CITY OF SYDNEY

Planning agreement

The Council of the City of Sydney ABN 22 636 550 790

and

Bridge Housing Limited ABN 55 760 055 094 and New South Wales Land and Housing Corporation ABN 24 960 729 253

For 600-660 Elizabeth Street, Redfern

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THIS PLANNING AGREEMENT is made on 2026

BETWEEN:

(1) **The Council of the City of Sydney** ABN 22 636 550 790 of Town Hall House, 456 Kent Street, SYDNEY NSW 2000 (the **City**); and

(2) **Bridge Housing Limited** ABN 55 760 055 094 of Level 9, 59 Goulburn Street, Haymarket NSW 2000 (the **Developer**); and

(3) **New South Wales Land and Housing Corporation** ABN 24 960 729 253 of 6 Parramatta Square, 12 Darcy Street, Parramatta NSW 2150 (the **Landowner**).

BACKGROUND

(A) The Developer intends to undertake the Development on the Land.

(B) The Land is owned by the Landowner, and the Landowner consents to the Development on the Land.

(C) The Developer and the Landowner have offered to enter into this document with the City to provide the Public Benefits on the terms of this document.

THE PARTIES AGREE AS FOLLOWS:

1. **INTERPRETATION**

1.1 **Definitions**

The following definitions apply in this document.

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

Adverse Affectation has the same meaning as in Part 3 of Schedule 2 of the *Conveyancing (Sale of Land) Regulation 2022* (NSW).

Attributed Value means the value the City and the Developer agree is to be attributed to each element of the Public Benefits as at the date of this document, as set out in clause 1 of Schedule 3 of this document.

Authorisation means:

(a) an approval, authorisation, consent, declaration, exemption, permit, licence, notarisation or waiver, however it is described, and including any condition attached to it; and

(b) in relation to anything that could be prohibited or restricted by law if a Government Agency acts in any way within a specified period, the expiry of that period without that action being taken,

including any renewal or amendment.

Business Day means a day (other than a Saturday, Sunday or public holiday) on which banks are open for general banking business in Sydney, Australia.

City's Policies means all policies and procedures relevant to the provision of the Public Benefits, as notified by the City in writing to the Developer.

City's Representative means the person named in Item 3 of Schedule 1 or his/her delegate.

Completion means the point at which the Developer's Works are complete except for minor Defects:

(a) the existence of which do not prevent the Developer's Works being reasonably capable of being used for their intended purpose;

(b) which the Developer has grounds for not promptly rectifying; and

(c) rectification of which will not affect the immediate and convenient use of the Developer's Works for their intended purpose.

Completion Notice means a notice issued by the Developer in accordance with clause 6.2.

Confidential Information means:

(a) information of a party (**disclosing party**) that is:

(i) made available by or on behalf of the disclosing party to the other party (**receiving party**), or is otherwise obtained by or on behalf of the receiving party; and

(ii) by its nature confidential or the receiving party knows, or ought reasonably to know, is confidential.

Confidential Information may be made available or obtained directly or indirectly, and before, on or after the date of this document.

Confidential Information does not include information that:

(a) is in or enters the public domain through no fault of the receiving party or any of its officers, employees or agents;

(b) is or was made available to the receiving party by a person (other than the disclosing party) who is not or was not then under an obligation of confidence to the disclosing party in relation to that information; or

(c) is or was developed by the receiving party independently of the disclosing party and any of its officers, employees or agents.

Construction Certificate either:

(a) has the same meaning as in the Act; or

(b) where the Developer's Works do not require a certificate as described in paragraph (a), a crown building works certificate as described in the Development Consent.

Contamination has the meaning given to that word in the *Contaminated Land Management Act 1997* (NSW).

Corporations Act means the *Corporations Act 2001* (Cth).

Dealing means selling, transferring, assigning, novating, mortgaging, charging, or encumbering and, where appearing, **Deal** has the same meaning.

Defect means any error, omission, defect, non-conformity, discrepancy, shrinkage, blemish in appearance or other fault in the Developer's Works or any other matter which prevents the Developer's Works from complying with the terms of this document.

Defects Liability Period means in relation to the Public Benefits, the period of 12 months from the date on which the Developer's Works reach Completion.

Developer's Representative means the person named in Item 4 of Schedule 1 or his/her delegate.

Developer's Works means those parts of the Public Benefit described as "Developer's Works" in clause 1 of Schedule 3, to be delivered by the Developer in accordance with this document.

Development means the development of the Land by the Developer described at Item 2 of Schedule 1.

Development Application means the development application identified in Item 6 of Schedule 1 and includes all plans, reports models, photomontages, material boards (as amended supplemented) submitted to the consent authority before the determination of that Development Application.

Development Consent means the consent granted to the Development Application for the Development and includes all modifications made under section 4.55 of the Act.

Dispute means any dispute or difference between the parties arising out of, relating to or in connection with this document, including any dispute or difference as to the formation, validity, existence or termination of this document.

Easements for Public Access and Positive Covenants means the easements for public access and positive covenants burdening the land and benefiting the City on the terms specified in Annexure C.

Environmental Laws means all laws and legislation relating to environmental protection, building, planning, health, safety or work health and safety matters and includes the following:

(a) the *Work Health and Safety Act 2011 (NSW)*;

(b) the *Protection of the Environment Operations Act 1997 (NSW)*; and

(c) the *Contaminated Land Management Act 1997 (NSW)*.

Government Agency means:

(a) a government or government department or other body;

(b) a governmental, semi-governmental or judicial person; or

(c) a person (whether autonomous or not) who is charged with the administration of a law.

Gross Floor Area has the meaning given to that term in the *Sydney Local Environment Plan* in effect at the date of this document.

GST means the same as in the GST Act.

GST Act means *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

Guarantee means a bank guarantee or documentary performance bond for the Guarantee Amount which must:

(a) be denominated in Australian dollars;

(b) be an unconditional undertaking;

(c) be signed and issued by a bank licensed to carry on business in Australia, an Australian Prudential Regulation Authority (APRA) regulated authorised deposit taking institution or an insurer authorised by APRA to conduct new or renewal insurance business in Australia having at all times an investment grade security rating from an industry recognised rating agency of at least:

    (i) BBB + (Standard & Poors and Fitch);

    (ii) Baa 1 (Moodys); or

    (iii) Bbb (Bests);

(d) be issued on behalf of the Developer;

(e) have no expiry or end date;

(f) state the beneficiary as the City;

(g) be irrevocable;

(h) state the Guarantee Amount as the minimum amount required by this document to be lodged as security;

(i) state the purpose of the security as required in accordance with this document; and

(j) be on such other terms approved by the City.

Guarantee Amount(s) means the total amount listed in Item 7 of Schedule 1 of this document.

Guarantee Amount(s) Due Date means the date or milestone by which the Developer must provide the Guarantee Amount to the City, set out at Item 8 of Schedule 1.

Index Number means the Consumer Price Index (Sydney all groups) published by the Australian Bureau of Statistics from time to time.

Insolvency Event means:

(a) having a controller, receiver, manager, administrator, provisional liquidator, liquidator or analogous person appointed;

(b) an application being made to a court for an order to appoint a controller, provisional liquidator, trustee for creditors or in bankruptcy or analogous person to the person or any of the person's property

(c) the person being taken under section 459F(1) of the Corporations Act to have failed to comply with a statutory demand;

(d) an application being made to a court for an order for its winding up;

(e) an order being made, or the person passing a resolution, for its winding up;

(f) the person:

(i) suspending payment of its debts, ceasing (or threatening to cease) to carry on all or a material part of its business, stating that it is unable to pay its debts or being or becoming otherwise insolvent; or

(ii) being unable to pay its debts or otherwise insolvent;

(g) the person taking any step toward entering into a compromise or arrangement with, or assignment for the benefit of, any of its members or creditors;

(h) a court or other authority enforcing any judgment or order against the person for the payment of money or the recovery of any property; or

(i) any analogous event under the laws of any applicable jurisdiction,

unless this takes place as part of a solvent reconstruction, amalgamation, merger or consolidation that has been approved by the other party.

Instruments means the instruments required to create the Easements for Public Access and Positive Covenants.

Land means the land described in Item 1 of Schedule 1 of this document.

Landowner's Representative means the person named in Item 5 of Schedule 1 or his/her delegate.

Laws means all applicable laws, regulations, industry codes and standards, including all Environmental Laws.

Monetary Contribution means that part of the Public Benefits described as "Monetary Contribution" in clause 1 of Schedule 3 to be paid by the Developer to the City in accordance with this document.

Occupation Certificate has the same meaning as in the Act.

Personal Information means:

(a) personal information within the meaning of the *Privacy and Personal Information Protection Act 1998* (NSW);

(b) health information within the meaning of the *Health Records and Information Privacy Act 2002* (NSW); and

(c) any information which does not fall within the scope of paragraphs (a) and (b) above, but is personal information within the meaning of the *Privacy Act 1988* (Cth).

Personnel means the Developer's officers, employees, agents, contractors or subcontractors, or the Landowner's officers, employees, agents, contractors or subcontractors as the context requires.

Privacy Laws means the *Privacy Act 1988* (Cth), the *Privacy and Personal Information Protection Act 1998* (NSW), the *Health Records and Information Privacy Act 2002* (NSW); the *Spam Act 2003* (Cth), the *Do Not Call Register Act 2006* (Cth) and any other applicable legislation, regulations, guidelines, codes and the City's Policies relating to the handling of Personal Information.

Public Benefits means the provision of benefits to the community by the Developer and Landowner in the form and at the times specified in Schedule 3.

Regulation means the *Environmental Planning and Assessment Regulation 2021 (NSW)*.

Standards means the policies, procedures and standards for carrying out the Developer's Works, listed non-exhaustively at clause 7 of Schedule 3.

Tax means a tax, levy, duty, rate, charge, deduction or withholding, however it is described, that is imposed by law or by a Government Agency, together with any related interest, penalty, fine or other charge.

Transfer Land means land forming part of the Public Benefit that is to be either dedicated or transferred to the City in accordance with Schedule 3 of this document.

1.2 Rules for interpreting this document

Headings are for convenience only, and do not affect interpretation. The following rules also apply in interpreting this document, except where the context makes it clear that a rule is not intended to apply.

(a) A reference to:

(i) a legislative provision or legislation (including subordinate legislation) is to that provision or legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;

(ii) a document (including this document) or agreement, or a provision of a document (including this document) or agreement, is to that document, agreement or provision as amended, supplemented, replaced or novated;

(iii) a party to this document or to any other document or agreement includes a permitted substitute or a permitted assign of that party;

(iv) a person includes any type of entity or body of persons, whether or not it is incorporated or has a separate legal identity, and any executor, administrator or successor in law of the person; and

(v) anything (including a right, obligation or concept) includes each part of it.

(b) A singular word includes the plural, and vice versa.

(c) A word which suggests one gender includes the other genders.

(d) If a word or phrase is defined, any other grammatical form of that word or phrase has a corresponding meaning.

