

Annexure B to Request: Planning Agreement

Parties: Fairfield City Council and Harrington Custodian Pty Ltd

Date: 31/03/2022

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Fairfield City Council

Harrington Custodian Pty Ltd as trustee for the Fairfield Forum Unit Trust

Voluntary Planning Agreement

Fairfield Forum

Execution by Fairfield City Council

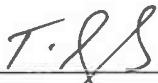


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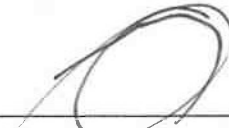


Authorised person signature
Brad Cutts

Execution by Harrington Custodian Pty Ltd



Director signature



Director/secretary signature

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This Agreement is made on 31 March 2022

Parties

- 1 **Fairfield City Council** (ABN 83 140 439 239) of Administration Centre, 86 Avoca Road, Wakeley 2176 (**Council**).
- 2 **Harrington Custodian Pty Ltd** (ACN 156 505 538) as trustee for the Fairfield Forum Unit Trust ABN 85 505 895 966) of 3A Macquarie Street, Sydney NSW 2000 (**Developer**).

Recitals

- A The Developer is the owner of the Land.
- B The Developer has sought the Instrument Change for the purpose of enabling the Development to be carried out on the Land.
- C The Developer has agreed to make Development Contributions, in accordance with the terms of this Agreement.

It is agreed as follows.

1 Definitions and Interpretation

1.1 Definitions

The following definitions apply unless the context requires otherwise.

Acquisition Act means the *Land Acquisition (Just Terms Compensation) Act 1991* (NSW).

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

Assignee has the meaning given to it in clause 17.1(a).

Bank Guarantee means an irrevocable and unconditional undertaking by a major Australian financial institution or trading bank carrying on business in Sydney issued:

- (a) in favour of Council;
- (b) specifying the Developer as the customer;
- (c) for an amount in accordance with clause 12.2(b);
- (d) as security for the performance by the Developer of the obligations under this Agreement;
- (e) with an expiry date which must not be earlier than five years after the date the bank guarantee is issued; and
- (f) on terms which provide that the bank guarantee may be called on by Council upon presentation and without reference to the Developer (however this does not affect Council's obligations under clause 12.5).

Business Day means a day which is not a Saturday, Sunday or a public holiday in New South Wales.

Complete means, in respect of a Works Contribution, that the Developer has fully performed its obligation to make that Works Contribution in accordance with clause 6.6(e)(i).

Construction Certificate has the meaning given to it in s6.4(a) of the Act.

Contributions Plan means any contributions plan adopted by Council which applies to the Land, being at the date of this Agreement the *Direct Development Contribution Plan 2011 (Section 7.11) Amendment 12*.

DCP means the *Fairfield Forum Development Control Plan 2020*.

Dealing, in relation to the Land, means selling or transferring the whole or part of the Land and **Deal** has an associated meaning.

Defect means a defect, omission or fault in a Works Contribution.

Defect Liability Period means, in respect of each Works Contribution, a period of 12 months commencing on the date that the relevant Works Contribution is Complete.

Designated Land means that part of the Land denoted as '*Dedication to Council*' and hatched in pink on the Plan.

Development means the development of the Land generally in accordance with the Masterplan.

Development Application has the same meaning as in the Act.

Development Consent has the same meaning as in the Act.

Development Contribution means each development contribution described in Schedule 2.

Event of Default means, for the purposes of clause 12.7(b), the issue of an Occupation Certificate for a particular Phase in circumstances where Schedule 2 specifies that land was required to be dedicated to Council, but was not dedicated, prior to the issue of that Occupation Certificate.

GST has the same meaning as in the GST Law.

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

Index means the 6427.0 Producer Price Index, Australia published by the Australian Bureau of Statistics and calculated in accordance with the following:

- (a) Construction Industry Producer Price Indexes.
- (b) Table 17 presenting the Price Index of the Output of the Construction industries, subdivision and class index numbers.
- (c) Index number 30 Building Construction – New South Wales.
- (d) Index calculated on the reference base 1998-99=100.0.

Instrument Change means amendment of controls applicable to the Land under the *Fairfield Local Environmental Plan 2013* (as amended or repealed and replaced) to:

- (a) increase the permissible height of buildings from 26 metres to 82 metres; and
 - (b) increase the permissible floor space ratio from 2.5:1 to 3.5:1,
- and otherwise substantially in accordance with the Planning Proposal.

Item means an item in Schedule 2.

Land means Lot 1031 in DP 1049068 known as 8-36 Station Street, Fairfield.

Masterplan means the Masterplan and Urban Design Analysis by Rothelowman dated March 2021 contained in Annexure C.

Occupation Certificate has the meaning given to it in s6.4(c) of the Act.

Outstanding Works Notice has the meaning given to it in clause 6.6(b).

Phase means a phase of the Development depicted in the Phasing Strategy.

Phasing Strategy means the phasing strategy contained in Appendix 1 of the Masterplan, a copy of which is at Annexure B, subject to clause 10.

Plan means the plan contained in Annexure A.

Planning Proposal means planning proposal number PP_2019_FAIRF_002_00 and includes the Masterplan.

Practical Completion means, in respect of each Works Contribution, that the Works Contribution has been completed except for minor Defects that do not prevent the use of the Works Contribution for its intended purpose.

Rectification Certificate has the meaning given to it in clause 6.8(c).

Rectification Notice has the meaning given to it in clause 6.8(a).

Regulation means the *Environmental Planning and Assessment Regulation 2000* (NSW).

Remedy Period has the meaning given to it in clause 12.5(a)(ii).

Security Amount means the amount specified in Column 4 of Schedule 2 referable to each Development Contribution, subject to clause 6.4.

Transferee has the meaning given to it in clause 17.2(a).

Trust has the meaning given to it in clause 28(a).

Variation has the meaning given to it in clause 10(c).

Works Contribution means each Development Contribution that comprises the carrying out of works by the Developer, identified as Item 1, Item 2, Item 3, Item 4, Item 5, Item 6, Item 7, Item 8, Item 10 and Item 11 of Schedule 2.

Works Notice has the meaning given to it in clause 6.6(a).

1.2 Interpretation

In the interpretation of this Agreement, the following provisions apply unless the context otherwise requires:

- (a) Headings are inserted for convenience only and do not affect the interpretation of this Agreement
- (b) A reference in this Agreement to a business day means a day other than a Saturday or Sunday on which banks are open for business in Sydney.
- (c) If the day on which any act, matter or thing is to be done under this Agreement is not a business day, the act, matter or thing must be done on the next business day.
- (d) A reference in this Agreement to dollars or \$ means Australian dollars and all amounts payable under this Agreement are payable in Australian dollars
- (e) A reference in this Agreement to any law, legislation or legislative provision includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision.
- (f) A reference in this Agreement to any agreement, deed or document is to that agreement, deed or document as amended, novated, supplemented or replaced.
- (g) A reference to a clause, part, schedule or attachment is a reference to a clause, part, schedule or attachment of or to this Agreement.

- (h) An expression importing a natural person includes any company, trust, partnership, joint venture, association, body corporate or governmental agency
- (i) Where a word or phrase is given a defined meaning, another part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning.
- (j) A word which denotes the singular denotes the plural, a word which denotes the plural denotes the singular, and a reference to any gender denotes the other genders.
- (k) References to the word 'include' or 'including are to be construed without limitation.
- (l) A reference to this Agreement includes the agreement recorded in this Agreement.
- (m) A reference to a party means a party to this agreement and includes a reference to the servants, agents and contractors of the party, and the party's successors and assigns.
- (n) Any schedules and attachments form part of this Agreement.

2 Voluntary planning agreement under the Act

This Agreement is a voluntary planning agreement governed by Subdivision 2 of Division 7.1 of Part 7 of the Act.

3 Application of this Agreement

This Agreement applies to:

- (a) the Land;
- (b) the Instrument Change; and
- (c) the Development.

4 Operation of this Agreement

- (a) This Agreement takes effect upon the last to occur of:
 - (i) the date of this Agreement; and
 - (ii) the date that the Instrument Change enters into force.
- (b) Until the Instrument Change enters into force, this document constitutes the Developer's offer to enter into a planning agreement with respect to the Instrument Change.

5 Development Contributions to be made under this Agreement

The Developer must make each Development Contribution:

- (a) in the manner specified in Column 2 of Schedule 2; and
 - (b) subject to clause 10, at the time specified in Column 3 of Schedule 2,
- and otherwise in accordance with the terms of this Agreement.

6 Works Contribution

6.1 Conduct of Works

The Developer, at its cost, must:

- (a) obtain Development Consent, and any other form of consent required by a relevant authority, for the construction and use of the Works Contribution;
- (b) carry out and complete the Works Contribution in accordance with clause 5; and
- (c) carry out and complete the Works Contribution:

- (i) in accordance with any relevant Development Consent;
- (ii) in accordance with the requirements of, or consents issued by, any authority;
- (iii) ensuring that:
 - (A) all necessary measures are taken to protect people, property, and the environment;
 - (B) unnecessary interference with the passage of people and vehicles is avoided;
 - (C) nuisances and unreasonable noise and disturbances are prevented; and
 - (D) all relevant laws and regulations with respect to water, air, noise and land pollution (including 'pollution incidents') as defined under the *Protection of the Environment Operations Act 1997* (NSW);
- (iv) in accordance with any Australian Standards applicable to works of the same nature as each aspect of the Works Contribution; and
- (v) in a proper and workmanlike manner complying with current industry practice and standards relating to each aspect of the Works Contribution.

