

Deed

Penny Lane Carpark, Thirlmere

Planning Agreement

Under section 7.4 of the *Environmental Planning and Assessment Act 1979*

Wollondilly Shire Council

Ozy Investments Pty Ltd as trustee for Ozy Investment Trust

Date: 10 November 2021

MLL

Penny Lane Carpark, Thirlmere Planning Agreement

Table of Contents

Summary Sheet	4
Parties	6
Background	6
Operative provisions	6
Part 1 - Preliminary	6
1 Interpretation.....	6
2 Status of this Deed	10
3 Commencement	10
4 Application of this Deed	10
5 Warranties	10
6 Further agreements	10
7 Surrender of right of appeal, etc.	11
8 Application of sections 7.11, 7.12 and 7.24 of the Act to the Development	11
Part 2 – Development Contributions	11
9 Provision of Development Contributions	11
10 Carrying out of Work.....	11
11 Variation to Work	11
12 Access to land by Developer	12
13 Access to land by Council.....	12
14 Protection of people, property & utilities	12
15 Maintenance and Repair of damage prior to completion.....	13
16 Completion of Work	13
17 Rectification of defects.....	13
18 Works-As-Executed-Plan.....	14
19 Removal of Equipment	14
Part 3 – Dispute Resolution	14
20 Dispute resolution – expert determination	14
21 Dispute Resolution - mediation.....	15
Part 4 - Enforcement.....	15
22 Security for performance of obligations	15
23 Breach of obligations	16

Penny Lane Carpark, Thirlmere Planning Agreement
Wollondilly Shire Council
Ozy Investments Pty Ltd as Trustee for Ozy Investment Trust

24	Enforcement in a court of competent jurisdiction	17
Part 5 – Registration & Restriction on Dealings.....		18
25	Registration of this Deed	18
26	Restriction on dealings	18
Part 6 – Indemnities & Insurance.....		19
27	Risk.....	19
28	Release.....	19
29	Indemnity	19
30	Insurance	20
Part 7 – Other Provisions		20
31	Annual report by Developer.....	20
32	Review of Deed	20
33	Notices.....	21
34	Approvals and Consent	21
35	Costs.....	22
36	Entire Deed.....	22
37	Further Acts	22
38	Governing Law and Jurisdiction	22
39	Joint and Individual Liability and Benefits.....	22
40	No Fetter.....	22
41	Illegality.....	23
42	Severability	23
43	Amendment	23
44	Waiver.....	23
45	GST.....	24
46	Explanatory Note	25
Schedule 1		26
Schedule 2.....		27
Execution.....		29
Appendix		30

Penny Lane Carpark, Thirlmere Planning Agreement

Summary Sheet

Council:

Name: Wollondilly Shire Council

Address: 62-64 Menangle Street, Picton, NSW 2571

Telephone: 02 4677 1100

Email: council@wollondilly.nsw.gov.au

Representative: Chief Executive Officer

Developer:

Name: Ozy Investments Pty Ltd ACN 163 521 382 as trustee for Ozy Investment Trust ABN 92 746 957 279

Address: 2A, 148-150 Canterbury Road, Bankstown NSW 2200

Telephone: 1300 093 704

Email: ghazi@ozyhomes.com.au

Representative: Ghazi Sangari

Developer Land:

See definition of *Developer Land* in clause 1.1.

Development:

See definition of *Development* in clause 1.1.

Development Contributions:

See Clause 9 and Schedule 1.

Application of sections 7.11, 7.12 and 7.24 of the Act:

See clause 8.

**Penny Lane Carpark, Thirlmere Planning Agreement
Wollondilly Shire Council
Ozy Investments Pty Ltd as Trustee for Ozy Investment Trust**

Security:

See Part 4.

Registration:

See clause 25.

Restriction on dealings:

See clause 26.

Dispute Resolution:

See Part 3.