(e) If an example is given of anything (including a right, obligation or concept), such as by saying it includes something else, the example does not limit the scope of that thing.

(f) A reference to **including** means “including, without limitation”.

(g) A reference to **dollars** or **$** is to an amount in Australian currency.

(h) A reference to **this document** includes the agreement recorded by this document.

(i) Words defined in the GST Act have the same meaning in clauses about GST.

(j) This document is not to be interpreted against the interests of a party merely because that party proposed this document or some provision in it or because that party relies on a provision of this document to protect itself.

2. APPLICATION OF THE ACT AND THE REGULATION

2.1 Application of this document

This document is a planning agreement within the meaning of section 7.4 of the Act and applies to:

(a) the Land; and

(b) the Development.

2.2 **Public Benefits to be made by Developer and Landowner**

Clause 5 and Schedule 3 set out the details of the:

(a) Public Benefits to be delivered by the Developer and the Landowner;

(b) time or times by which the Developer and the Landowner must deliver the Public Benefits; and

(c) manner in which the Developer and the Landowner must deliver the Public Benefits.

2.3 **Application of sections 7.11, 7.12 and 7.24 of the Act**

The application of sections 7.11, 7.12 and 7.24 of the Act are excluded to the extent set out in Items 5 and 6 of Schedule 2 to this document.

2.4 **City rights**

This document does not impose an obligation on the City to:

(a) grant Development Consent for the Development; or

(b) exercise any function under the Act in relation to a change to an environmental planning instrument, including the making or revocation of an environmental planning instrument.

2.5 **Explanatory note**

The explanatory note prepared in accordance with clause 205 of the Regulation must not be used to assist in construing this document.

3. **OPERATION OF THIS PLANNING AGREEMENT**

3.1 **Commencement**

This document will commence on the date of execution of this document by all parties to this document.

4. **WARRANTIES**

4.1 **Mutual warranties**

Each party represents and warrants that:

(a) (**power**) it has full legal capacity and power to enter into this document and to carry out the transactions that it contemplates;

(b) (**corporate authority**) it has taken all corporate action that is necessary or desirable to authorise its entry into this document and to carry out the transactions contemplated;

(c) (**Authorisations**) it holds each Authorisation that is necessary or desirable to:

(i) enable it to properly execute this document and to carry out the transactions that it contemplates;

(ii) ensure that this document is legal, valid, binding and admissible in evidence; or

(iii) enable it to properly carry on its business as it is now being conducted,

and it is complying with any conditions to which any of these Authorisations is subject;

(d) (**documents effective**) this document constitutes its legal, valid and binding obligations, enforceable against it in accordance with its terms (except to the extent limited by equitable principles and laws affecting creditors' rights generally), subject to any necessary stamping or registration;

(e) (**solvency**) there are no reasonable grounds to suspect that it will not be able to pay its debts as and when they become due and payable; and

(f) (**no controller**) no controller is currently appointed in relation to any of its property, or any property of any of its subsidiaries.

4.2 **Developer warranties**

(a) The Developer warrants to the City that, at the date of this document:

(i) it has obtained the consent of the Landowner for the Development;

(ii) it is legally entitled to obtain all consents and approvals that are required by this document and do all things necessary to give effect to this document;

(iii) all work performed by the Developer and the Personnel under this document will be performed with due care and skill and to a standard which is equal to or better than that which a well experienced person in the industry would expect to be provided by an organisation of the Developer's size and experience; and

(iv) it is not aware of any matter which may materially affect the Developer's ability to perform its obligations under this document.

(b) The Developer warrants to the City that, prior to commencing delivery of the Public Benefits it will have obtained all Authorisations and insurances required under any Law to carry out its obligations under this document.

4.3 **Landowner warranties**

(a) The Landowner warrants to the City that, at the date of this document:

(i) it is the registered proprietor of the Land;

(ii) it is legally entitled to obtain all consents and approvals that are required by this document and do all things necessary to give effect to this document; and

(iii) it is not aware of any matter which may materially affect the Landowner's ability to perform its obligations under this document.

(b) The Landowner warrants to the City that, prior to commencing delivery of the Public Benefits it will have obtained all Authorisations and insurances required under any Law to carry out its obligations under this document.

5. PUBLIC BENEFITS

5.1 Developer and Landowner to provide Public Benefits

The Developer and the Landowner must, at their cost and risk, provide the Public Benefits to the City in accordance with this document. For the avoidance of doubt, the Landowner has no obligation to undertake any works under this document. The Landowner's obligations in relation to the Public Benefits are limited to:

(a) dedication or transfer of the Transfer Land in accordance with Schedule 3; and

(b) consenting to registration of this document on title and taking all practical steps to facilitate registration, including producing relevant certificates of title.

6. COMPLETION OF DEVELOPER'S WORKS

6.1 Date of Completion

The Developer must ensure that the Developer's Works reach Completion on or before the date or milestone referred to in clause 1 of Schedule 3 of this document.

6.2 Developer completion notice

When, in the reasonable opinion of the Developer, the Developer's Works have reached Completion, and all hold points inspections have been approved by the City, the Developer must notify the City's Representative in writing and must include in that notice:

(a) a statement from the person with direct responsibility and supervision of that work that in their opinion the Developer's Works have reached Completion;

(b) copies of any warranties, guarantees, maintenance information or other material reasonably required for the City to assume responsibility for the Developer's Works; and

(c) at least two sets of the "as built" drawings of the Developer's Works, including one set in electronic format, prepared in accordance with the City's Public Domain Manual and Technical Specifications or other policies as applicable,

(**Completion Notice**). For the avoidance of doubt, the Developer can issue separate Completion Notices at separate times for different elements of the Developer's Works, however the Developer must ensure that Completion is achieved for the Developer's Works before the due date specified in clause 1 of Schedule 3.

6.3 **Inspection by the City**

(a) The City's Representative must inspect the Developer's Works within 5 Business Days of the date that the Completion Notice is received by the City. The City's Representative may refuse to complete the inspection until the Completion Notice has been issued with all required documentation attached in accordance with clause 6.2. Within 10 Business Days of the date of the inspection by the City's Representative, the City must by written notice to the Developer and the Landowner:

(i) state that Completion has been achieved;

(ii) state that Completion has not been achieved and, if so, identify the Defects, errors or omissions which, in the opinion of the City's Representative, prevent Completion; or

(iii) issue a notice under clause 6.4(a).

(b) Nothing in this clause 6.3, or any notice issued under this clause 6.3, will:

(i) reduce or waive in any manner the Developer's responsibility to:

(A) deliver the Developer's Works in accordance with this document; or

(B) the Developer's responsibility to correct Defects, errors or omissions, whether or not these are identified by the City; or

(ii) create any liability for the City in relation to any defective aspect of the Developer's Works; or

(iii) create any liability for the Landowner in relation to any aspect of the Developer's Works.

6.4 **Non-completion of Public Benefits**

(a) If the Developer or the Landowner makes a request by notice in writing not to complete the Public Benefits (or any part of the Public Benefits):

(i) the City may permit the Developer or the Landowner not to complete the Public Benefits (or any part of the Public Benefits) by issuing a notice in writing to the Developer or the Landowner stating that completion of the items identified in that notice is not required to fulfil the Developer's or the Landowner's obligations under this document; and

(ii) the City may make a claim on the Guarantee in such amount as the City considers necessary to complete the portion of Public Benefit not being delivered by the Developer and the Landowner.

(b) If the Developer and the Landowner fail to complete the whole of the Public Benefits in the form and to the standards required under the Development Consent or this document then the City may either:

(i) complete the Public Benefits itself, including by exercising its right to compulsorily acquire the Transfer Land in accordance with clause 10.6 of this document; or

(ii) modify the Public Benefits to reasonably achieve the objectives identified in the Development Consent and this document,

and may recover all costs of and reasonably incidental to that work from the Developer and the Landowner (however the Landowner is only responsible for those costs incurred by the City, to the extent those costs arise directly from the Landowner's failure to complete or provide the Public Benefits). The City can claim on the Guarantee in order to exercise this right, in which case the provisions of clause 10 will apply. To the extent that the City's costs exceed the amount of the Guarantee, the City can recover this amount from the Developer and the Landowner as a debt due and owing to the City.

(c) If the City exercises its rights under this clause 6.4 to complete the Public Benefits, the Developer and the Landowner grant the City a licence for the period necessary for the City to access the Land to carry out, or procure the carrying out, of the Public Benefits.

7. INDEMNITY

(a) The Developer indemnifies the City against all damage, expense, loss or liability of any nature suffered or incurred by the City arising from any act or omission by the Developer (or any Personnel) in connection with the performance of the Developer's obligations under this document, except to the extent the damage, expense, loss or liability suffered or incurred is caused by, or contributed to by, any wilful or negligent act or omission of the City (or any person engaged by the City).

(b) The Landowner indemnifies the City only for breaches of its express obligations under this document and excludes liability for any act or omission of the Developer (or any Personnel).

8. DEFECTS LIABILITY

8.1 Security for Defects Liability Period

Until the expiry of the relevant Defects Liability Period, the City may retain from the Guarantee an amount equal to 10% of the Attributed Value of the Developer's Works as security for the Developer's and the Landowner's performance of their obligations under this clause 8. The Developer and the Landowner must make any necessary arrangements to allow the provision of the Guarantee for the Defects Liability Period in accordance with this clause.

8.2 **Defect in the Public Benefits**

(a) If:

(i) the Developer or the Landowner is in breach of clause 4.2 of this document; or

(ii) the City notifies the Developer and the Landowner of a Defect in the Public Benefits within the Defects Liability Period,

then, following written notice from the City, the Developer or the Landowner must promptly correct or replace (at the Developer's expense) the defective elements of the Public Benefits.

(b) If the Developer is unable or unwilling to comply with clause 8.2(a), or fails to rectify the Defect within three months of receiving notice from the City under clause 8.2(a), the City may:

(i) rectify the Defect itself;

(ii) make a claim on the Guarantee in accordance with clause 10 for the reasonable costs of the City in rectifying the Defect; and

(iii) to the extent the costs incurred to rectify the Defect exceeds the Guarantee, recover the reasonable costs from the Developer and/or the Landowner as a debt due and owing to the City.

(c) If the City requires access to the Land to rectify any Defect, the Developer and the Landowner grant the City and its contractors a licence for such period as is necessary for the City and its contractors to access the Land to carry out, or procure the carrying out, of the rectification works.

9. **REGISTRATION AND CAVEAT**

9.1 **Registration of this document**

(a) The Landowner:

(i) consents to the registration of this document at the NSW Land Registry Services on the title to the Land;

(ii) warrants that it has obtained all consents to the registration of this document on the title to the Land; and

(iii) must within 20 Business Days of a written request from the City do all things necessary to allow the City to register this document on the title to the Land, including but not limited to producing any documents or letters of consent required by the Registrar-General of the NSW Land Registry Services.

(iv) The Landowner must act promptly in complying with and assisting to respond to any requisitions raised by the NSW Land Registry Services that relate to registration of this document.