6.2 Design and specification of Works Contribution

(a) The Developer must:

- (i) consult with Council with respect to the development of the detailed design and specification of each Works Contribution; and
- (ii) take into consideration the reasonable requirements of Council in any such detailed design,

in accordance with this clause 6.2. For clarity, a requirement of Council is not reasonable where it is inconsistent with a Development Consent applicable to the relevant Works Contribution.

(b) Before commencing construction of a Works Contribution, the Developer must submit to Council:

- (i) for its approval under clause 6.2(e), the detailed design and specification for that Works Contribution; and
- (ii) a report from a suitably qualified and experienced quantity surveyor which estimates the cost to complete the relevant Works Contribution in accordance with the detailed design.

(c) Council must:

- (i) devote sufficient time and resources to, and act promptly in the assessment of, the detailed design submitted to Council under clause 6.2(b)(i);
- (ii) take into account any Development Consent which applies to the relevant Works Contribution and assess the Detailed Design in a manner consistent with that Development Consent;
- (iii) have regard to the Security Amount for the relevant Works Contribution such that Council cannot require changes to the detailed design and specification that would cause the Works Contribution to exceed the relevant Security Amount.

(d) The design and specification for the Works Contribution must be prepared by the Developer having specific regard to:

- (i) Council's 'Specification for Roadworks and Drainage associated with subdivision or other development' policy or any other policy of Council from time to time relevant to the specific Works Contribution; and
 - (ii) the Security Amount of the relevant Works Contribution.
- (e) If, within forty two (42) days of the date of submission referred to in paragraph (b):
- (i) Council notifies the Developer in writing of its approval of the design and specification, the Developer must carry out and complete the Works Contribution in accordance with the approved design and specification; or
 - (ii) Council notifies the Developer in writing that it does not approve of the design and specification, Council must specify the reasons why approval is withheld and the Developer may elect to:
 - (A) amend the design and specification and submit to Council the amended design and specification in which case the approval process set out in this clause 6.2 applies to that amendment; or
 - (B) refer the relevant matter for dispute resolution in accordance with this Agreement.
- (f) If Council fails to notify the Developer in writing that it approves or does not approve of the design and specification within the time required under paragraph (e), then Council is deemed to have not approved the relevant design and the Developer may elect to proceed as set out in clauses 6.2(e)(ii)(A) or 6.2(e)(ii)(B).

6.3 Security Amount

If the Developer's actual cost of carrying out the Works Contribution, including any costs incurred pursuant to this document, determined at the date on which the Works Contribution is Completed, differs from the Security Amount, then neither party will be entitled to claim credit or reimbursement, as the case may be, for the difference.

6.4 Adjustment of value of Works Contribution and Security Amount

- (a) On the date of this Agreement and every three months thereafter (each an **Adjustment Date**), the value of each Item of the Works Contribution and any Security Amount provided for each Item of the Works Contribution will be adjusted to revised amounts in accordance with the Index applicable on the Adjustment Date (**Index Method**), except as provided under clause 6.4(c).
- (b) If requested by Council, by no later than 20 Business Days after each Adjustment Date, the Developer must give Council replacement or further Bank Guarantees so that Council holds Bank Guarantees for an amount equal to the revised Security Amounts for the Bank Guarantees that are held by Council on the relevant Adjustment Date.
- (c) Prior to any Adjustment Date, and instead of the Index Method, the Developer may request Council to adjust the value of any Items of the Works Contribution and the corresponding Security Amounts to revised amounts specified in a cost estimate report prepared by a suitably qualified quantity surveyor (**QS Method**). For the purposes of clause 6.4(a), Council may, in its discretion, consent to the QS Method replacing the Index Method on the next occurring Adjustment Date.

6.5 Access to Land

The Developer is to permit the Council, its officers, employees, agents and contractors to enter the Land at any time, upon giving reasonable prior notice, in order to inspect, examine or test (any part of) the Works Contribution.

6.6 Practical Completion

- (a) The Developer must give notice to Council when the Developer considers each Works Contribution has achieved Practical Completion, which identifies the particular Item of the Works Contribution to which it relates and specifies the date on which the Developer believes the relevant Item of the Works Contribution was completed (**Works Notice**).
- (b) The Developer will permit Council to inspect the Works Contribution set out in a Works Notice within ten (10) Business Days of the receipt of that notice.
- (c) Council may, acting reasonably, give notice to the Developer within 15 Business Days after the date of the Works Notice to carry out work that is reasonably required to achieve Practical Completion of the Works Contribution (**Outstanding Works Notice**).
- (d) The Developer must comply with the Outstanding Works Notice according to its terms, and at the Developer's cost, unless the Developer disputes the Outstanding Works Notice, in which case this is a dispute to which clause 11 applies.
- (e) If Council:
 - (i) does not give an Outstanding Works Notice, the Works Contribution is to be taken to be Complete on the date that is 15 Business Days after the date of the Works Notice.
 - (ii) gives an Outstanding Works Notice, the procedure in clauses 6.6 must be repeated until, in respect of the last Works Notice to be given, Council does not give an Outstanding Works Notice in accordance with clause 6.6(b) in which case clause 6.6(e)(i) applies.

6.7 Works-As-Executed-Plan

- (a) This clause 6.7 applies to Item 1, Item 5 and Item 9 of the Works Contribution.
- (b) No later than forty (40) Business Days after an Item of Works Contribution is Completed, the Developer must provide to the Council with:
 - (i) a full Works-As-Executed-Plan in respect of the relevant Item of the Works Contribution that has been Completed; and
 - (ii) all appropriate certificates to verify that the Item of Works Contribution has been carried out in accordance with relevant standards.

6.8 Defects

- (a) During the Defect Liability Period for each Works Contribution, Council may give notice to the Developer specifying:
 - (i) the Defect requiring rectification;
 - (ii) the work to be undertaken by the Developer to rectify the Defect; and
 - (iii) the date by which the Defect is to be rectified (being a reasonable period having regard to the nature and extent of the Defect),

(**Rectification Notice**).

- (b) The Developer must comply with a Rectification Notice according to its terms, and at the Developer's cost, unless the Developer disputes the Rectification Notice, in which case this is a dispute to which clause 11 applies.
- (c) The Developer must notify Council upon completion of work specified in the Rectification Notice.
- (d) If the Developer does not comply with a Rectification Notice, Council, at its absolute discretion, may do such things as are necessary (including entry onto the Land) to rectify the Defect and the provisions of clause 12.5 apply.
- (e) If a Rectification Notice specifies work that is situated on, or reasonably requires access to, land owned by Council, then subject to the Developer obtaining any statutory or regulatory approvals required for the rectification of the relevant Defect, Council must grant access to the Developer to enter the land and carry out the work specified in the Rectification Notice.

7 Dedication of land

7.1 Condition precedent to dedication

- (a) Prior to dedication of the Designated Land in accordance with clause 7.2, the Developer must provide Council with a section A1 site audit statement which states that the Designated Land is suitable for the use for which the Designated Land is to be dedicated (**Condition Precedent**).
- (b) Dedication of the Designated Land under clause 7.2 must not occur until the Developer has satisfied the Condition Precedent or unless Council agrees to waive this condition precedent.

7.2 Dedication of land

- (a) The Developer must dedicate the Designated Land to Council free of any trusts, estates, interests, covenants and encumbrances (other than any trusts, estates, interests covenants and encumbrances agreed by Council) by the time specified in column 3 of Schedule 2.
- (b) The Developer must meet all costs associated with the dedication of the Designated Land in accordance with paragraph 7.1(a), including any costs incurred by Council in relation to that dedication.
- (c) Each Development Contribution which comprises the Designated Land is taken to be made upon either:
 - (i) registration of a plan of subdivision at NSW Land Registry Services dedicating the relevant land to Council (if that Designated Land is to be dedicated in a registered plan); or
 - (ii) otherwise when the Developer delivers to Council:
 - (A) a transfer of the relevant land in registrable form;
 - (B) the original Certificate of Title for the relevant land; and
 - (C) any document in registrable form which, when registered, will remove any encumbrances registered on the title of that land, excluding encumbrances that would not in the Council's opinion, acting reasonably, impede the intended use of all or any part of the Designated Land to be dedicated to the Council including but not limited to easements and covenants for services and drainage.

- (d) Council must promptly execute all documents necessary to enable the dedication of the Designated Land to Council in accordance with this clause 7.

8 Application of s7.11, s7.12 and s7.24 of the Act to the Development

- (a) This Agreement does not exclude the application of s7.11, s7.12 or s7.24 of the Act to the Development, except as provided by this clause 8.
- (b) The Development Contributions made by the Developer under this Agreement are not excluded from consideration under s7.4(6) of the Act.
- (c) The Works Contribution described in Item 11 of Schedule 2 must be taken into consideration under s7.4(6) of the Act such that each time Development Consent is granted for the Development:
 - (i) the amount of any monetary contribution the Developer would otherwise be required to pay under the Contributions Plan in respect of open space embellishment is reduced by the Security Amount in Item 11 of Schedule 2, until the Security Amount is exhausted; and
 - (ii) thereafter, Council may impose a condition of Development Consent requiring payment of a monetary contribution in respect of open space embellishment, in accordance with the Contributions Plan.