Penny Lane Carpark, Thirlmere Planning Agreement

Under section 7.4 of the *Environmental Planning and Assessment Act 1979*

Parties

Wollondilly Shire Council ABN 93 723 245 808 of 62-64 Menangle Street Picton NSW 2571 (**Council**)

and

Ozy Investments Pty Ltd ACN 163 521 382 as trustee for Ozy Investment Trust ABN 92 746 957 279 of 2A, 148-150 Canterbury Road, Bankstown NSW 2200 (**Developer**)

Background

- A The Developer owns the Developer Land, otherwise known as 27 Oaks Street, Thirlmere.
- B By letter of offer dated 23 May 2019 in connection with Development Application DA/2018/188, the Developer offered to enter into a planning agreement under the *Environmental Planning and Assessment Act 1979* for the construction of a carpark, footpath and landscaping on the Council Land, as well as the resurfacing and linemarking of the existing carpark and Penny Lane, immediately to the east of the Council Land, in connection with the Development.
- C The Council granted Development Consent to DA/2018/188 subject to condition 24(2) requiring the Developer to enter into this Deed.
- D The Council and the Developer intend to enter into a separate agreement for a Right of Carriageway burdening the Council Land and benefitting the Developer Land.

Operative provisions

Part 1 - Preliminary

1 Interpretation

- 1.1 In this Deed the following definitions apply:

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

Approval includes approval, consent, licence, permission or the like.

Authority means the Commonwealth or New South Wales government, a Minister of the Crown, a government department, a public authority established by or under any Act, a council or county council constituted under

Penny Lane Carpark, Thirlmere Planning Agreement
Wollondilly Shire Council
Ozy Investments Pty Ltd as Trustee for Ozy Investment Trust

the *Local Government Act 1993*, or a person or body exercising functions under any Act including a commission, panel, court, tribunal and the like.

Bank Guarantee means an irrevocable and unconditional undertaking without any expiry or end date in favour of the Council to pay an amount or amounts of money to the Council on demand issued by one of the following trading banks:

- (i) Australia and New Zealand Banking Group Limited,
- (ii) Commonwealth Bank of Australia,
- (iii) Macquarie Bank Limited,
- (iv) National Australia Bank Limited,
- (iv) St George Bank Limited,
- (v) Westpac Banking Corporation.

Carpark Concept Plan means the plan titled '*Proposed Car Park Arrangement*', Drawing No 1728/CP.01, Rev E dated 13 June 2019 prepared by KPA Architects, a copy which is in Schedule 2, being the approved version of Rev D dated 22 May 2019 of that plan the subject of Development Consent.

Claim includes a claim, demand, remedy, suit, injury, damage, loss, Cost, liability, action, proceeding or right of action.

Construction Certificate has the same meaning as in the Act.

Corporations Act means the *Corporations Act 2001 (Cth)* as amended from time to time.

Cost means a cost, charge, expense, outgoing, payment, fee and other expenditure of any nature.

Council Land means Lot 100 DP1175654.

Deed means this Deed and includes any schedules, annexures and appendices to this Deed.

Defect means anything that adversely affects, or is likely to adversely affect the structural integrity, functionality or use or enjoyment of a Work or any part of a Work.

Defects Liability Period means the period of 1 year commencing on the day immediately after a Work is completed for the purposes of this Deed.

Defects Liability Security is defined in clause 22.3.

Developer Land means Lot 3, Section C DP1569, otherwise known as 27 Oaks Street, Thirlmere.

Development means the development described in Development Application DA/2018/188 on the Developer Land for which Development Consent was granted by the Council on 31 October 2019, as modified from time to time.

Development Application has the same meaning as in the Act.

Development Consent has the same meaning as in the Act.

Development Contribution means a monetary contribution, the dedication of land free of cost, the carrying out of work, or the provision of any other material public benefit, or any combination of them, to be used for, or applied towards a public purpose, but does not include any Security or other benefit

Penny Lane Carpark, Thirlmere Planning Agreement
Wollondilly Shire Council
Ozy Investments Pty Ltd as Trustee for Ozy Investment Trust

provided by a Party to the Council to secure the enforcement of that Party's obligations under this Deed for the purposes of section 7.4(3)(g) of the Act.

Dispute means a dispute or difference between the Parties under or in relation to this Deed.

Equipment means any equipment, apparatus, vehicle or other equipment or thing to be used by or on behalf of the Developer in connection with the performance of its obligations under this Deed.