(b) The Developer will pay to the City the registration, electronic lodgement and requisition fees (where applicable) required for registration and removal of this document at NSW Land Registry Services.

9.2 **Caveat**

(a) The City may, at any time after the date of this document, register a caveat over the Land preventing any dealing with the Land that is inconsistent with this document.

(b) Provided that the City complies with this clause 9.2, the Landowner must not object to the registration of this caveat and may not attempt to have the caveat removed from the title to the Land.

(c) In exercising its rights under this clause 9.2 the City must do all things reasonably required to:

(i) remove the caveat from the Land once this document has been registered on the title to the Land; and

(ii) consent to the registration of:

(A) this document; and

(B) any plan of consolidation, plan of subdivision or other dealing required by this document or the Development Consent.

9.3 **Release of this document**

(a) If the City is satisfied that the Developer and the Landowner have provided all Public Benefits and otherwise complied with this document then the City must promptly do all things reasonably required to remove this document from the title to the Land.

(b) The Landowner must, within 10 Business Days of a written request from the City, do all things necessary to allow the City to comply with clause 9.3(a), including but not limited to producing any documents or letters of consent required by the Registrar-General of the NSW Land Registry Services.

(c) The Developer must, within 10 Business Days of a written request from the City, do all things necessary to allow the City to comply with clause 9.3(a), including but not limited to providing the City with payment for registration, lodgement and requisition fees (where applicable) required for removal of this document from the title to the Land by NSW Land Registry Services.

10. **ENFORCEMENT**

10.1 **Developer to provide Guarantee**

The Developer must deliver the Guarantee for the Guarantee Amount to the City by the Guarantee Amount Due Date. For the avoidance of doubt, the Landowner has no obligations related to the provision of any Guarantee under this document.

10.2 **Adjustment of Guarantee Amount**

(a) Subject to clause 10.2(b), following each anniversary of the date of the Guarantee (the "Adjustment Date") and at any time prior to the expiry of the Defects Liability Period, the Guarantee Amounts are to be adjusted to a revised amount by applying the following formula:

RGA = GA x (A / B)

where:

RGA is the revised guarantee amount applicable from the relevant Adjustment Date

GA is the Guarantee Amount that is current on the relevant Adjustment Date

A is the Index Number most recently published before the relevant Adjustment Date

B is the Index Number most recently published:

(i) before the date of the Guarantee for the first Adjustment Date; and

(ii) before the preceding Adjustment Date for every subsequent Adjustment Date

If after the formula is applied the revised Guarantee Amount will be less than the amount held at the preceding Adjustment Date, the Guarantee Amount will not be adjusted.

(b) If the Guarantee Amount is adjusted under clause 10.2(a), the Developer is not required to provide the City with a replacement Guarantee for that revised Guarantee Amount until such time as the City notifies the Developer that the City is ready to exchange the then current Guarantee held by the City, following which the City and the Developer must promptly exchange the then current Guarantee held by the City with a replacement Guarantee for that revised Guarantee Amount from the Developer.

10.3 **Right of City to claim on Guarantee**

(a) The Developer and the Landowner agree that the City may make an appropriation from the Guarantee in such amount as the City, acting reasonably, thinks appropriate if:

(i) the Developer fails to comply with clause 5.2 of Schedule 3 of this document (provision of detailed design drawings and detailed costs estimate);

(ii) the City allows the Developer and the Landowner not to complete the Public Benefits, or any part of them, in accordance with clause 6.4(a)(i);

(iii) an Insolvency Event occurs in respect of the Developer or the Landowner;

(iv) the Developer and the Landowner fail to deliver the Public Benefits in accordance with clause 6.4(b);

(v) the Developer fails to rectify a Defect in accordance with clause 8.2 of this document;

(vi) the detailed designs for the Developer's Works are not finalised between the parties within 24 months of the date of issue of a Construction Certificate that approves the construction of any structures above the ground floor of the Development;

(vii) the Developer's Works do not reach Completion within 48 months of the date of issue of the first Construction Certificate in respect of the Development (or such later time as agreed by the City in writing);

(viii) the City incurs any other expense or liability in exercising its rights and powers under this document.

(b) Any amount of the Guarantee appropriated by the City in accordance with clause 10.3(a) must be applied only towards:

(i) the costs and expenses incurred by the City rectifying any default by the Developer or the Landowner under this document; and

(ii) carrying out any works required to achieve the Public Benefits.

10.4 **Expenditure by the City**

If the City claims on the Guarantee to Complete the Developer's Works, then the City:

(a) is not required to expend more money than the Guarantee Amount and may elect not to carry out items of the Developer's Works to ensure that those works can be carried out for an amount equal to or less than the Guarantee Amount; or

(b) may expend more than the Guarantee Amount. If the City expends more money than the Guarantee Amount then the amount in excess of the Guarantee Amount will be deemed to be a debt due and owing to the City by the Developer.

10.5 **Top-up and return of Guarantee**

(a) If the City calls upon the Guarantee in accordance with this clause 10 then the Developer must immediately provide to the City a replacement Guarantee to ensure that, at all times until the Guarantee is released in accordance with paragraph 10.5(b), the City is in possession of a Guarantee for a face value equivalent to the Guarantee Amount.

(b) If:

(i) the monies secured by the Guarantee have not been expended;

(ii) the City has concurred with Completion in accordance with clause 6.3(a)(i) of this document, taking into account any approved non-

completion of Public Benefits approved by clause 6.4(a) of this document; and

(iii) the City has been provided with the security for the Defects Liability Period in accordance with clause 8.1,

then the City will promptly return the Guarantee to the Developer following the issue of a notice pursuant to clause 6.3(a)(i) of this document.

(c) If, following expiry of the Defects Liability Period, the City is satisfied that all defects have been rectified in accordance with clause 8 then the City must promptly return to the Developer the portion of the Guarantee retained by the City as security for the Defects Liability Period.

10.6 **Compulsory acquisition**

(a) If the Landowner fails to transfer or dedicate the Transfer Land to the City in accordance with Schedule 3 of this document then the City may compulsorily acquire that land for the amount of $1.00 in accordance with the Land Acquisition (Just Terms Compensation) Act 1991 (NSW). The City, the Developer and the Landowner agree that:

(i) this clause 10.6 is an agreement between the Landowner and the City for the purposes of section 30 of the *Land Acquisition (Just Terms Compensation) Act 1991* (NSW*)*;

(ii) in this clause 10.6 the Landowner and the City have agreed on all relevant matters concerning the compulsory acquisition and the compensation to be paid for the acquisition; and

(b) the Landowner must pay the City, promptly on demand, an amount equivalent to all costs incurred by the City in acquiring the whole or any part of the Transfer Land as contemplated by this clause 10.6.

11. DISPUTE RESOLUTION

11.1 Application

Any Dispute must be determined in accordance with the procedure in this clause 11.

11.2 Negotiation

(a) If any Dispute arises, a party to the Dispute (**Referring Party**) may by giving notice to the other party or parties to the Dispute (**Dispute Notice**) refer the Dispute to the Developer's Representative and the City's Representative for resolution. The Dispute Notice must:

(i) be in writing;

(ii) state that it is given pursuant to this clause 11; and

(iii) include or be accompanied by reasonable particulars of the Dispute including:

(A) a brief description of the circumstances in which the Dispute arose;

(B) references to any:

(aa) provisions of this document; and

(bb) acts or omissions of any person,

relevant to the Dispute; and

(C) where applicable, the amount in dispute (whether monetary or any other commodity) and if not precisely known, the best estimate available.

(b) Within 10 Business Days of the Referring Party issuing the Dispute Notice (**Resolution Period**), the Developer's Representative and the City's Representative must meet at least once to attempt to resolve the Dispute.

(c) The Developer's Representative and the City's Representative may meet more than once to resolve a Dispute. The Developer's Representative and the City's Representative may meet in person, via telephone, videoconference, internet-based instant messaging or any other agreed means of instantaneous communication to effect the meeting.

11.3 **Not use information**

The purpose of any exchange of information or documents or the making of any offer of settlement under this clause 11 is to attempt to settle the Dispute. Neither party may use any information or documents obtained through any dispute resolution process undertaken under this clause 11 for any purpose other than in an attempt to settle the Dispute.

11.4 **Condition precedent to litigation**

Subject to clause 11.5, a party must not commence legal proceedings in respect of a Dispute unless:

(a) a Dispute Notice has been given; and

(b) the Resolution Period has expired.

11.5 **Summary or urgent relief**

Nothing in this clause 11 will prevent a party from instituting proceedings to seek urgent injunctive, interlocutory or declaratory relief in respect of a Dispute.

12. TAXES AND GST

12.1 Responsibility for Taxes

(a) The Developer is responsible for any and all Taxes and other like liabilities which may arise under any Commonwealth, State or Territory legislation (as amended from time to time) as a result of or in connection with this document or the Public Benefits.

(b) The Developer must indemnify the City in relation to any claims, liabilities and costs (including penalties and interest) arising as a result of any Tax or other like liability for which the Developer is responsible under clause 12.1(a).

12.2 GST free supply

To the extent that Divisions 81 and 82 of the GST Law apply to a supply made under this document:

(a) no additional amount will be payable by a party on account of GST; and

(b) no tax invoices will be exchanged between the parties.

12.3 Supply subject to GST

To the extent that clause 12.2 does not apply to a supply made under this document, this clause 12.3 will apply.

(a) If one party (**Supplying Party**) makes a taxable supply and the consideration for that supply does not expressly include GST, the party that is liable to provide the consideration (**Receiving Party**) must also pay an amount (**GST Amount**) equal to the GST payable in respect of that supply.

(b) Subject to first receiving a tax invoice or adjustment note as appropriate, the receiving party must pay the GST amount when it is liable to provide the consideration.

(c) If one party must indemnify or reimburse another party (**Payee**) for any loss or expense incurred by the Payee, the required payment does not include any amount which the Payee (or an entity that is in the same GST group as the Payee) is entitled to claim as an input tax credit, but will be increased under clause 12.3(a) if the payment is consideration for a taxable supply.

(d) If an adjustment event arises in respect of a taxable supply made by a Supplying Party, the GST Amount payable by the Receiving Party under clause 12.3(a) will be recalculated to reflect the adjustment event and a payment will be made by the Receiving Party to the Supplying Party, or by the Supplying Party to the Receiving Party, as the case requires.

(e) The Developer will assume the City is not entitled to any input tax credit when calculating any amounts payable under this clause 12.3.

(f) In this document:

(i) consideration includes non-monetary consideration, in respect of which the parties must agree on a market value, acting reasonably; and

(ii) in addition to the meaning given in the GST Act, the term "GST" includes a notional liability for GST.

13. DEALINGS

13.1 Dealing by the City

(a) The City may Deal with its interest in this document without the consent of the Developer and the Landowner if the Dealing is with a Government Agency. The City must give the Developer and the Landowner notice of the Dealing within five Business Days of the date of the Dealing.