9 Registration of this Agreement

9.1 Registration

- (a) As soon as reasonably practicable after this Agreement takes effect and in any event prior to the issue of a Construction Certificate for the Development, the Developer must take all steps necessary, and otherwise do anything that the Council reasonably requires, at the Developer's cost, to procure:
 - (i) the consent of each person who:
 - (A) has an estate or interest in the Land; or
 - (B) is seized or possessed of an estate or interest in the Land;
 - (ii) the execution of any documents; and
 - (iii) the production of the relevant certificates of title,to enable registration of this Agreement on the title to the Land pursuant to s7.6 of the Act.
- (b) Council must promptly execute all documents necessary to enable registration of this Agreement on the title to the Land at the Developer's cost.

9.2 Discharge

Council must execute any form required by the Registrar-General, and prepared by the Developer, to enable this Agreement to be removed from the title to the Land or any part of it as soon as reasonably practicable after:

- (a) the Developer has fully performed the obligations under this Agreement;
- (b) in respect of part performance of the obligations under this Agreement, the Developer has fully performed the obligations referable to the part of the Land over which the Agreement is sought to be released and provided the Developer is not in breach of this Agreement at that time, unless waived by Council; or

- (c) this Agreement is terminated.

10 Phasing Strategy and Variations

- (a) On the date of this Agreement, the Phasing Strategy for the Development is as generally depicted in Annexure B of this Agreement.
- (b) Council acknowledges that:
 - (i) after the Instrument Change, the Developer will progress the detailed design of the Development and will lodge Development Applications seeking Development Consents for the Development; and
 - (ii) as a result, the Developer may seek to update the Phasing Strategy and make consequential changes to the time by which Development Contributions are to be made under this Agreement, in accordance with this clause 10.
- (c) The Developer may seek a variation to the Phasing Strategy (**Variation**) by giving notice to the Council which:
 - (i) attaches an updated phasing strategy depicting the Variation;
 - (ii) specifies the reason(s) for requesting the Variation; and
 - (iii) states whether, as a result of the Variation, the timing in Column 3 of Schedule 2 for the delivery of any of the Development Contributions will change,

(Phasing Strategy Notice).
- (d) Within 20 Business Days after receiving a Phasing Strategy Notice, Council must notify the Developer whether Council consents to the Variation including any reasonable conditions Council requires as a consequence of the Variation.
- (e) The parties agree that upon Council notifying the Developer that Council consents to the Variation:
 - (i) the updated phasing strategy referred to in clause 10(c)(i) is taken to replace the Phasing Strategy contained in Annexure B; and
 - (ii) Schedule 2 is taken to be amended to reflect the timing for delivery of the Development Contributions referred to in clause 10(c)(iii).
- (f) Failure by Council to accept a proposed variation to the Phasing Strategy under clause 10(d) is a dispute to which clauses 11.1 and 11.2(a) to 11.2(b) apply.

11 Dispute Resolution

11.1 Meeting of parties' senior representatives

- (a) If a dispute arises between the parties in respect of any matter under this Agreement, either party may give a notice to the other identifying and providing details of the dispute.
- (b) Within 20 Business Days after the notice is given, or another period agreed by the parties in writing, a senior representative of each party must meet in good faith with a view to resolving the dispute.
- (c) If the dispute is not resolved within 20 Business Days after the meeting convened under clause 11.1(b), the parties must either:
 - (i) agree within 5 Business Days to refer the dispute, either to mediation under clause 11.2 or for expert determination under clause 11.3; and

- (ii) failing agreement under clause 11.1(c)(i), refer the dispute for expert determination under clause 11.3.

11.2 Mediation

- (a) If the dispute is referred for mediation, the mediation is to be conducted by a mediator agreed by the parties or, failing their agreement, by a mediator appointed by the President of the NSW Law Society.
- (b) Unless otherwise agreed, each party must bear their own costs incurred in relation to any mediation of the dispute, and must share the costs of the mediator (if any) equally.
- (c) If the dispute is not resolved by mediation, the parties must refer the dispute for expert determination under clause 11.3.

11.3 Expert determination

- (a) If the dispute is referred for expert determination, the dispute must be determined by an independent expert in the relevant field jointly appointed by the parties. If the parties cannot agree on the expert to be appointed, the parties must jointly appoint an expert nominated by the President of the NSW Law Society.
- (b) The expert appointed to determine the dispute must:
 - (i) have a technical understanding of the subject matter in the dispute;
 - (ii) not have a significantly greater understanding of one party's business, functions or operations which might allow the other party to construe this greater understanding as a bias; and
 - (iii) inform the parties before being appointed of the extent of the expert's understanding of each party's business or operations and, if that information indicates a possible bias, then that expert must not be appointed except with the written approval of the parties.
- (c) The parties must promptly enter into a document with the appointed expert setting out the terms of the expert's appointment and the fees payable to the expert (which are to be shared by the parties equally).
- (d) The dispute must be referred to the expert by written submissions from each party, which must include a copy of this Agreement.
- (e) The expert must be instructed to determine the dispute and provide the expert's determination to the parties no later than 10 Business Days after receipt of the submissions (or another period agreed by the parties).
- (f) The parties must promptly provide the expert with any information, assistance and cooperation requested in writing by the expert in connection with the expert's determination. All correspondence between the expert and a party must be copied to the other party.
- (g) The expert must act as an expert and not as an arbitrator. The expert's written determination will be final and binding on the parties in the absence of manifest error.
- (h) If the expert fails to determine the dispute and provide the expert's determination to the parties within 20 Business Days after the date on which the determination was due under clause 11.3(e) (including any extension agreed by the parties under that clause), either party may commence proceedings to determine the dispute.

11.4 Confidentiality of information provided in dispute resolution process

- (a) The parties agree, and must procure that the mediator and the expert agree as a condition of his or her appointment:
- (i) subject to paragraph (b), to keep confidential all documents, information and other material disclosed to them during or in relation to the mediation or expert determination;
 - (ii) not to disclose any confidential documents, information and other material except:
 - (A) to a party or adviser or consultant who has signed a confidentiality undertaking; or
 - (B) if required by law or any authority to do so; and
 - (iii) not to use confidential documents, information or other material disclosed to them during or in relation to the mediation or expert determination for a purpose other than the mediation or expert determination.
- (b) The parties must keep confidential and must not disclose or rely upon or make the subject of a subpoena to give evidence or produce documents in any arbitral, judicial or other proceedings:
- (i) views expressed or proposals or suggestions made by a party or the mediator or the expert during the expert determination or mediation relating to a possible settlement of the Dispute;
 - (ii) admissions or concessions made by a party during the mediation or expert determination in relation to the dispute; and
 - (iii) information, documents or other material concerning the dispute which are disclosed by a party during the mediation or expert determination unless such information, documents or facts would be discoverable in judicial or arbitral proceedings.

11.5 Conduct pending resolution

While a dispute is unresolved between the parties, each party must continue to perform their respective obligations under this Agreement.

11.6 Remedies available under the Act

This clause 11 does not operate to limit the availability of any remedies available to Council under the Act.

11.7 Urgent relief

This clause 11 does not prevent a party from seeking urgent injunctive or declaratory relief concerning any matter under this Agreement.

12 Enforcement**12.1 Application**

Clauses 12.2 to 12.6 apply only in respect of the Development Contributions to which a Security Amount is attributed in Schedule 2.

12.2 Delivery of Bank Guarantees

- (a) Prior to the issue of the first Construction Certificate for each Phase of the Development, for each Development Contribution required to be made within that Phase, the Developer

must give a Bank Guarantee to Council (or other forms of security to the satisfaction of the Council) for an amount equal to the Security Amount for that Development Contribution (**Primary Security**).

- (b) As soon as reasonably practicable after each Works Contribution is Complete in accordance with clause 6.6, the Developer must give a Bank Guarantee to Council (or other forms of security to the satisfaction of the Council) for an amount equivalent to fifteen percent (15%) of the Security Amount of that Works Contribution (**Defects Security**).

12.3 Replacement of Bank Guarantees

- (a) The Developer may replace any Bank Guarantees for the Primary Security or Defects Security provided by it at any time, provided that the amount of that replacement is not less than that which is required to be provided under this Agreement.
- (b) On receipt of a replacement Bank Guarantee under paragraph (a), Council must immediately release the security being replaced and return it to the Developer.

12.4 Return of Bank Guarantees

- (a) Within 10 Business Days of any written request being made by the Developer, after the Developer has made each Development Contribution, Council must return to the Developer the Primary Security referable to that Development Contribution to the Developer, including any replacement Bank Guarantee referable to that Development Contribution given by the Developer under clause 12.6, provided that:
 - (i) if Council has made a demand against the relevant Primary Security, Council is only required to return any remaining balance of the Primary Security still held by Council;
 - (ii) the Developer has complied with clause 12.2(b) in respect of the relevant Works Contribution;
 - (iii) the Developer is not in breach of this Agreement at that time (unless waived by Council).
- (b) Council must release and return the Defects Security or any unused part of it to the Developer no later than 10 Business Days after the last to occur of:
 - (i) if no Rectification Notice has been issued, the end of the Defects Liability Period; or
 - (ii) if one (1) or more Rectification Notices have been issued, the date that all Defects have been rectified in accordance with clause 6.8.
- (c) Within 10 Business Days after this Agreement is terminated and a request being made by the Developer, Council must return to the Developer all of the Bank Guarantees given under clauses 12.2(a) and 12.6.