Final Lot means a lot created in the Development for separate residential occupation and disposition or a lot of a kind or created for a purpose that is otherwise agreed by the Parties, not being a lot created by a subdivision of the Land:

- (a) that is to be dedicated or otherwise transferred to the Council, or
- (b) on which is situated a dwelling-house that was in existence on the date of this Deed.

GST has the same meaning as in the GST Law.

GST Law has the same meaning as 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.

Maintain, in relation to a Work, means keep in a good state of repair and working order, and includes repair of any damage to the Work.

Occupation Certificate has the same meaning as in the Act.

Party means a party to this Deed.

Penny Lane means the public road known as 'Penny Lane' connecting Westbourne Avenue to the Council Land, being land that formerly comprised Lot 103 in Deposited Plan 800630 and dedicated as a public road on or about 6 August 1990.

Rectification Notice means a notice in writing:

- (a) identifying the nature and extent of a Defect,
- (b) specifying the works or actions that are required to Rectify the Defect,
- (c) specifying the date by which or the period within which the Defect is to be rectified.

Rectify means rectify, remedy or correct.

Regulation means the *Environmental Planning and Assessment Regulation 2000*.

Related Party means:

- (a) a related body corporate of a corporation within the meaning of section 50 of the Corporations Act;
- (b) an entity that is connected with a corporation within the meaning of s 64B of the Corporations Act;
- (c) a body corporate controlled by a corporation;
- (d) a corporation, one of whose directors is also a director of the other corporation.

Penny Lane Carpark, Thirlmere Planning Agreement
Wollondilly Shire Council
Ozy Investments Pty Ltd as Trustee for Ozy Investment Trust

Security means a Bank Guarantee indexed in the same way as monetary contribution amounts for works are indexed under clause 5.4.1 of the Contributions Plan with the 'Base CPI' in that formula read as '*the CPI for the quarter immediately before 23 May 2019*'.

Security Amount means an amount equal to 120% of the quoted estimated cost of construction for the Work to be carried out under this Deed as tendered by the preferred civil contractor appointed by the Developer and notified to the Council under clause 22 and as indexed.

Subdivision Certificate has the same meaning as in the Act.

Work means the physical result of any building, engineering or construction work in, on, over or under land.

Works Security is defined in clause 22.1.3.

- 1.2 In the interpretation of this Deed, the following provisions apply unless the context otherwise requires:
- 1.2.1 Headings are inserted for convenience only and do not affect the interpretation of this Deed.
 - 1.2.2 A reference in this Deed to a business day means a day other than a Saturday or Sunday on which banks are open for business generally in Sydney.
 - 1.2.3 If the day on which any act, matter or thing is to be done under this Deed is not a business day, the act, matter or thing must be done on the next business day.
 - 1.2.4 A reference in this Deed to dollars or \$ means Australian dollars and all amounts payable under this Deed are payable in Australian dollars.
 - 1.2.5 A reference in this Deed to a \$ value relating to a Development Contribution is a reference to the value exclusive of GST.
 - 1.2.6 A reference in this Deed 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.
 - 1.2.7 A reference in this Deed to any agreement, deed or document is to that agreement, deed or document as amended, novated, supplemented or replaced.
 - 1.2.8 A reference to a clause, part, schedule or attachment is a reference to a clause, part, schedule or attachment of or to this Deed.
 - 1.2.9 An expression importing a natural person includes any company, trust, partnership, joint venture, association, body corporate or governmental agency.
 - 1.2.10 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.
 - 1.2.11 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.
 - 1.2.12 References to the word 'include' or 'including' are to be construed without limitation.

Penny Lane Carpark, Thirlmere Planning Agreement
Wollondilly Shire Council
Ozy Investments Pty Ltd as Trustee for Ozy Investment Trust

- 1.2.13 A reference to this Deed includes the agreement recorded in this Deed.
- 1.2.14 A reference to a Party to this Deed includes a reference to the employees, agents and contractors of the Party, the Party's successors and assigns.
- 1.2.15 A reference to 'dedicate' or 'dedication' in relation to land is a reference to dedicate or dedication free of cost.
- 1.2.16 Any schedules, appendices and attachments form part of this Deed.
- 1.2.17 Notes appearing in this Deed are operative provisions of this Deed.