(b) The City may not otherwise Deal with its interest in this document without the consent of the Developer and the Landowner, such consent not to be unreasonably withheld or delayed.

13.2 Dealing by the Developer and the Landowner

(a) Prior to registration of this document in accordance with clause 9.1, the Developer and the Landowner must not Deal with this document without:

(i) the prior written consent of the City; and

(ii) the City, the Developer, the Landowner and the third party the subject of the Dealing entering into a deed of consent to the Dealing on terms acceptable to the City.

(b) On and from registration of this document in accordance with clause 9:

(i) the Developer and the Landowner may Deal with this document without the consent of the City only as a result of the sale of the whole of the Land (without subdivision) to a purchaser or transferee of the Land;

(ii) the Landowner may register a plan of stratum subdivision, plan of strata subdivision or community scheme plan, and the City consents to this document remaining registered only on the to the common property of the strata plan upon registration of the strata plan or the association property of the community scheme upon registration of the community scheme plan; and

(iii) the Developer and the Landowner must not otherwise Deal with this document to a third party that is not a purchaser of the whole or any part of the Land without:

(A) the prior written consent of the City; and

(B) the City, the Developer, the Landowner and the third party the subject of the Dealing entering into a deed of consent to the Dealing on terms acceptable to the City.

(c) The Developer must pay the City's costs and expenses relating to any consent or documentation required due to the operation of this clause 13.2.

(d) Despite any other clause in this document, subject to the parties entering into a deed of consent on terms acceptable:

(i) to the City; and

(ii) to the Developer and the Landowner (acting reasonably),

the Developer may assign or novate this document to Bridge Living Limited ABN 55 760 055 094.

13.3 **Extinguishment or creation of interests on Transfer Land**

(a) Prior to the dedication or transfer of the Transfer Land to the City, the Landowner must:

(i) extinguish all leases and licences over the Transfer Land; and

(ii) extinguish all redundant encumbrances and those that, in the City's opinion, would unreasonably impede the intended use of all or any part of the Transfer Land.

(b) The Landowner must comply with any directions by the City relating to the Transfer Land, including but not limited to the creation of any encumbrances over the Transfer Land.

13.4 **PDA Alignment Provisions**

(a) If the Project Delivery Agreement between the Developer and the Landowner dated December 2022 (as varied) is terminated, the Landowner may elect (at its absolute discretion) to

novate all of the Developer's obligations under this document to the Landowner or a third party approved by the City (acting reasonably).

(b) The Developer and the Landowner may agree with the City to vary this document to split it into separate planning agreements to clarify the status of obligations.

(c) The City acknowledges that the Landowner is not responsible for any of the Developer's obligations under this document.

(d) The Landowner has the right to assign or novate this document on transfer or vesting of the Land, including through entry into a novation deed with the City and other relevant parties.

14. TERMINATION

(a) The City may terminate this document by notice in writing to the Developer if the Development Consent lapses or is surrendered by the Developer.

(b) If the City terminates this document under clause 14(a) then:

(i) the rights of each party that arose before the termination or which may arise at any future time for any breach or non-observance of obligations occurring prior to the termination are not affected;

(ii) the Developer and the Landowner must take all steps reasonably necessary to minimise any loss each party may suffer as a result of the termination of this document;

(iii) the City will return the Guarantee to the Developer after first deducting any amounts owing to the City or costs incurred by the City by operation of this document. If in exercising its rights under this document the City expends more money than the Guarantee Amount then the amount in excess of the Guarantee Amount will be deemed to be a debt due and owing to the City by the Developer; and

(iv) the City will, at the Developer's cost, do all things reasonably required to remove this document from the title to the Land.

15. CONFIDENTIALITY, DISCLOSURES AND PRIVACY

15.1 Use and disclosure of Confidential Information

A party (**receiving party**) which acquires Confidential Information of another party (**disclosing party**) must not:

(a) use any of the Confidential Information except to the extent necessary to exercise its rights and perform its obligations under this document; or

(b) disclose any of the Confidential Information except in accordance with clauses 15.2 or 15.3.

15.2 Disclosures to personnel and advisers

(a) The receiving party may disclose Confidential Information to an officer, employee, agent, contractor, or legal, financial or other professional adviser if:

(i) the disclosure is necessary to enable the receiving party to perform its obligations or to exercise its rights under this document; and

(ii) prior to disclosure, the receiving party informs the person of the receiving party's obligations in relation to the Confidential Information under this document and obtains an undertaking from the person to comply with those obligations.

(b) The receiving party:

(i) must ensure that any person to whom Confidential Information is disclosed under clause 15.2(a) keeps the Confidential Information confidential and does not use it for any purpose other than as permitted under clause 15.2(a); and

(ii) is liable for the actions of any officer, employee, agent, contractor or legal, financial or other professional adviser that causes a breach of the obligations set out in clause 15.2(b)(i).

15.3 **Disclosures required by law**

(a) Subject to clause 15.3(b), the receiving party may disclose Confidential Information that the receiving party is required to disclose:

(i) by law or by order of any court or tribunal of competent jurisdiction; or

(ii) by any Government Agency, stock exchange or other regulatory body.

(b) If the receiving party is required to make a disclosure under clause 15.3(a), the receiving party must:

(i) to the extent possible, notify the disclosing party immediately it anticipates that it may be required to disclose any of the Confidential Information;

(ii) consult with and follow any reasonable directions from the disclosing party to minimise disclosure; and

(iii) if disclosure cannot be avoided:

(A) only disclose Confidential Information to the extent necessary to comply; and

(B) use reasonable efforts to ensure that any Confidential Information disclosed is kept confidential.

15.4 **Receiving party's return or destruction of documents**

On termination of this document the receiving party must immediately:

(a) deliver to the disclosing party all documents and other materials containing, recording or referring to Confidential Information; and

(b) erase or destroy in another way all electronic and other intangible records containing, recording or referring to Confidential Information,

which are in the possession, power or control of the receiving party or of any person to whom the receiving party has given access.

15.5 **Security and control**

The receiving party must:

(a) keep effective control of the Confidential Information; and

(b) ensure that the Confidential Information is kept secure from theft, loss, damage or unauthorised access or alteration.

15.6 **Media releases**

The Developer and the Landowner must not issue any information, publication, document or article for publication in any media concerning this document or the Public Benefits without the City's prior written consent.

15.7 **Privacy**

(a) Without limiting its obligations at law with respect to privacy and the protection of Personal Information, the Developer and the Landowner:

(i) must not, directly or indirectly collect, use or disclose any Personal Information under or in connection with this document except to the extent necessary to perform its obligations under this document; and

(ii) must in the delivery of the Public Benefits and the performance of all its other obligations under this document comply with the Privacy Laws and must not do any act or engage in any practice that would breach the Privacy Laws or which if done or engaged in by the City would be a breach of any Privacy Laws.

16. **NOTICES**

(a) A notice, consent or other communication under this document is only effective if it is in writing, signed and either left at the addressee's address or sent to the addressee by mail or email. If it is sent by mail, it is taken to have been received 5 Business Days after it is posted. If it is sent by email, it is taken to have been received the same day the email was sent, provided that the sender has not received a delivery failure notice (or similar), unless the time of receipt is after 5:00pm in which case it is taken to be received on the next Business Day.

(b) A person's address and email address are those set out in Schedule 1 for the City's Representative and the Developer's Representative and the Landowner's Representative, or as the person notifies the sender in writing from time to time.

17. **CHAIN OF RESPONSIBILITY**

(a) In this clause:

(i) **Chain of Responsibility** means legislation that extends liability for Road Law offences to all parties whose actions, inactions or demands influence conduct on the road particularly in relation to speed, fatigue, vehicle standards, vehicle roadworthiness, load restraint, and mass and dimension.

(ii) **HVNL** means the *Heavy Vehicle National Law* (NSW), regulations and other instruments under it including any codes of practice and any consolidations, amendments, re-enactments or replacements.

(iii) **Heavy Vehicle** has the meaning given to it in the HNVL.

(iv) **Road Law** means any law, regulation or rule relating to the use of a road, restrictions on driving hours (in whichever legislative instrument those requirements may appear), mass, load and restraint requirements for the carriage of goods, dangerous goods, environmental impacts and speed and traffic requirements and includes the HVNL.

(b) The Developer must in connection with any activity carried out on land owned by the City under or in relation to this document:

(i) comply with all Chain of Responsibility legislation and must ensure that any activity relating to a Heavy Vehicle used in connection with this document is undertaken in accordance with all applicable Chain of Responsibility obligations (including any fatigue, speed, mass, dimension or load restraint requirements);

(ii) not ask, direct or require (directly or indirectly) the driver of a Heavy Vehicle or a party in the Chain of Responsibility to do or not do something the Developer knows, or ought reasonably to know, would have the effect of causing the driver to contravene their Chain of Responsibility obligations, including to breach any fatigue, speed, mass, dimension or load restraint requirements; and

(iii) ensure that any subcontractors (where any Heavy Vehicle activities are sub-contracted under this document) are contractually bound by similar Chain of Responsibility obligations to those set out in this clause 17(b).

(c) The Developer will ensure that they have proper processes in place to manage its Chain of Responsibility obligations under this clause 17.

(d) The Developer must provide the City, upon request, with all information and documentation reasonably required by the City to monitor or audit compliance with this clause (including permitting inspections of vehicles and business premises).

18. MODERN SLAVERY

(a) In this clause:

(i) **Engaged Entities** means any first tier (direct) suppliers, subcontractors, consultants and contractors engaged by a party in connection with this document;

(ii) **Grievance Mechanism** means a process for handling a complaint or grievance about Modern Slavery that is consistent with the criteria set out in Principle 31 of the 2011 United Nations Guiding Principles on Business and Human Rights;

(iii) **Modern Slavery** has the meaning given to it in section 4 of the *Modern Slavery Act*;

(iv) **Modern Slavery Act** means the *Modern Slavery Act 2018* (Cth);

(v) **Modern Slavery Laws** means all applicable modern slavery laws, statutes, regulations and codes from time to time in force which prohibit the exploitation of workers, human trafficking, slavery, servitude, forced labour, debt bondage or deceptive recruiting for labour or services or similar, including but not limited to the Modern Slavery Act and the *Modern Slavery Act 2018* (NSW);

(vi) **Reasonable Steps** includes:

(A) obtaining awareness of what constitutes and the Modern Slavery and the Modern Slavery Laws in Australia;

(B) undertaking activities to identify and address Modern Slavery risks in the Developer's and the Landowner's operations and supply chain (including adherence to Australian labour laws, conducting a Modern Slavery risk assessment and implementing a Modern Slavery policy);

(C) consulting with the Developer's and the Landowner's Engaged Entities to identify and mitigate Modern Slavery risks in its supply chain and labour force, including by implementing policies and procedures that reject the exploitation of migrant workers;

(D) providing training necessary to identify Modern Slavery risks, risk management and remediation procedures to Personnel;

(E) having regard to any policy, direction or document released by the New South Wales Office of the Anti-Slavery Commissioner from time to time.