12.5 Calling on Bank Guarantees

- (a) If the Developer is in breach of this Agreement, before Council may call on the Bank Guarantee under clause 12.5(b), Council must:
 - (i) give the Developer notice of Council's intention to call on the Bank Guarantee; and
 - (ii) allow the Developer a period of 10 Business Days (or such longer period as the circumstances may reasonably require) to remedy the breach (**Remedy Period**).

- (b) If the Developer:
 - (i) disagrees that the Developer is in breach of this Agreement, this is a dispute to which clause 11 applies. The Developer must notify Council of the dispute in accordance with clause 11.1(a) within the Remedy Period, failing which the Developer is taken to accept that the Developer is in breach of this Agreement under clause 12.5(b)(ii); or
 - (ii) accepts that the Developer is in breach of this Agreement, and does not remedy the breach within the Remedy Period, Council may remedy the breach and may call on the Bank Guarantee to reimburse Council's reasonable costs of doing so.

12.6 Replacement Bank Guarantees

If Council calls on one or more of the Bank Guarantees under clause 12.5(b)(ii), the Developer must deliver a replacement Bank Guarantee equal to the amount of Bank Guarantee called upon by Council.

12.7 Compulsory acquisition of the Designated Land

- (a) The Developer consents to the compulsory acquisition of the Designated Land:
 - (i) in accordance with the Acquisition Act; and
 - (ii) on the terms set out in this clause 12.7.
- (b) Council may only acquire the Designated Land compulsorily in accordance with the Acquisition Act if the Developer has committed an Event of Default with respect to the dedication of that land under this Agreement.
- (c) If Council acquires the Designated Land compulsorily in accordance with the Acquisition Act:
 - (i) the Developer agrees that the compensation payable to it on account of that acquisition under the Acquisition Act is \$1.00; and
 - (ii) Council must complete that acquisition within twelve (12) months of the relevant Event of Default.
- (d) The parties agree that the provisions of this clause 12.7 are an agreement with respect to the compulsory acquisition of the Designated Land for the purpose of s30 of the Acquisition Act.

12.8 Council may withhold Construction Certificate

- (a) The Developer may only make, or cause, suffer or permit the making of, an application for a Construction Certificate in respect of the Development if, at the date of the application, the Developer is not in breach of any obligation under this Agreement that is required to be performed prior to the issue of the relevant Construction Certificate.
- (b) Council may withhold the issue of the relevant Construction Certificate if, at the relevant time, the Developer is in breach of any obligation under this Agreement that is required to be performed prior to the issue of the relevant Construction Certificate, until such time as the breach is rectified.

12.9 Council may withhold Occupation Certificate

- (a) The Developer may only make, or cause, suffer or permit the making of, an application for an Occupation Certificate in respect of the Development if, at the date of the application, the Developer is not in breach of its obligation to make any Development

Contribution under this Agreement that is required to be performed prior to the issue of the relevant Occupation Certificate.

- (b) An Occupation Certificate must not be issued if, at the relevant time, the Developer is in breach of any obligation to make any Development Contribution under this Agreement that is required to be performed prior to the issue of the relevant Occupation Certificate, until such time as:
 - (i) the breach is rectified; or
 - (ii) Council calls upon the Bank Guarantee in accordance with clause 12.5.

13 Termination

- (a) This Agreement terminates in the following events:
 - (i) the Instrument Change is not made by the date that is 24 months after the date of this Agreement; or
 - (ii) the parties agree in writing to terminate this Agreement.
- (b) Upon termination of this Agreement, all future right and obligations of the parties are discharged and all pre-existing rights and obligations of the parties continue to subsist.

14 Notices

- (a) Any notice, consent, information, application or request that must or may be given or made to a Party under this Agreement is only given or made if it is in writing and sent in one of the following ways:
 - (i) delivered or posted to that party at its address set out below; or
 - (ii) emailed to that party at its email address set out below.

Council

Attention: City Manager
Address: PO Box 21, Fairfield NSW 1860
Email address: mail@fairfieldcity.nsw.gov.au

Developer

Attention: Trevor Byles
Address: 3A Macquarie Street, Sydney NSW 2000
Email address: tbytes@harringtonproperty.com.au

- (b) If a party gives the other party 3 business days' notice of a change of its address or email address, any notice, consent, information, application or request is only given or made by that other party if it is delivered, posted, or sent to the latest address or email address.
- (c) Any notice, consent, information, application or request is to be treated as given or made at the following time:
 - (i) If it is delivered, when it is left at the relevant address.
 - (ii) If it is sent by post, 2 business days after it is posted.
 - (iii) If it is sent by email, within 3 hours of the sender having sent the email provided that no error message is received within that 3 hour timeframe.
- (d) If any notice, consent, information, application or request is delivered, or sent, on a day that is not a business day, or if on a business day, after 5pm on that day in the place of

the Party to whom it is sent, it is to be treated as having been given or made at the beginning of the next business day.

15 Position of Council

15.1 Consent authority

The parties acknowledge that Council is a consent authority with statutory rights and obligations pursuant to the terms of the Planning Legislation.

15.2 Document does not fetter discretion

This document is not intended to operate to fetter, in any unlawful manner:

- (a) the power of Council to make any Law; or
- (b) the exercise by Council of any statutory power or discretion,

(Discretion).

15.3 Severance of provisions

- (a) No provision of this document is intended to, or does, constitute any unlawful fetter on any Discretion. If, contrary to the operation of this clause, any provision of this document is held by a court of competent jurisdiction to constitute an unlawful fetter on any Discretion, the parties agree:
 - (i) they will take all practical steps, including the execution of any further documents, to ensure the objective of this clause 15 is substantially satisfied;
 - (ii) in the event that paragraph (i) cannot be achieved without giving rise to an unlawful fetter on a Discretion, the relevant provision is to be severed and the remainder of this document has full force and effect; and
 - (iii) to endeavour to satisfy the common objectives of the parties on relation to the provision of this document which is held to be an unlawful fetter to the extent that it is possible having regard to the relevant court judgment.
- (b) Where the Law permits Council to contract out of a provision of that Law or gives Council power to exercise a Discretion, then if Council has in this document contracted out of a provision or exercised a Discretion under this document, then to the extent of this document is not to be taken to be inconsistent with the Law.

15.4 No Obligations

Nothing in this document will be deemed to impose any obligation on Council to exercise any of its functions under the Act in relation to the Development Consent, the Land or the Development in a certain manner.

16 Approval and consent

Except as otherwise set out in this Agreement, and subject to any statutory obligations, a party may give or withhold an approval or consent to be given under this Agreement in that party's absolute discretion and subject to any conditions determined by the party. A party is not obliged to give its reasons for giving or withholding consent or for giving consent subject to conditions.

17 Assignment and Dealings

17.1 Assignment

- (a) Subject to clause 17.1(b), the Developer may not assign the rights and obligations of this Agreement or any part of the Land to any person (**Assignee**) unless the Developer first obtains the consent of Council which cannot be unreasonably withheld or delayed provided the Developer satisfies the requirements of this clause 17.1.
- (b) The Developer must provide Council with any evidence required by Council, acting reasonably, to satisfy Council that the Assignee is reasonably capable of performing the obligations under this agreement that are to be assigned to it.
- (c) Within 10 Business Days after receiving the evidence provided under clause 17.1(b), Council must confirm whether Council consents to the proposed assignment to the Assignee, and if so, whether as a condition of that consent Council requires the Assignee to enter into an agreement in accordance with clause 17.1(d).
- (d) Council may require, as a condition of any consent given under clause 17.1(a) that the proposed Assignee enter into an agreement with Council under which the Assignee agrees to comply with those of the Developer's obligations under this Agreement that remain to be performed (or such part of those obligations as is proposed to be assigned) as if it were the Developer.
- (e) Council is under no obligation to consider granting its consent to any request made by the Developer under clause 17.1(a) if, at the time the request is made, the Developer is in breach of this agreement, unless waived by Council.

17.2 Dealings

- (a) The Developer may not Deal with the whole or any part of the Land unless, before the Developer enters into the Dealing with another person (**Transferee**):
 - (i) the Transferee enters into an agreement with Council under which the Transferee agrees to comply with those of the Developer's obligations under this Agreement that remain to be performed in respect of the Land the subject of the Dealing as if it were the Developer;
 - (ii) any default by the Developer under this Agreement has been remedied by the Developer or waived by Council; and
 - (iii) the Developer and the Transferee pay Council's reasonable costs in relation to the Dealing.
- (b) If the Developer enters into a Dealing and has fully complied with the requirements of clause 17.2(a) with respect to that Dealing, the Developer will be released from its obligations under this Agreement with respect to the Land the subject of the Dealing.

18 Costs

The Developer agrees to reimburse or pay Council's costs of negotiating, preparing, executing, stamping and registering the Agreement up to a total of \$15,000, within 10 Business Days of receiving a tax invoice from Council.

19 Entire agreement

This Agreement contains everything to which the Parties have agreed in relation to the matters it deals with. No Party can rely on an earlier document, or anything said or done by another Party.

or by a director, officer, agent or employee of that Party, before this Agreement was executed, except as permitted by law.

