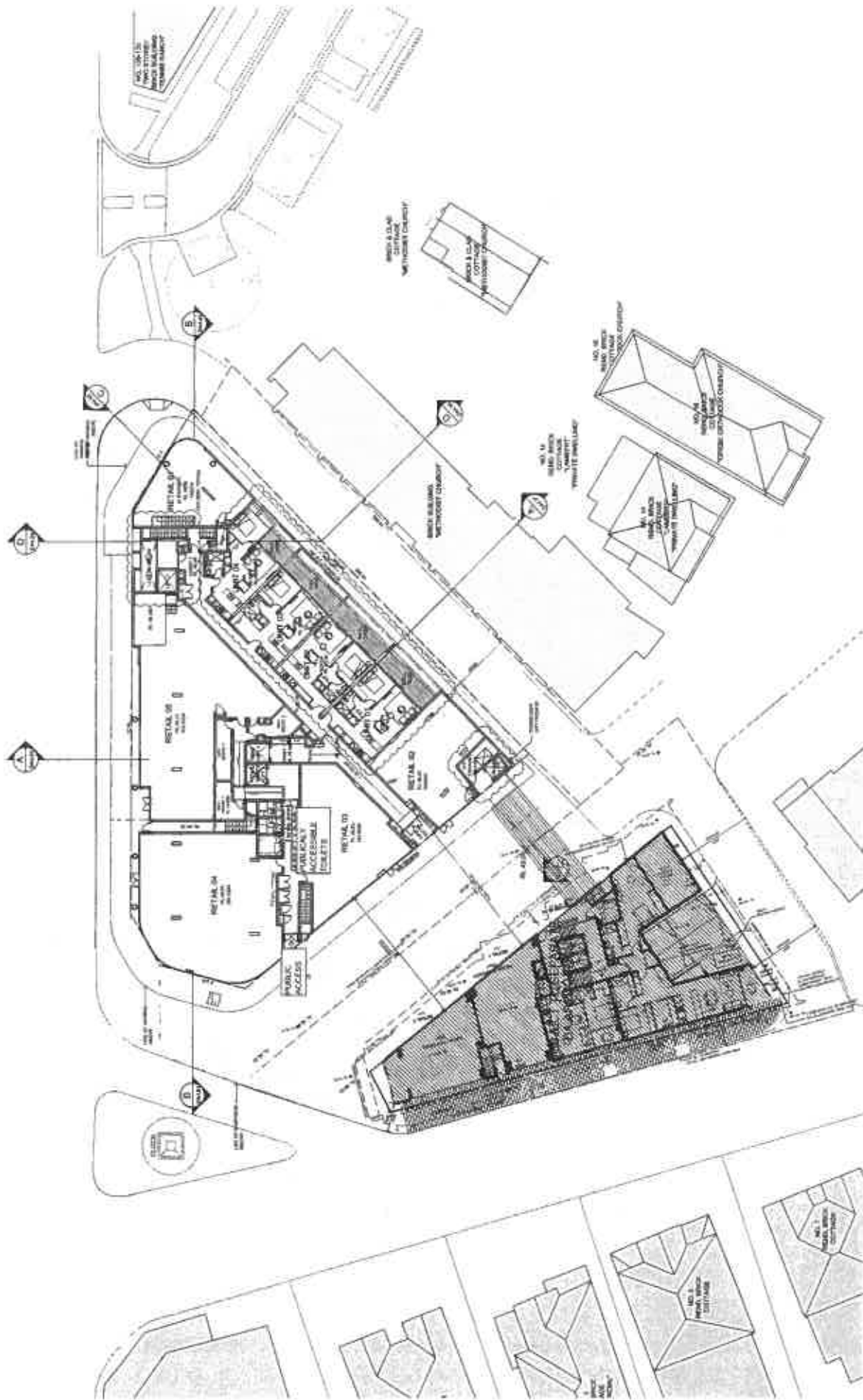
- Reconstruct the footpath on the eastern side of the Land along Victoria Road to Council requirements; and
- Construct granite paving to Council's requirements; and
- Make good the slip lane and Victoria Road and gutter to Council's requirements; and
- Supply and install street trees to Council's specification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

- 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.

Annexure K

Accessible Toilet





Project Number: 6479
 Drawing Number: DA02.04
 1:250 @ A1 (8/20/04)

Level Ground Plan



Scale: 0 5 10 Meters

WHARF SQUARE
 PROPOSED DEVELOPMENT AT
 136-140 VICTORIA RD. &
 2-10 WHARF RD. GLADESVILLE



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 ARCHITECTS
 100/102 WILSON ST. GLADESVILLE VIC 3045
 PH: 03 9479 7000
 WWW.KANFINCH.COM

[Handwritten signature]

9 APRIL 2015

Land and Property Information
1 Prince Albert Road
Sydney NSW 2000

Dear Sir/Madam

Mortgagee's consent to registration of voluntary planning agreement

National Australia Bank Limited ACN 004 044 937, being the registered mortgagee of mortgage number AJ310387 over certificate of title folio identifier 1/1204873 consents to the registration of the attached voluntary planning agreement.

Executed for and on behalf of **National Australia Bank Limited ACN 004 044 937** by its attorney registered number Book 4512 No 31 in the presence of:

Signature of witness

Signature of attorney

By executing this document the attorney states that the attorney has not received notice of revocation of the power of attorney at the date of executing this document

ANGELINA DANG

Full name of witness

255 GEORGE ST, SYDNEY NSW

Address of witness