(b) The Developer and the Landowner must:

(i) not cause or contribute to Modern Slavery or engage in any activity, practice or conduct that constitutes an offence under Modern Slavery Laws or that would constitute an offence if such activity, practice or conduct were carried out in Australia;

(ii) take Reasonable Steps (having regard to the size, nature and industry of the Developer's and the Landowner's businesses) to identify, assess and address Modern Slavery risks within its operations and supply chains;

(iii) comply with any request from the City to provide any information necessary to enable the City to comply with its obligations under the Modern Slavery Laws and undertake any due diligence on the Developer's and the Landowner's supply chains as required;

(iv) ensure that they and their Engaged Entities pay their Personnel at least the minimum wage and other entitlements as required by Law;

(v) cooperate in good faith with the City in investigating the circumstances relevant to any potential, suspected or actual breach of any Modern Slavery Laws;

(vi) ensure access to an effective Grievance Mechanism for any Personnel within its operations (including Personnel of its Engaged Entities);

(vii) provide access to documentation and information as reasonably required by the City to verify the Developer's and the Landowner's compliance with clause 18(b); and

(c) include in their contracts with any subcontractors or suppliers, Modern Slavery provisions that are at least as onerous as those set out in this clause 18.

(d) All parties agree:

(i) to provide reasonable assistance to the other parties to comply with this clause 18; and

(ii) to implement systems, procedures and policies as required to meet their obligations under this clause 18.

(e) In the event of any potential, suspected or actual instances of Modern Slavery within its operations or supply chain, the Developer and the Landowner must:

(iii) notify the City in writing as soon as practicable with adequate particulars to enable the City to understand the potential, suspected or actual instances of Modern Slavery;

(iv) within 10 Business Days (or such other timeframe as agreed by the parties), prepare a suitable remediation plan that:

(A) outlines the steps that the Developer and the Landowner intend to take to remedy the issue along with an explanation as to how the proposed steps will resolve the issue;

(B) provides a timeframe for implementation and completion of these steps; and

(C) explains the quantitative/qualitative indicators that will determine when the issue has been resolved,

(**Remediation Plan**) for the City to review;

(v) amend the Remediation Plan to reflect reasonable additional direction provided by the City in relation to any feedback it gives on the Remediation Plan following its review;

(vi) take all reasonable steps to ensure that the Remediation Plan is completed within the period determined by clause 18(e)(iv).

(d) The City may give reasonable assistance to the Developer and the Landowner to prepare and/or implement a Remediation Plan where deemed appropriate.

(e) The Developer and the Landowner must provide the City with evidence of the ongoing implementation of the Remediation Plan promptly upon request.

(f) The parties agree that a breach of clause 18(a) or clause 18(d), or failing to use best endeavours to implement a Remediation Plan will be a material breach of this document (**Modern Slavery Material Breach**).

(g) Where a Modern Slavery Material Breach is not capable of being remedied, or is otherwise not remedied within a reasonable timeframe as agreed by the parties, the Developer and the Landowner indemnify the City against all damage, expense, loss or liability of any nature suffered or incurred by the City arising from any act or omission by the Developer or the Landowner (or any Personnel) in connection with the performance of the Developer's and the Landowner's obligations under this clause 18.

(h) The Developer and the Landowner represent and warrant that:

(i) they have not, as of the date of this document, engaged in Modern Slavery or breached any Modern Slavery Laws;

(ii) they have disclosed to the extent that they are aware, any actual or reasonably suspected Modern Slavery within their own operations or the supply chain of any of their Engaged Entities and any actions taken to remedy the disclosed event;

(iii) any information provided to the City with respect to Modern Slavery as part of the City's procurement process is accurate, complete and not misleading and/or deceptive in any way; and

(iv) they have taken reasonable steps to ensure that any Engaged Entities engaged in connection with this document have complied and continue to comply with the obligations contained in this clause 18.

19. GENERAL

19.1 Governing law

(a) This document is governed by the laws of New South Wales.

(b) Each party submits to the exclusive jurisdiction of the courts exercising jurisdiction in New South Wales, and any court that may hear appeals from any of those courts, for any proceedings in connection with this document, and waives any right it might have to claim that those courts are an inconvenient forum.

19.2 Access to information

In accordance with section 121 of the *Government Information (Public Access) Act 2009 (NSW)*, the Developer and the Landowner agree to allow the City immediate access to the following information contained in records held by the Developer and the Landowner:

(a) information that relates directly to the delivery of the Public Benefits by the Developer and the Landowner;

(b) information collected by the Developer or the Landowner from members of the public to whom the Developer or the Landowner provide, or offer to provide, services on behalf of the City; and

(c) information received by the Developer or the Landowner from the City to enable the Developer and the Landowner to deliver the Public Benefits.

19.3 **Liability for expenses**

(a) The Developer must pay its own and the City's expenses incurred in negotiating, executing, registering, releasing, administering and enforcing this document.

(b) The Landowner must pay its own expenses incurred in negotiating, executing, registering, releasing, administering and enforcing this document.

(c) The Developer must pay for all reasonable costs and expenses associated with the preparation and giving of public notice of this document and the explanatory note prepared in accordance with the Regulations and for any consent the City is required to provide under this document.

19.4 **Relationship of parties**

(a) Nothing in this document creates a joint venture, partnership, or the relationship of principal and agent, or employee and employer between the parties; and

(b) No party has the authority to bind any other party by any representation, declaration or admission, or to make any contract or commitment on behalf of any other party or to pledge any other party's credit.

19.5 **Giving effect to this document**

Each party must do anything (including execute any document), and must ensure that its employees and agents do anything (including execute any document), that the other party may reasonably require to give full effect to this document.

19.6 **Time for doing acts**

(a) If:

(i) the time for doing any act or thing required to be done; or

(ii) a notice period specified in this document,

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 5pm on the specified day, it is taken to have been done on the following Business Day.

19.7 **Severance**

If any clause or part of any clause is in any way unenforceable, invalid or illegal, it is to be read down so as to be enforceable, valid and legal. If this is not possible, the clause (or where possible, the offending part) is to be severed from this document without affecting the enforceability, validity or legality of the remaining clauses (or parts of those clauses) which will continue in full force and effect.

19.8 **Preservation of existing rights**

The expiration or termination of this document does not affect any right that has accrued to a party before the expiration or termination date.

19.9 **No merger**

Any right or obligation of any party that is expressed to operate or have effect on or after the completion, expiration or termination of this document for any reason, will not merge on the occurrence of that event but will remain in full force and effect.

19.10 **Waiver of rights**

A right may only be waived in writing, signed by the party giving the waiver, and:

(a) no other conduct of a party (including a failure to exercise, or delay in exercising, the right) operates as a waiver of the right or otherwise prevents the exercise of the right;

(b) a waiver of a right on one or more occasions does not operate as a waiver of that right if it arises again; and

(c) the exercise of a right does not prevent any further exercise of that right or of any other right.

19.11 **Operation of this document**

(a) This document contains the entire agreement between the parties about its subject matter. Any previous understanding, agreement, representation or warranty relating to that subject matter is replaced by this document and has no further effect.

(b) Any right that a person may have under this document is in addition to, and does not replace or limit, any other right that the person may have.

(c) Any provision of this document which is unenforceable or partly unenforceable is, where possible, to be severed to the extent necessary to make this document enforceable, unless this would materially change the intended effect of this document.

19.12 **Operation of indemnities**

(a) Each indemnity in this document survives the expiry or termination of this document.

(b) A party may recover a payment under an indemnity in this document before it makes the payment in respect of which the indemnity is given.

19.13 **Inconsistency with other documents**

Unless the contrary intention is expressed, if there is an inconsistency between any of one or more of:

(a) this document;

(b) any Schedule to this document; and

(c) the provisions of any other document of the Developer,

the order of precedence between them will be the order listed above, this document having the highest level of precedence.

19.14 **No fetter**

Nothing in this document in any way restricts or otherwise affects the City's unfettered discretion to exercise its statutory powers as a public authority.

19.15 **Counterparts**

This document may be executed in counterparts.

SCHEDULE 1

Agreement Details

ITEM	TERM	DESCRIPTION
1.	**Land**	Lot 1 in DP 1249145
2.	**Development**	Design, construction and operation of a mixed-use development comprising four new buildings that provide social and affordable housing and specialist disability accommodation (SDA), a new community facility and commercial uses. The total Gross Floor Area of the Development on the Land is 30,186 square metres.
3.	**City's Representative**	Name: Executive Director Planning Development and Transport Address: Level 1, 456 Kent Street, Sydney NSW 2000 Email: planningsystemsadmin@cityofsydney.nsw.gov.au Or such alternative representative nominated by the City from time to time and notified in writing to the Developer's Representative
4.	**Developer's Representative**	Name: Lindsey Gray Address: Level 9, 59 Goulburn Street, Sydney NSW 2000 Email: L.Gray@bridgehousing.org.au Or such alternative representative nominated by the Developer from time to time and notified in writing to the City's Representative
5.	**Landowner's Representative**	Name: Lisa Marigliano Address: Level 6, 6 Parramatta Square 10 Darcy St Parramatta NSW 2150

		Email: Lisa.Marigliano@homes.nsw.gov.au Or such alternative representative nominated by the Landowner from time to time and notified in writing to the City's Representative
6.	**Development Application**	SSD - 51274973
7.	**Guarantee Amount**	A total amount of $175,648.00
8.	**Guarantee Amount Due Date**	Prior to the first Construction Certificate for the Developer's Works.

SCHEDULE 2

Requirements under the Act and Regulation (clause 2)

The below table summarises how this document complies with the Act and Regulation.