20 Further acts

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

21 Governing law and jurisdiction

This Agreement is governed by the law of New South Wales. The Parties submit to the non-exclusive jurisdiction of its courts and courts of appeal from them. The Parties will not object to the exercise of jurisdiction by those courts on any basis.

22 Joint and individual liability and benefits

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

23 Representation and warranties

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

24 Severability

If a clause or part of a clause of this Agreement can be read in a way that makes it illegal, unenforceable or invalid, but can also be read in a way that makes it legal, enforceable and valid, it must be read in the latter way. If any clause or part of a clause is illegal, unenforceable or invalid, that clause or part is to be treated as removed from this Agreement, but the rest of this Agreement is not affected.

25 Modification

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

26 Waiver

The fact that a Party fails to do, or delays in doing, something the Party is entitled to do under this Agreement, does not amount to a waiver of any obligation of, or breach of obligation by, another Party. A waiver by a Party is only effective if it is in writing. A written waiver by a Party is only effective in relation to the particular obligation or breach in respect of which it is given. It is not to be taken as an implied waiver of any other obligation or breach or as an implied waiver of that obligation or breach in relation to any other occasion.

27 GST

If any Party reasonably decides that it is liable to pay GST on a supply made to the other Party under this Agreement and the supply was not priced to include GST, then recipient of the supply must pay an additional amount equal to the GST on that supply.

28 Limitation of liability

- (a) Council acknowledges that the Developer is entering into this Agreement as trustee for the Fairfield Forum Unit Trust (**Trust**) and not in any other capacity.
- (b) The Developer is not liable to Council or any other person in any capacity other than as trustee of the Trust.
- (c) A liability to Council arising under or in connection with this Agreement is limited to and can be enforced by Council against the Developer only to the extent to which it can be satisfied out of any property held by the Developer out of which the Developer is actually indemnified for the liability. This limitation of the Developer's liability applies despite any other provision of this Agreement and extends to all liabilities and obligations of the Developer in any way connected with any representation, warranty, conduct, omission, agreement or transaction related to this Agreement.
- (d) Council may not sue the Developer in any capacity other than as trustee of the Trust, including seeking the appointment of a receiver (except in relation to property of the Trust), a liquidator, an administrator or any other similar person to the Developer or prove in any liquidation of or affecting the Developer (exception in relation to the property of the Trust).
- (e) Council waives its rights and releases the Developer from any personal liability in respect of any loss or damage which they or any of them may suffer as a consequence of a failure of the Developer to perform its obligations under this Agreement, which cannot be paid or satisfied out of property held by the Developer.
- (f) The provisions of this clause 28 will not apply to any obligation or liability of the Developer to the extent arising as a result of the Developer's fraud, gross negligence or breach of trust.
- (g) Council acknowledges that the Developer is responsible under this Agreement for performing a variety of obligations under this Agreement. No act or omission of the Developer (including any related failure to satisfy its obligations or breach of representation or warranty under this Agreement) will be considered fraud, gross negligence or breach of trust of the Developer for the purposes of this clause 28 to the extent to which the act or omission was caused or contributed to by any failure of the Developer or any other person to fulfil its obligations relating to the Trust or by any other act or omission of the Developer or any other person.
- (h) No attorney, agent or delegate appointed in accordance with this Agreement has authority to act on behalf of the Developer in any way which exposes the Developer to any personal liability and no act or omission of any such person will be considered fraud, gross negligence or breach of trust of the Developer for the purpose of this clause 28.

Schedule 1 – Requirements under s7.4 of the Act

Requirement under the Act	This Agreement
<p>Planning instrument and/or development application – (section 7.4(1))</p> <p>The Developer has:</p> <p>(a) sought a change to an environmental planning instrument;</p> <p>(b) made, or proposes to make, a Development Application; and/or</p> <p>(c) entered into an agreement with, or is otherwise associated with, a person, to whom paragraph (a) or (b) applies.</p>	<p>(a) Yes.</p> <p>(b) Yes.</p> <p>(c) Not applicable.</p>
Description of land to which this agreement applies – (section 7.4(3)(a))	Refer to the definition of the Land clause 1.1.
Description of change to the environmental planning instrument to which this agreement applies – (section 7.4(3)(b))	Refer to the definition of the Instrument Change in clause 1.1.
Nature and extent of the provision to be made under the Agreement, the time or times by which the provision is to be made and the manner by which the provision is to be made – (section 7.4(c))	Refer to clause 5 and Schedule 2.
Application of section 7.11 of the Act – (section 7.4(3)(d))	Refer to clause 8(a).
Application of section 7.12 of the Act – (section 7.4(3)(d))	Refer to clause 8(a).
Application of section 7.24 of the Act – (section 7.4(3)(d))	Refer to clause 8(a).
Consideration of benefits under this agreement if section 7.11 applies – (section 7.4(3)(e))	Refer to clauses 8(b) and 8(c).
Mechanism for Dispute resolution – (section 7.4(3)(f))	Refer to clause 11.
Enforcement of this agreement (section 7.4(3)(g))	Refer to clause 12.
No obligation to grant consent or exercise functions – (section 7.4(3)(9))	Refer to clause 15.

Schedule 2 – Development Contributions

Item	Column 1 Development Contribution	Column 2 Manner	Column 3 Timing	Column 4 Security Amount	Column 5 Value of Land to be dedicated
1.	Smart Lane Extension Construction of road widening to Smart Lane generally in accordance with the DCP, located in the area marked 'B' on the Plan.	Land to be re-developed into laneway and then dedicated to Council free of cost.	Prior to the issue of the first Occupation Certificate for any Development on Land within Phase 1.	\$70,000	\$123,546
2.	Pedestrian Link (Smart Lane to Thomas Ware Plaza) Connecting existing Smart Lane Pedestrian way to Thomas Ware Plaza generally in accordance with the DCP, located in the area marked 'D' on the Plan. The grant of public access to the Pedestrian Link.	Developer to construct Pedestrian Link and access to be granted to public on reasonable terms acceptable to Council and by way of appropriate instrument granting such access being registered on the title of the relevant parts of the Land.	Prior to the issue of the first Occupation Certificate for any Development on Land within Phase 1.	\$30,000	Not applicable
3.	Extension of Thomas Ware Plaza Connection of existing Thomas Ware Plaza through site to Retail Mall generally in accordance with the DCP, located in the area marked 'E' on the Plan.	Developer to construct Extension of Thomas Ware Plaza and access to be granted to the public on reasonable terms acceptable to Council and by way of appropriate instrument granting such access	Prior to the issue of the first Occupation Certificate for any Development on Land within Phase 1.	\$175,000	Not applicable

Item	Column 1 Development Contribution	Column 2 Manner	Column 3 Timing	Column 4 Security Amount	Column 5 Value of Land to be dedicated
	The grant of public access to the Plaza.	being registered on the title of the relevant parts of the Land.			
4.	<p>Pedestrian Link (Ware Street to Market Square)</p> <p>Construction of pedestrian link from Ware Street to Market Square, located in the area marked 'J' on the Plan.</p> <p>Public access to be granted to the Pedestrian Link.</p>	Developer to construct Pedestrian Link and access to be granted to public on reasonable terms acceptable to Council and by way of appropriate instrument granting such access being registered on the title of the relevant parts of the Land.	Prior to the issue of the first Occupation Certificate for Development on Land within Phase 2.	\$100,000	Not applicable
5.	<p>New Public Road connecting Station Street to Ware Street</p> <p>Construction of new road linking Station Street to Ware Street including the construction, pedestrian paths and a pedestrian crossing on the new street, generally in accordance with the DCP, located in the area marked 'C' on the Plan.</p>	Land to be redeveloped into public road and then dedicated to Council free of cost.	Prior to the issue of the first Occupation Certificate for any Development on Land within Phase 3.	\$650,000	\$1,512,609
6.	<p>Market Square</p> <p>Construction of 1,000 sqm market square, located in the area marked 'F' on the Plan.</p>	Developer to construct Market Square and access to be granted to public on reasonable terms acceptable to Council and by way of appropriate instrument granting such access	Prior to the issue of the first Occupation Certificate for Development on Land within Phase 3.	\$625,000	Not applicable

Item	Column 1 Development Contribution	Column 2 Manner	Column 3 Timing	Column 4 Security Amount	Column 5 Value of Land to be dedicated
	Public access to be granted to the Market Square.	being registered on the title of the relevant parts of the Land.			
7.	<p>Pedestrian Link (Thomas Ware Plaza to Market Square)</p> <p>Construction of pedestrian link through extended Thomas Ware Plaza and through Covered Retail Mall, located in the area marked 'G' on the Plan.</p> <p>Public access to be granted to the Pedestrian Link.</p>	Developer to construct Pedestrian Link and access to be granted to public on reasonable terms acceptable to Council and by way of appropriate instrument granting such access being registered on the title of the relevant parts of the Land.	Prior to the issue of the first Occupation Certificate for any Development on Land within Phase 3.	\$650,000	Not applicable
8.	<p>Pedestrian Link (Station Street to Market Square)</p> <p>Construction of pedestrian link from Station Street to Market Square, located in the area marked 'I' on the Plan.</p> <p>Public access to be granted to the Pedestrian Link.</p>	Developer to construct Pedestrian Link and access to be granted to public on reasonable terms acceptable to Council and by way of appropriate instrument granting such access being registered on the title of the relevant parts of the Land.	Prior to the issue of the first Occupation Certificate for Development on Land within Phase 3.	\$260,000	Not applicable
9.	<p>New Cunningham Street Park (referred to in the Masterplan as Fairfield Cultural Park)</p> <p>Not less than a 4,000 sqm public open space area</p>	Dedication of land to Council free of cost.	Prior to the issue of the first Occupation Certificate for any Development on Land within Phase 4.	\$1,060,000	\$2,671,274

Item	Column 1 Development Contribution	Column 2 Manner	Column 3 Timing	Column 4 Security Amount	Column 5 Value of Land to be dedicated
	<p>generally in accordance with the DCP, with the Developer to perform works comprising:</p> <ul style="list-style-type: none"> (a) Levelling and construction of retaining walls to the perimeter of the park; (b) Removal of existing structures and hardstand areas/pavements; and (c) Provision of services (water, electricity) to the perimeter of the park, located in the area marked 'A' on the Plan. 				
10.	<p>Pedestrian Link (Market Square to New Cunninghame Street Park (referred to in the Masterplan as Fairfield Cultural Park))</p> <p>Construction of pedestrian link from Market Square to New Cunninghame Street Park, located in the area marked 'H' on the Plan.</p>	<p>Developer to construct Pedestrian Link and access to be granted to public on reasonable terms acceptable to Council and by way of appropriate instrument granting such access being registered on the title of the relevant parts of the Land.</p>	<p>Prior to the issue of the first Occupation Certificate for Development on Land within Phase 4.</p>	<p>\$725,000</p>	<p>Not applicable</p>

Item	Column 1 Development Contribution	Column 2 Manner	Column 3 Timing	Column 4 Security Amount	Column 5 Value of Land to be dedicated
11.	<p>Public access to be granted to the Pedestrian Link.</p> <p>New Cunningham Street Park – base level embellishment</p> <p>A base level of embellishment of the New Cunningham Street Park generally shown in the area marked A on the Plan, and comprising:</p> <ul style="list-style-type: none"> (a) Retention of existing trees unless otherwise agreed by Council; (b) Footpaths; (c) Grassed / seeded (including appropriate soil preparation and turf underlay); (d) Mature tree plantings; and (e) Bench seating, and any other works approved in accordance with clause 6.2, (together, the Base Level Embellishment). 	Developer to carry out the works described in Column 1 of this Item 11.	Prior to the issue of the first Occupation Certificate for any Development on Land within Phase 4, and prior to dedication of the New Cunningham Street Park to Council.	\$1,500,000	Not applicable

Item	Column 1 Development Contribution	Column 2 Manner	Column 3 Timing	Column 4 Security Amount	Column 5 Value of Land to be dedicated
	The total value of the Base Level Embellishment provided by the Developer in this Item 11 is to be equal to the Security Amount in Column 4 for this Item 11 (indexed in accordance with clause 6.4).				

Voluntary Planning Agreement

Each attorney executing this Agreement states that he or she has no notice of the revocation or suspension of his or her power of attorney.

Executed in Sydney.

Developer

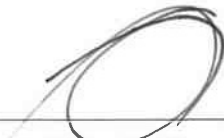
Executed in accordance with section 127 of the *Corporations Act 2001* by **Harrington Custodian Pty Ltd** (ACN 156 505 538) as trustee for the Fairfield Forum Unit Trust ABN 85 505 895 966):



Director Signature

TREVOR BYLES

Print Name



Director/Secretary Signature

Print Name


Executed by Fairfield City Council by its General Manager and Mayor by the affixing of the Common Seal of Council in accordance with resolution dated



General Manager (Signature)

Brad Cutts

Name of General Manager (Print Name) *Acting*



Mayor (Signature)

Frank Carbone

Name of Mayor (Print Name)



Execution by Fairfield City Council

Frank Carbone

Witness signature *Frank Carbone*

B. J. Cutts

Authorised person signature *Bracl Cutts*

Voluntary Planning Agreement

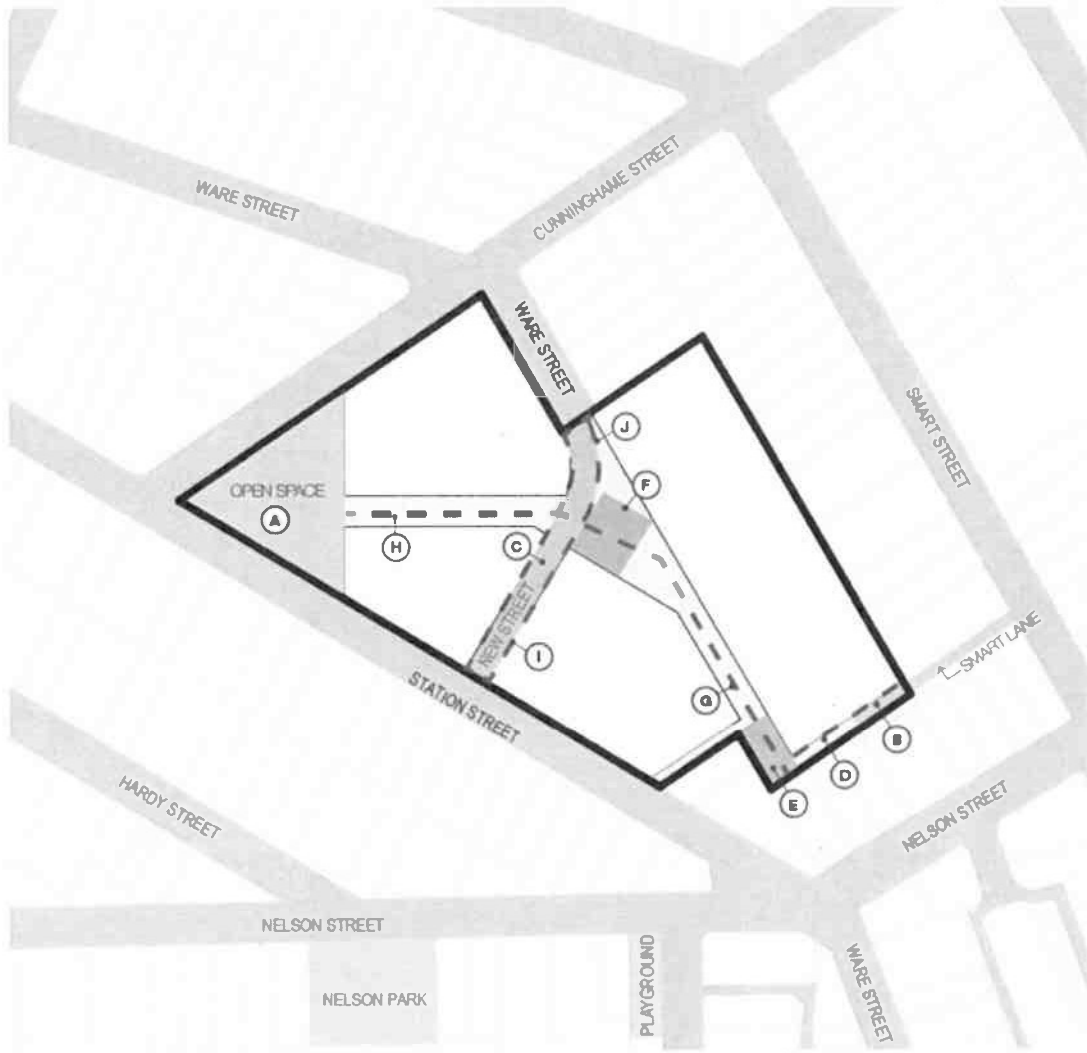
Execution by Harrington Custodian Pty Ltd

T. J. S.

Director signature

Director/secretary signature

Annexure A – Plan



Fairfield Forum, 8-30 Station Street, Fairfield NSW 2165 / DCP Documentation

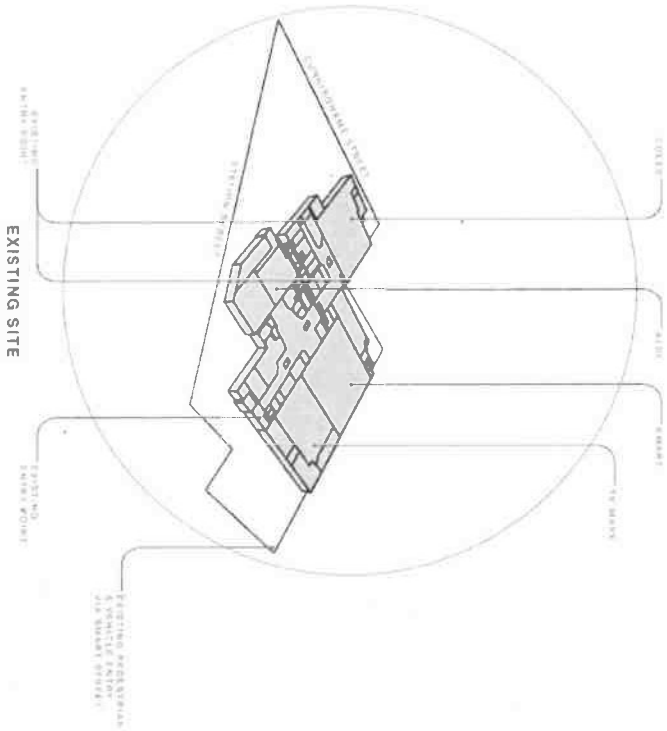
Legend

- Dedication to council
- Pedestrian link
- Civic works/ public benefit
- Fairfield cultural park
- Widening of smart lane
- New street (station street to ware street)
- Pedestrian link (smart lane to thomas ware plaza)
- Extension of thomas ware plaza
- Market square
- Pedestrian link (thomas ware plaza to market square)
- Pedestrian link (market square to fairfield cultural park)
- Pedestrian link (station street to market square)
- Pedestrian link (ware street to market square)

Annexure B – Phasing Strategy

DESIGN RESPONSE
PHASING STRATEGY
EXISTING

The proposed development for the site is undertaken in a way to the extent of the ability to maintain the character and appearance of the existing site as far as is practicable. Along with the provision of the required level of safety and fire protection, the proposed development will be designed to ensure that the site is suitable for use as a school.