ITEM	SECTION OF ACT OR REGULATION	PROVISION/CLAUSE OF THIS DOCUMENT
1.	**Planning instrument and/or development application** (section 7.4(1) of the Act) The Developer has: (a) sought a change to an environmental planning instrument; (b) made, or proposes to make, a Development Application; or (c) entered into an agreement with, or is otherwise associated with, a person, to whom paragraph (a) or (b) applies.	 (a) No (b) Yes (c) No
2.	**Description of land to which this document applies** (section 7.4(3)(a) of the Act)	Item 1 of Schedule 1.
3.	**Description of change to the environmental planning instrument to which this document applies and/or the development to which this document applies** (section 7.4(3)(b) of the Act)	The Development as described in clause 2.1.
4.	**The nature and extent of the provision to be made by the developer under this document, the time or times by which the provision is to be made and the manner in which the provision is to be made** (section 7.4(3)(c) of the Act)	Schedule 3.
5.	**Whether this document excludes (wholly or in part) of does not exclude the application of section 7.11, 7.12 or 7.24 to the development** (section 7.4(3)(d) of the Act)	Section 7.11 is not excluded. Section 7.12 is not excluded Section 7.24 is not excluded

ITEM	SECTION OF ACT OR REGULATION	PROVISION/CLAUSE OF THIS DOCUMENT
6.	**Applicability of section 7.11 of the Act** (section 7.4(3)(e) of the Act)	The application of section 7.11 of the Act is not excluded in respect of the Development and contributions (if any) under section 7.11 will be required to be paid.
7.	**Consideration of benefits under this document if section 7.11 applies** (section 7.4(3)(e) of the Act)	Benefits are not to be taken into consideration in determining a development contribution under section 7.11 of the Act.
8.	**Mechanism for Dispute Resolution** (section 7.4(3)(f) of the Act)	Clause 11
9.	**Enforcement of this document** (section 7.4(3)(g) of the Act)	Clause 10
10.	**No obligation to grant consent or exercise functions** (section 7.4(9) of the Act)	Clause 2.4
11.	**Registration of this document** (section 7.6 of the Act)	Clause 9
12.	**Whether certain requirements of this document must be complied with before a construction certificate is issued** (section 205(2) of the Regulation)	Provision of Guarantee
13.	**Whether certain requirements of this document must be complied with before a subdivision certificate is issued** (section 205(2) of the Regulation)	Completion of Developer's Works
14.	**Whether certain requirements of this document must be complied with before an occupation certificate is issued** (section 205(2) of the Regulation)	Completion of Developer's Works and dedication of Transfer Land.
15.	**Whether the explanatory note that accompanied exhibition of this document may be used to assist in construing this document** (section 205(5) of the Regulation)	Clause 2.5

SCHEDULE 3

Public Benefits (clause 5)

1. PUBLIC BENEFITS - OVERVIEW

The Developer and the Landowner must provide the Public Benefits in accordance with Schedule 3 and this document. The Attributed Value, timing of delivery and additional specifications relating to the Public Benefits is set out in the table below

	Public Benefit	Attributed Value	Due date	Additional specifications
1.	Monetary Contribution	Nil	N/A	N/A
2.	Transfer Land	Nil	After Completion of the Developer's Works but prior to the issue of the first Occupation Certificate for the Development.	Dedication of a 2m footway widening to Elizabeth St and 1.2m width to Phillip St and a corner setback, being land at the intersection of Elizabeth and Phillip Streets having a maximum internal radius of 12.5m with a minimum dimension at the corner of 4.3m. Plans showing the indicative location of the Transfer Land are contained in Annexure A to this document.
3.	Developer's Works	$175,648.00	Prior to the first Occupation Certificate for the Development.	Developer's Works - Embellishment of the Footway Widening
4.	Pedestrian through site links (easements for public access)	Nil	On or before the date of issue of the relevant Occupation Certificate applicable to the part of the Land on which the through	Construction and registration of the following easements to allow access for the public at all times of the day and all days of the week generally in the form of through site links located:

			site links are constructed.	One 10m wide easement for public access North/south from Kettle Street to Phillip Street; and One 6m wide easement for public access East/west from Walker Street to Elizabeth Street. Registration of the Easements and Positive Covenants on the title of the Land on the terms set out in Annexure D.

2. **PAYMENT OF MONETARY CONTRIBUTION**

N/A

3. **TRANSFER LAND**

3.1 **Dedication of land – decision**

The Landowner must, at its cost, take all steps required to transfer the Transfer Land to the City by the due date specified in clause 1 of Schedule 3. As part of this obligation, the Landowner must confirm with the City whether the Transfer Land is to be:

(a) dedicated to the City on registration of a plan of subdivision; or

(b) transferred to the City on registration of a transfer instrument.

3.2 **Obligations on dedication**

The requirement for the Landowner to dedicate the Transfer Land to the City is satisfied where the Landowner provides to the City evidence of registration of a plan of subdivision, including a complete copy of the registered instrument, showing that the Transfer Land has been dedicated to the City in accordance with the requirements of this document.

3.3 **Obligations on transfer**

The requirement for the Landowner to transfer the Transfer Land to the City is satisfied where:

(a) a PEXA workspace has been set-up with respect to the transfer and all required parties are present in the workspace;

(b) all written consents for registration have been provided to the City and uploaded into PEXA;

(c) the Transfer has been lodged in PEXA; and

(d) the Landowner has provided the City with a title search showing that ownership of the Transfer Land has been transferred to the City in accordance with the requirements of this document.

3.4 **General Obligations**

(a) The Landowner is to do all things reasonably necessary to enable registration of the plan of subdivision or transfer instrument to occur.

(b) The Landowner must ensure that the Transfer Land is free of all encumbrances and affectations (whether registered or unregistered and including without limitation any charge or liability for rates, taxes and charges) except for any encumbrances agreed in writing by the City in its absolute discretion.

(c) The Landowner must indemnify and agree to keep indemnified the City against all claims made against the City as a result of any Contamination in, over, under or migrating from the whole or any part of the Transfer Land but only in relation to Contamination that existed on or before the date that the Transfer Land is dedicated to the City in accordance with the requirements of this clause.

(d) The Landowner warrants that as at the date of this document the Transfer Land is not subject to any Adverse Affectation and warrants as to those matters in Schedule 3 of the *Conveyancing (Sale of Land) Regulation 2022* (NSW), unless otherwise notified to and agreed by the City in writing in its absolute discretion.

4. **INSTRUMENTS**

(a) The Developer and the Landowner consent to the registration of the Instruments on the title of the Land. The Developer and the Landowner must execute the Instruments and then deliver the Instruments to the City for execution.

(b) The City must execute and deliver the Instruments to the Developer and the Landowner as soon as reasonably practicable following receipt of the Instruments under sub clause 4(a).

(c) The Landowner must register the Instruments after completion of the works comprising Items 3 and 4 of Clause 1 of Schedule 3 but before the issue of the relevant Occupation Certificate for the Development.

(d) If requested by the Landowner, the City and the Developer must do all things necessary to enable registration of the Instruments including:

(i) lodging the Instruments via an electronic conveyancing system such as PEXA; and

(ii) responding to any requisitions raised by the Land Registry Services NSW in respect of the Instruments.

5. FINAL DESIGN OF THE DEVELOPER'S WORKS

5.1 Scope of Developer's Works

The parties agree that further design refinement of the Developer's Works may be necessary, having regard to:

(a) the extent to which the design of the Developer's Works has been approved by the City;

(b) conditions affecting the Developer's Works that were not reasonably capable of identification prior to the date of this document;

(c) the extent of any refinement of the design of the Developer's Works permitted by this clause 5.1 of Schedule 3;

(d) any modification to the Development Consent made and approved under section 4.55 of the Act or any other development consent granted that relates to the Developer's Works; and

(e) the reasonable requirements of the City, including in regard to the Standards.

5.2 Final design of Developer's Works

(a) Prior to the issue of the first Construction Certificate for the Developer's Works, the Developer must submit to the City's Representative for approval, detailed design drawings of the Developer's Works.

(b) Within 30 Business Days after the City's Representative has received the detailed design drawings, the City will inform the Developer in writing as to whether the detailed design drawings are approved. If the detailed design drawings are not approved, the City will inform the Developer in writing of what further information or modifications are required and the Developer will have a further 15 Business Days to re-submit the required information, following which the process outlined in this paragraph 5.2(b) will apply again.

(c) If the Developer:

(i) fails to prepare the detailed design drawings; or

(ii) does not provide further information or modify the detailed design drawings,

in accordance with this clause 5.2 of Schedule 3, then the City may exercise its rights under clause 10 of this document in order to carry out the Developer's Works itself at the cost of the Developer.

5.3 Preparation of and changes to construction design drawings

(a) Following approval of the detailed design drawings by the City in accordance with clause 5.2 of Schedule 3, the Developer must promptly:

(i) prepare construction design drawings that comply with the detailed design drawings; and

(ii) provide the City with a copy of the construction design drawings and the designs and documents referred to in 5.2(a) of Schedule 3.

(b) The City, acting reasonably, may by written notice to the Developer at any time, approve, vary or direct the Developer to vary the construction design drawings so that the Developer's Works reflect:

(i) the Standards;

(ii) a departure or discrepancy from the plans approved under clause 5.2 of Schedule 3; or

(iii) any other standard or specification for materials or methodology for carrying out works that is adopted by the City from time to time, provided that any direction given under this clause 5.3(b)(iii) of Schedule 3 does not significantly increase:

(A) the cost of that element of the Developer's Works; or

(B) the complexity of implementation of the Developer's Works that may lead to a significant delay in the completion of the Developer's Works.

(c) Within 20 Business Days of receiving a notice from the City under clause 5.3(b) of Schedule 3, the Developer must:

(i) to the extent practicable, use reasonable endeavours to comply with the notice given by the City; or

(ii) if the Developer determines that the notice given by the City is unreasonable or impracticable, notify a dispute in accordance with clause 11 of this document.

If the Developer does not provide any response during the 20 Business Days after receiving a notice from the City under clause 5.3(b) of Schedule 3, it is deemed that the Developer accepts the notice given by the City and will take all steps required to comply with the notice.

(d) The City does not assume or owe any duty of care to the Developer in reviewing any design drawings submitted to it under this clause 3.4(d) of Schedule 3 or for any errors, omissions or non-compliance with this document.

(e) No participation by the City in the development of, the review of, or comments on any design drawings submitted by the Developer will lessen or otherwise affect the Developer's obligations under this document or constitute an acknowledgement by the City that the Developer has complied with its obligations under this document.

6. CONSTRUCTION OF DEVELOPER'S WORKS

6.1 Insurance

(a) From commencement of the Developer's Works until expiration of the Defects Liability Period, the Developer must effect and maintain (or cause to be effected and maintained under one or more policies of insurance and without requiring any risk to be double insured) the following insurances held with an insurer licensed by the Australian Prudential Regulation Authority or holding an investment grade rating from Standard & Poors, Moody's or Fitch:

(i) worker's compensation insurance or registrations as required by Laws;

(ii) public liability insurance written on an occurrence basis with a limit of indemnity of not less than $20,000,000 covering all aspects of the Developer's Works; and

(iii) construction works insurance in relation to the Developer's Works.

(b) The Developer must submit a copy of all certificates of insurance to the City:

(i) prior to commencing construction of the Developer's Works; and

(ii) promptly following a written request by the City, provided that such a request is not made more than twice in any 12 month period.

6.2 Approvals and consents

The Developer must, at its cost, obtain all relevant approvals and consents for the Developer's Works, whether from the City or from any other relevant Government Agency, including any necessary road opening permits. Before commencing the Developer's Works, the Developer must give to the City copies of all approvals and consents for the Developer's Works, other than the Development Consent.

6.3 Construction work

The Developer must, at its cost:

(a) carry out and complete the Developer's Works in accordance with all approvals and consents relating to the Developer's Works, including any approval given by the City under this document;

(b) ensure that all Developer's Works are constructed in a good and workmanlike manner, in accordance with the plans approved under this document so that the Developer's Works are structurally sound, fit for purpose and suitable for their intended use;

(c) ensure that the Developer's Works are Complete by the due date specified in clause 1 of Schedule 3 and promptly after becoming aware advise the City's Representative of any significant delays in completing the Developer's

Works or delays that may impact the delivery of the Public Benefits by the due date specified in clause 1 of Schedule 3; and

(d) comply with all reasonable directions of the City in respect to construction of the Developer's Works.