Fairfield Town, 528 Station Street, Fairfield NSW 2165

rothekowman

Execution by Fairfield City Council

Witness signature Frank Carbone

Execution by Harrington Custodian Pty Ltd

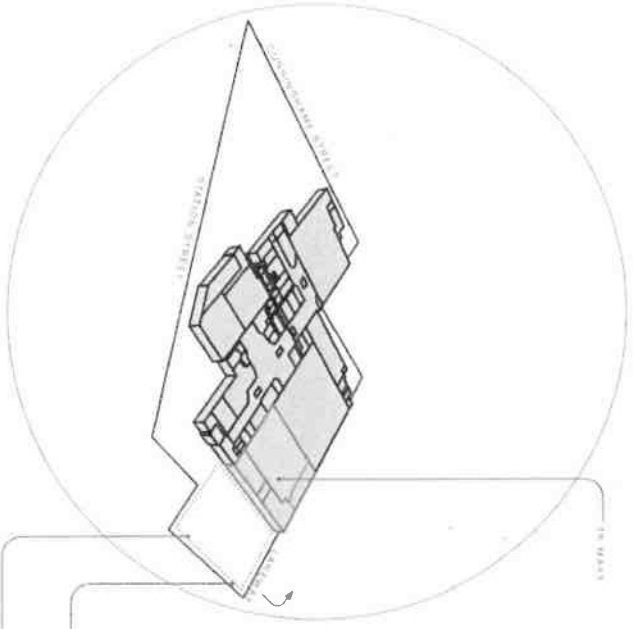
Director signature

B. T. Curtis

Authorised person signature Brian Curtis

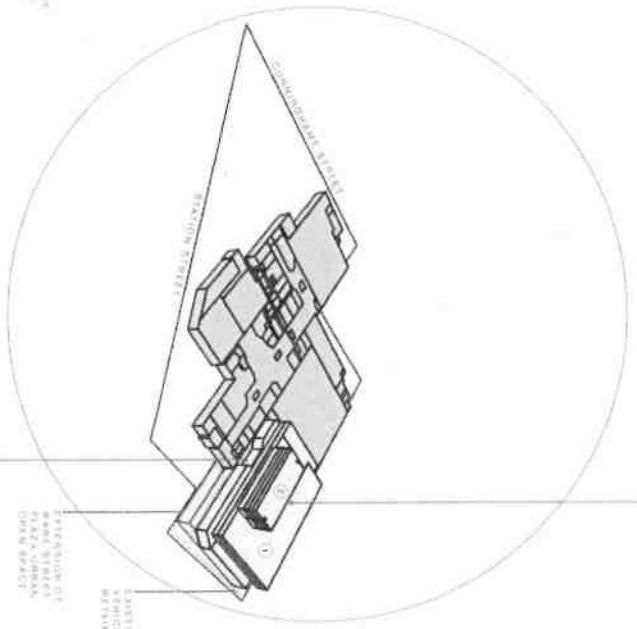
Director/secretary signature

DESIGN RESPONSE PHASING STRATEGY PHASE 1



**DEMO
PHASE 1**

The MAJOR and retail centre identified Temporary connection to Water Street Plaza outlined



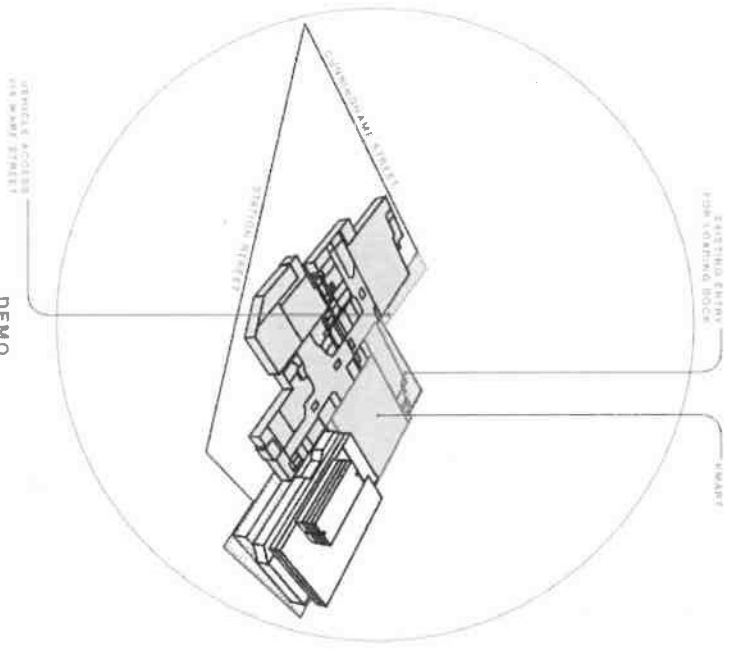
**PROPOSED
PHASE 1 - SITE A**

DOCS1 and provide law development. Head Water Street Plaza identified (shown) as well as retail connection context.

Fielded Form, 2-28 Station Street, Fielded NSW 2188 / Architecture and Urban Design Australia

rothkoffman
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DESIGN RESPONSE PHASING STRATEGY PHASE 2

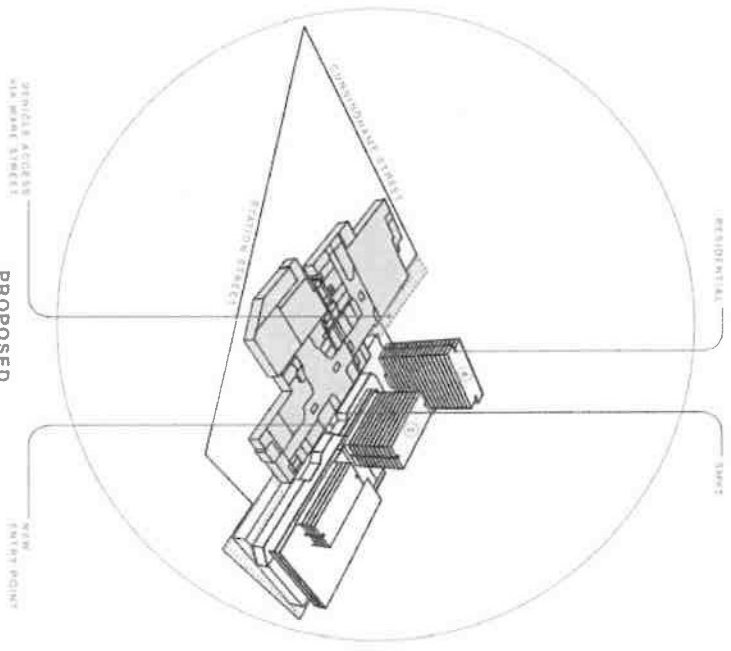


VEHICLE ACCESS VIA WEST STREET

DEMO

PHASE 2

Modify and replace existing above ground level. The majority of existing to the site and parking will be removed.



VEHICLE ACCESS VIA WEST STREET

PROPOSED

PHASE 2 - SITE A

BUILDINGS 3
BUILDINGS 4

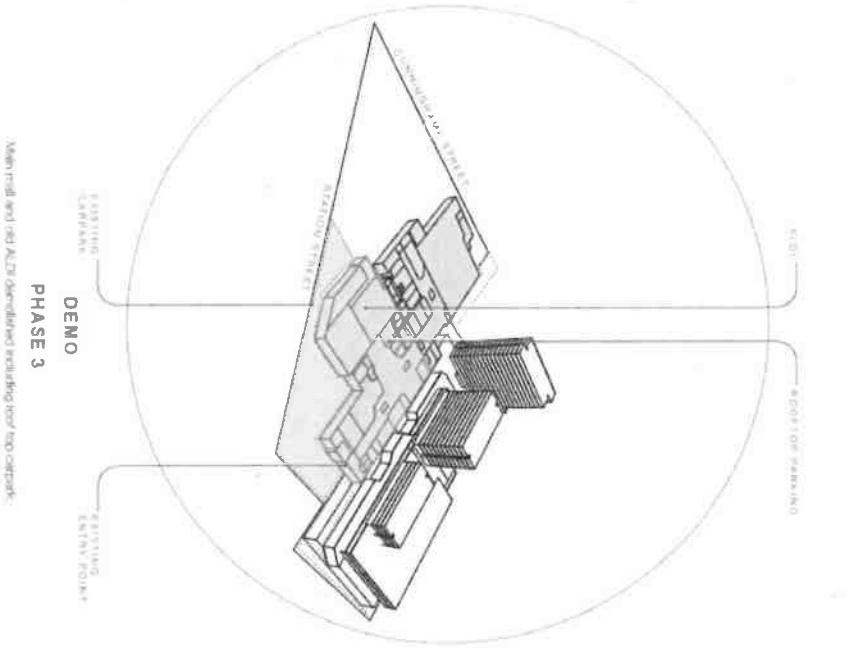
New ALDI completed, and part of New Street upgrade completed. New entry point to retail centre created.