6.4 **Inspections by the City**

The City, as a party to this document and not in its role as a Government Agency, will:

(a) issue a set of hold points with the approval of the Plans under clause 5 of Schedule 3;

(b) inspect the Developer's Works in accordance with the hold points during the course of construction at reasonable times and on reasonable notice; and

(c) notify the Developer's Representative of any material or significant defect, error or omission relating to the construction or installation of the Developer's Works identified during or as the result of an inspection.

The Developer must ensure that it adheres to all hold point inspections during construction. Any failure by the City to identify a Defect, error or omission will not be construed as amounting to an acceptance by the City of the Defect, error or omission.

7. **STANDARDS**

The following list of Standards are included for information purposes only, and as a guide to the relevant standards for the general nature of the work identified as Developer's Works in this document. The City makes no representation or warranty as to the currency of the standards identified, or their application on the final design of the Developer's Works. The Developer must make its own enquiries regarding whether any standard has been replaced or supplemented. In the event that an Australian Standard prescribed a different level of material, finish, work or workmanship than those contained in a City standard, then the higher of the two standards will apply. If there is a conflict between City standards then the Developer must request the City nominate the correct and applicable City standard. The City's decision as to the applicable standard is final.

Relevant Australian Standards – Verge Works, Through site links

- AS 1725 Geotechnical Site investigations
- AS 4455 Masonry Units and segmental pavers
- AS 4678 Earth Retaining Structures
- AS 3600 Concrete Structures
- AS 2876 Concrete kerbs and channels
- AS 1158 Road Lighting
- AS 1743 Road signs

- AS 4282 Control of the Obtrusive Effects of Outdoor lighting
- AS 3500 Plumbing and Drainage
- AS 3700 Masonry Structures
- AS 2890 Parking Facilities
- AS 1428 Design for Access and Mobility
- AS 4454 Composts, soil conditioners and mulches

Relevant Australian Standards – Roads (including pedestrian areas)

- AS 1725 Geotechnical Site investigations
- AS 4455 Masonry Units and segmental pavers
- AS 4678 Earth Retaining Structures
- AS 3600 Concrete Structures
- AS 2876 Concrete kerbs and channels
- AS 1158 Road Lighting
- AS 4282 Control of the Obtrusive Effects of Outdoor lighting
- AS 1428 Design for Access and Mobility
- AS 3500 Plumbing and Drainage
- AS 3700 Masonry Structures
- AS 2890 Parking Facilities
- AS 1742 Manual of uniform traffic control devices
- AS 1743 Road Signs

City Standards (All Works)

- City of Sydney Contaminated Lands DCP 2004
- Sydney Street Code 2013
- Sydney Lights Code 2013
- City of Sydney Access Policy
- Sydney Street Technical Specification and Drawings
- City of Sydney Street Tree Master Plan 2011
- City of Sydney Public Domain Manual

EXECUTION

EXECUTED as a deed.

Signed, sealed and delivered for **THE COUNCIL OF THE CITY OF SYDNEY** (ABN 22 636 550 790) by its duly authorised officer, in the presence of:

Signature of officer

Signature of witness

Name of officer

Name of witness

Position of officer

Authorised delegate pursuant to section 377 of the Local Government Act 1993

456 Kent Street, Sydney NSW 2000

Address of witness

EXECUTED by **BRIDGE HOUSING LIMITED** (ABN 55 760 055 094) by its duly authorised representative/s in the presence of:

Signature of witness

Signature of authorised representative

Name of witness:

Name of authorised representative/

EXECUTED by **NEW SOUTH WALES LAND AND HOUSING CORPORATION** (ABN 24 960 729 253) by its duly authorised officer/s in the presence of:

Signature of Witness:	Signature of authorised officer/s
Name of Witness:	Name of authorised officer

ANNEXURE A

Public Benefits – additional plans and specifications

PROPOSED LOTS:

LOT 1 = BUILDING S1 COMMUNITY LOT

LOT 2 = S2A LOT

LOT 3 = S2B BRIDGE HOUSING LOT

LOT 4 = S3 HOMES NSW LOT

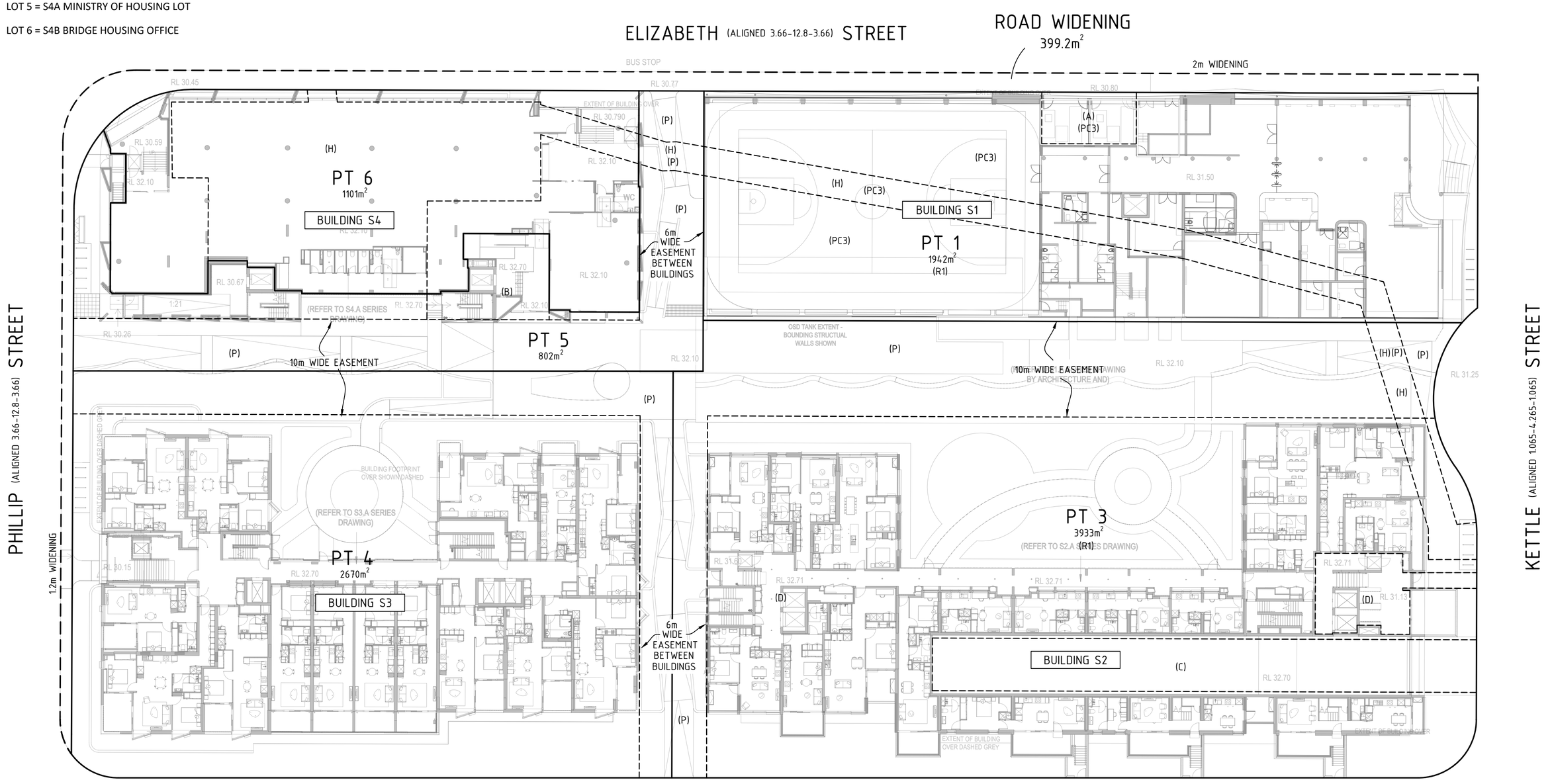
LOT 5 = S4A MINISTRY OF HOUSING LOT

LOT 6 = S4B BRIDGE HOUSING OFFICE

GROUND LEVEL - EASEMENTS

THIS IS A DRAFT PLAN AND IS SUBJECT TO FINAL SURVEY AND CONFIRMATION BY NSW LAND REGISTRY SERVICES

MGA2020
SCIMS



PROPOSED EASEMENTS:

(A) AUSGRID CHAMBER LEASE OF PREMISES
(B) RIGHT OF ACCESS LIMITED IN STRATUM (BURDENS LOT 5, BENEFITS LOT 6)
(C) RIGHT OF ACCESS LIMITED IN STRATUM (BURDENS LOT 3, BENEFITS LOT 1, 2, 4, 5 AND 6)
(D) RIGHT OF ACCESS LIMITED IN STRATUM (BURDENS LOT 3, BENEFITS LOT 2)
(P) PUBLIC RIGHT OF ACCESS 6 AND 10 WIDE LIMITED IN STRATUM
(R1) RESTRICTION ON THE USE OF LAND (BURDENS LOT 1, 2 AND 3, BENEFITS LOT 4, 5 AND 6)
(H) EASEMENT TO DRAIN WATER 3 WIDE AND VARIABLE LIMITED IN STRATUM (BURDENS LOT 1, 3 AND 5, BENEFITS CITY OF SYDNEY)
(PC3) POSITIVE COVENANT - COMMMUNITY FACILITY (BURDENS LOT 1, BENEFITS CITY OF SYDNEY)

BACKGROUND DRAWING REFERENCE:

DRAWING "MASTERPLAN" BY HAYBALL ARCHITECTS A02.01, REVISION C DATED 22/07/2026 FILE REF "A02.01(C)_CAD.DWG"

PROPOSED WHOLE OF LOT EASEMENTS

EASEMENT FOR SUPPORT AND SHELTER
EASEMENT FOR SERVICES
EASEMENT FOR EMERGENCY EGRESS
EASEMENT FOR ACCESS TO SHARED FACILITIES

SURVEYOR Name: RICHARD ABBOTT Date: Reference: P260070-DSUB-01	**DRAFT PLAN OF SUBDIVISION OF LOT 1 IN DP1249145**	LGA: SYDNEY Locality: REDFERN Reduction Ratio: 1:300 Lengths are in metres.	REGISTERED	DRAFT PLAN REV A ISSUED 03/09/2026

ANNEXURE B

Transfer Land

The Transfer Land must:

(a) Be remediated to be suitable for use as a public footpath, in accordance with an approved Remedial Action Plan, prior to its transfer to the City.

(b) Be transferred to the City free of any encumbrances (except for any encumbrance agreed in writing by the City in its absolute discretion) or encroachments.

Developer's Works

The Developer's Works comprise the following elements to be delivered in accordance with this document:

(a) Construct the footway widenings as a reinforced concrete footpath ("Footpath"), as required by the Sydney Development Control Plan 2012, and as shown in the indicative location on the Additional Plan.