Fairfield Forum, 839 Station Street, Fairfield NSW 2168

Illustration not to scale (except heights)

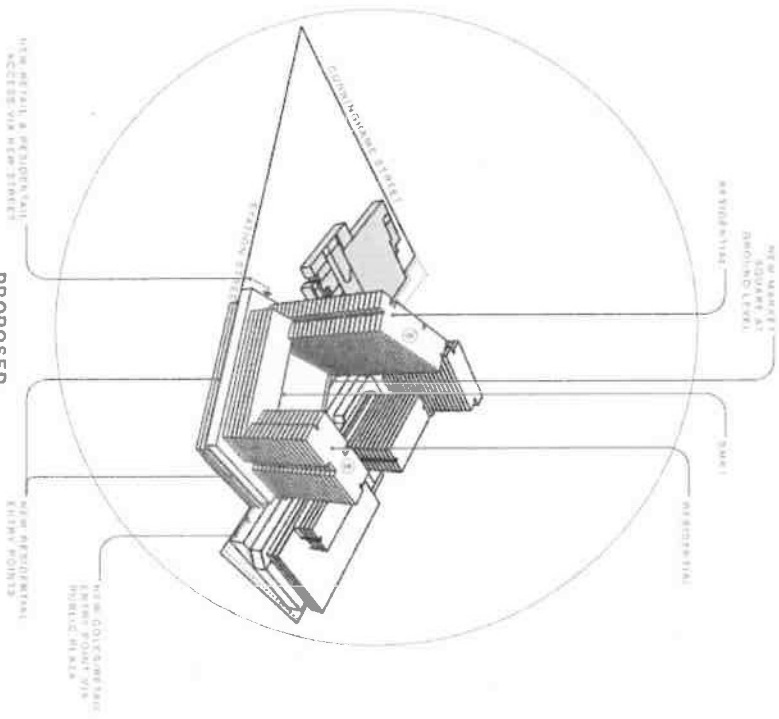
rothekowman

DESIGN RESPONSE PHASING STRATEGY PHASE 3



Field Form, 8-28 Station Street, Fairfield NSW 2165

Architecture and Urban Design Agency

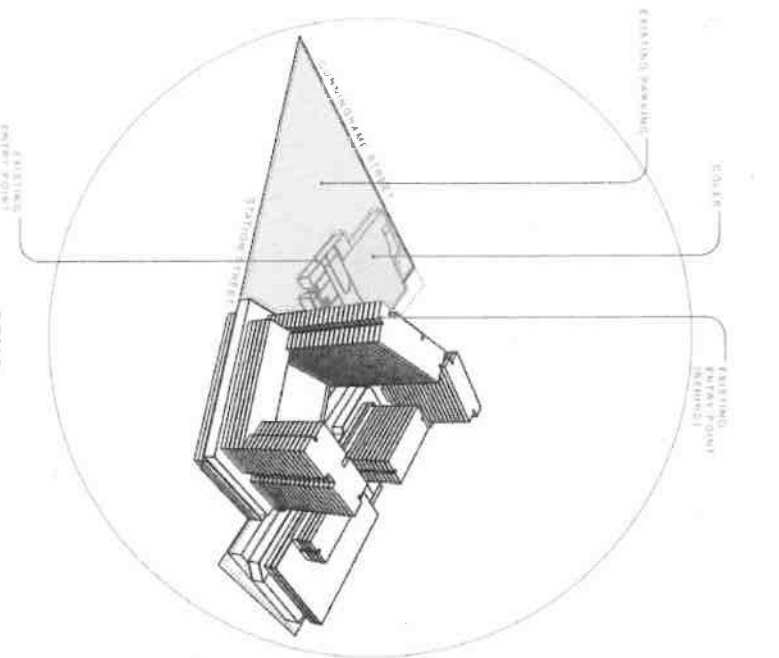


New OQLS and midlevel completed. Floor and detail scans completed.

rothlowman

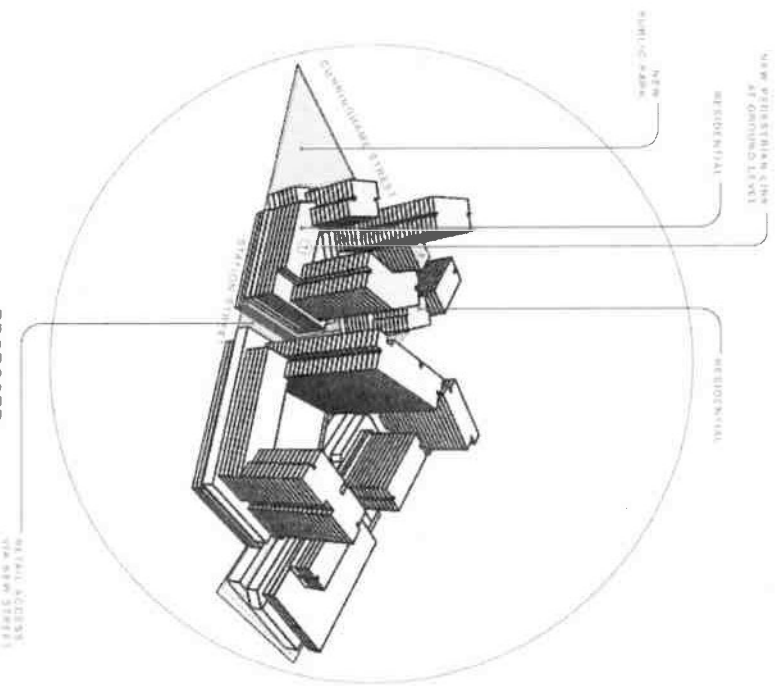
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DESIGN RESPONSE PHASING STRATEGY PHASE 4



**DEMO
PHASE 4**

Existing COLLEGE and remaining specialty stores demolished. Site for new park established to allow for construction.



**PROPOSED
PHASE 4 - SITE C
BUILDING 7
BUILDINGS**

Park, outdoor and new street between Phase 4A completed

Fairfield Forum, 8-28 Wilson Street, Fairfield NSW 2165 / Architecture and Urban Design Practice

rothpawman

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DESIGN RESPONSE PHASING STRATEGY SUMMARY

NEW ENTRIES DETAIL

- Phase 1 • HOAPT
- Phase 2 • ALDI
- Phase 3 • COLES

RESIDENTIAL

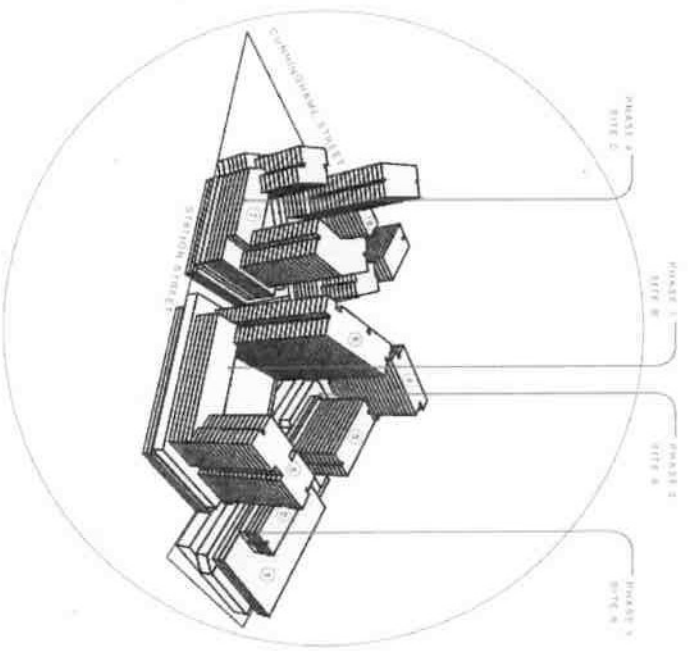
- Phase 7 • BUILDING 3A
- Phase 2 • BUILDING 6
- Phase 4 • BUILDING 7
- Phase 5 • BUILDING 8
- Phase 6 • BUILDING 9
- Phase 8 • BUILDING 5

RESIDENTIAL SCHEMATIC (SOUTHERN SECTION)

ALL BUILDINGS ARE APPROXIMATE

Phase	Parking Total	Parking Loss	Parking Gain	Residential Units
Phase 1 (Site A)	1304	106	1198	250
Phase 2 (Site A)	480	100	380	92
Phase 3 (Site B)	1128	30	1098	472
Phase 4 (Site C)				795

DATA



PROPOSED
COMPLETE

Execution by Fairfield City Council

Witness signature *Frank Carbone*

Execution by Harrington Custodian Pty Ltd

Director signature *TS*

B. A. Curtis

Authorised person signature *Brai Curtis*

Director/secretary signature *[Signature]*