(b) The Footpath must be constructed to the City's technical specifications and embellished in accordance with the City Streets Code, specifically that the footpath widening will be 110mm thick reinforced 32 MPa concrete.

(c) The Footpath must integrate the adjoining existing and new footpaths that will be upgraded as part of the Development Consent.

(d) Remediation of the Transfer Land to be fit for purpose for use as a public footpath. If remediation includes a capping layer, that capping layer must be a minimum of 1.5 metres below the top-most surface of the Transfer Land.

(e) The Developer must submit an interim site auditor report to the City for approval after the remediation of the Transfer Land has been completed, and prior to the construction of the Footpath.

ANNEXURE C

Instruments – Through-site link easements for access and positive covenants

INSTRUMENT SETTING OUT TERMS OF EASEMENTS OR PROFITS À PRENDRE INTENDED TO BE CREATED OR RELEASED AND OF RESTRICTIONS ON THE USE OF LAND OR POSITIVE COVENANTS INTENDED TO BE CREATED PURSUANT TO SECTION 88B CONVEYANCING ACT 1919.

(Sheet/ s)

Plan:	Plan of easement and positive covenant over Lot [insert] in DP [insert]
Full name and address of the owner of the land:	

Part 1 (Creation)

Number of item shown in the intention panel on the plan	Identity of easement, profit à prendre, restriction or positive covenant to be created and referred to in the plan.	Burdened lot(s) or parcel(s):	Benefited lot(s), road(s), bodies or Prescribed Authorities:
1	Easement for public access variable width unlimited in height and limited in depth to the ground surface [***#insert consistent with final plan***]	Lot [insert] in DP [insert]	The Council of the City of Sydney
2	Positive Covenant (Public Access)	Lot [insert] in DP [insert]	The Council of the City of Sydney

Part 2 (Terms)

INTERPRETATION

1. **Definitions**

These meanings apply unless the contrary intention appears:

Act means the *Conveyancing Act 1919* (NSW).

Authorised User means every person authorised by the Council or the Owner of the Lots Benefited for the purposes of the Easement created by this Instrument. Subject to the terms of the Easement, an Authorised User includes the employees, agents, servants, contractors, workers, licensees and invitees of the Council or the Owner of the Lots Benefited. Where the Easement benefits the Council or the Council is the owner of the Lot(s) Benefited, an Authorised User includes members of the public.

Council means The Council of the City Sydney, its successors and any other body serving the same or similar function.

Easement means the easements, restrictive covenant or positive covenants in this Instrument and includes the conditions in relation to that Easement.

Easement Site means in relation to an easement, positive covenant and restrictive covenant in this Instrument the site of an easement, positive covenant and restriction on use identified on the Plan.

Emergency Situation means any circumstance involving a need, for reasons of health, safety or security, for evacuation or egress from a building or other place or restriction of access, including fire, earthquake, flooding terrorist activity and any training or test of such evacuation or egress.

Grantee means the owner, or if there is more than one jointly the owners, of an estate in fee simple of a Lot Benefited.

Grantor means the owner, or if there is more than one jointly the owners, of an estate in fee simple of a Lot Burdened.

Lot Benefited means a lot or prescribed authority referred to in Part 1 of this Instrument as being land or authority benefited by an Easement created by this Instrument.

Lot Burdened means a lot referred to in Part 1 of this Instrument as being land burdened by an Easement created by this Instrument.

Owner means every person who is at any time entitled to an estate in a lot referred to in Part 1 of this Instrument as registered proprietor or mortgagee in possession.

Plan means the plan registered together with this Instrument.

Positive Covenant means the positive covenant created by this Instrument.

Required Credit Rating means a long-term credit rating of at least A- by Standard and Poor's (or equivalent rating).

2. **Interpretation**

In this Instrument:

2.1 the singular includes the plural and vice versa;

2.2 a reference to any legislation or to any provision of any legislation includes any modification or re-enactment of it, any legislative provision substituted for it and any regulations and statutory instruments issued under it;

2.3 a reference to anything (including any amount) is a reference to the whole or each part of it and a reference to a group of persons is a reference to any one or more of them;

2.4 specifying anything in this Instrument after the words including, includes or for example or similar expressions does not limit what else might be included unless there is express wording to the contrary;

2.5 a reference to a right or obligation of two or more persons confers that right, or imposes that obligation, as the case may be, jointly and severally;

2.6 the expression "Grantor" includes the Grantor, its successors and every person who is entitled to an estate or interest in possession of the Lot Burdened or any part of it with which the right is capable of enjoyment;

2.7 the expression "Grantee" includes the Grantee, its successors and every person who is entitled to an estate or interest in possession of the Lot Benefited or any part of it with which the right is capable of enjoyment;

3. **Headings**

Headings do not affect the interpretation of this Instrument.

4. **Positive covenants and maintenance requirements**

A requirement in an Easement which requires a Grantee or Grantor to maintain or repair an Easement Site or anything in an Easement Site is a positive covenant according to section 88BA of the Act.

5. **Severability**

If a provision of an Easement under this Instrument is void, unenforceable or illegal, then that provision is severed from that Easement and the remaining provisions of that Easement have full force and effect.

TERMS OF EASEMENT FOR PUBLIC ACCESS VARIABLE WIDTH LIMITED IN HEIGHT AND DEPTH [#INSERT (IF APPLICABLE)] NUMBERED ONE IN THE PLAN

1. **Grant**

Subject to the Grantor's rights under clauses 3 to 5, the Grantor grants to the Council and its Authorised Users full and free right to go, pass and repass over the Easement Site at all times:

1.1 on foot; and/or

1.2 with wheelchairs or other disabled access aids, bicycles, tricycles or similar non-motorised machines (being walked or ridden), but excluding all other vehicles; and/or

1.3 with or without animals,

for all lawful purposes.

2. **Purpose of the Easement**

The Council and the Grantor acknowledge that the Easement is being provided at no cost to the public and is for the purpose of providing reasonable access over the Easement Site to any member of the public in accordance with and subject to the provisions of this Easement.

3. **Requirements when exercising rights**

When exercising its rights and complying with its obligations under this easement, the Council must (and must ensure its Authorised Users (excluding members of the public)) take all reasonable steps:

(a) to minimise inconvenience, disturbance or damage to the Grantor, the Lot Burdened and any occupier of the Lot Burdened; and

(b) to cause as little damage as is practicable to the Lot Burdened and any improvements on it; and

(c) if damage is caused by the Council (or its Authorised Users (excluding members of the public)), restore the Lot Burdened as nearly as practicable to the condition it was in before the damage occurred, as soon as reasonably possible.

4. **Grantor may restrict access**

Council and its Authorised Users may not exercise their rights under clause 2 of this easement:

(a) during any period in which the Grantor is entitled to restrict access over the Easement Site in accordance with clause 5; and

(b) during reasonable times notified by the grantor of the Positive Covenant to Council to enable the grantor of the Positive Covenant to comply with its obligations under the Positive Covenant.

5. **Restrictions on access**

Without limiting the Grantor's rights under clauses 4 and 6, the Grantor may temporarily close, or temporarily restrict, public access to the Easement Site under this easement:

5.1 for the purposes of, or as a result of the repair, maintenance or refurbishment of any improvement on the Lot Burdened, provided that:

(a) such restriction is for a period not exceeding one month (or such longer period of time as agreed by Council from time to time);

(b) where the restriction is for a period not exceeding 24 hours, reasonable steps are taken to minimise the disturbance caused in accordance with rights granted under clause 1; and

(c) where the restriction is likely to be for a period for between 24 hours and up to one month, the Grantor:

(i) obtains the prior written consent of the Council and complies with any conditions imposed on that consent (such consent not to be unreasonably withheld); and

(ii) takes reasonable steps to minimise the disturbance caused in accordance with the rights granted under clause 1;

5.2 when reasonably necessary to prevent the use of the Easement Site by members of the public in a manner that gives rise to a hazard or nuisance; or

5.3 for any other purpose provided the Grantor:

(a) obtains the prior written consent of the Council and complies with any conditions imposed on that consent (such consent not to be unreasonably withheld); and

(b) takes reasonable steps to minimise the disturbance caused in accordance with the rights granted under clause 1.

6. **Emergencies**

6.1 The Grantor may temporarily restrict access to the Easement Site in an Emergency Situation provided that it gives as much notice as is practicable to the Council and uses all reasonable endeavours to resolve the Emergency Situation and restore access to the Easement Site as soon as possible.

6.2 The Council or the Grantor may erect temporary signage or barriers on the Easement Site to restrict temporarily access to the Easement Site by members of the public under this easement if either of them reasonably forms the view that such access is unsafe.

6.3 Despite any other provision of this instrument:

(a) the Grantor must at all times allow the Easement Site to be used for access by all emergency and other essential service organisations in connection with an Emergency Situation; and

(b) the Grantor must not interfere with such access.

7. **Inspection**

The Grantor must upon reasonable notice, permit the Council to enter the Easement Site with any equipment or machinery reasonably necessary to inspect the Easement Site for the purposes of ensuring that the grantor under the Positive Covenant is complying with its obligations under the Positive Covenant.

8. **Name of the person or Authority empowered to release or vary or modify any or all of the Easement numbered one in the Plan:**

The Council of the City of Sydney

TERMS OF POSITIVE COVENANT (PUBLIC ACCESS) NUMBERED XX IN THE PLAN

1. **Maintenance of Easement Site**

The Grantor must:

1.1 take all reasonable action to maintain the Easement Site (including any lighting) in good condition and state of repair; and

1.2 not permit the Easement Site to become unsafe; and

1.3 keep the Easement Site clean and free from rubbish.

2. **Public Liability Insurance**

2.1 The Grantor must take out and maintain or procure the taking out and maintenance of a public liability insurance policy with respect to any liabilities to Council or to any other person for the death or injury of any person within or about the Easement Site for an amount in respect of any single accident of not less than $20 million, or such higher amount as may be required by Council (acting reasonably).

2.2 The policy referred to in clause 2.1 must:

(a) note Council as an interested party; and

(b) be taken out and maintained with reputable insurers which at all times hold at least the Required Credit Rating.

3. **Indemnity**

The Grantor indemnifies the Council against any claims or damages arising from the use of the Easement Site by the Council or any of its Authorised Users under Easement for Public Access numbered One on the Plan, except to the extent that the claim or damage is caused by or

contributed to by, the wilful or negligent act or omission of the Council or any of its Authorised Users.

4. **Person empowered to release, vary or modify the Positive Covenant numbered two in the Plan:**

   This Positive Covenant may only be released, varied or modified with the consent of the Council of the City of Sydney.

EXECUTION PAGE

Executed by **Council of the City of Sydney**

EXECUTED by **The Council of the City of Sydney ABN 22 636 550 790** by its attorney under power of attorney registered book in the presence of:	)	
…….	)	…….
Signature of witness	)	Signature of Attorney
…….	)	…….
Name of witness (block letters)	)	Name of Attorney

[insert execution block]