2 Status of this Deed

- 2.1 This Deed is a planning agreement within the meaning of section 7.4(1) of the Act.

3 Commencement

- 3.1 This Deed commences and has force and effect on and from the date when the Parties have:
 - 3.1.1 both executed the same copy of this Deed, or
 - 3.1.2 each executed separate counterparts of this Deed and exchanged the counterparts.
- 3.2 The Parties are to insert the date when this Deed commences on the front page and on the execution page.

4 Application of this Deed

- 4.1 This Deed applies to, the Council Land, Penny Lane, the Developer Land and to the Development.

5 Warranties

- 5.1 The Parties warrant to each other that they:
 - 5.1.1 have full capacity to enter into this Deed, and
 - 5.1.2 are able to fully comply with their obligations under this Deed.

6 Further agreements

- 6.1 The Parties may, at any time and from time to time, enter into agreements relating to the subject-matter of this Deed that are not inconsistent with this Deed for the purpose of implementing this Deed.

7 Surrender of right of appeal, etc.

- 7.1 The Developer is not to commence or maintain, or to cause or procure the commencement or maintenance, of any proceedings in any court or tribunal or similar body appealing against, or questioning the validity of this Deed, or an Approval relating to the Development in so far as the subject-matter of the proceedings relates to this Deed.

8 Application of sections 7.11, 7.12 and 7.24 of the Act to the Development

- 8.1 This Deed does not exclude the application of sections 7.11, 7.12 or 7.24 of the Act to the Development.
- 8.2 The benefits under this Deed are not to be taken into consideration when determining a development contribution under section 7.11 of the Act in relation to the Development.

Part 2 – Development Contributions

9 Provision of Development Contributions

- 9.1 The Developer is to make Development Contributions to the Council in accordance with Schedule 1 and any other provision of this Deed relating to the making of Development Contributions.
- 9.2 The Council is to apply each Development Contribution made by the Developer under this Deed towards the public purpose for which it is made and otherwise in accordance with this Deed.

10 Carrying out of Work

- 10.1 Without limiting any other provision of this Deed, any Work that is required to be carried out by the Developer under this Deed is to be carried out in accordance with any design or specification specified or approved by the Council acting reasonably, any relevant Approval and any other applicable law.
- 10.2 The Developer is to comply with all work, health and safety requirements as required by law.

11 Variation to Work

- 11.1 The design or specification of any Work that is required to be carried out by the Developer under this Deed may be varied by agreement in writing between the Parties, acting reasonably, without the necessity for an amendment to this Deed

- 11.2 Without limiting clause 11.1, the Developer may make a written request to the Council to approve a variation to the design or specification of a Work in order to enable it to comply with the requirements of any Authority imposed in connection with any Approval relating to the carrying out of the Work.
- 11.3 The Council is not to unreasonably delay or withhold its approval to a request made by the Developer under clause 11.2.
- 11.4 Without limiting clause 11.1, the Council may make a written request to the Developer to agree to a variation to the design or specification of a Work.
- 11.5 The Developer is not to unreasonably delay or withhold its agreement to a request made by the Council under clause 11.4.

12 Access to land by Developer

- 12.1 The Council authorises the Developer its agents and contractors, to enter, occupy and use the Council Land for the purpose of performing its obligations under this Deed in respect of the Council Land.
- 12.2 Subject to the Developer obtaining any necessary Approvals, including without limitation approvals under the *Roads Act 1993*, the Council is to permit the Developer, its agents and contractors, upon receiving reasonable prior notice from the Developer, to enter, occupy and use Penny Lane including the temporary placement of materials and equipment on and restriction of access to Penny Lane in order to enable the Developer to carry out the Work and properly perform its obligations under this Deed in respect of Penny Lane.
- 12.3 Nothing in this Deed creates or gives the Developer any estate or interest in any part of the land referred to in clause 12.1 or 12.2.

13 Access to land by Council

- 13.1 The Council may enter the Council Land and Penny Lane in order to inspect, examine or test the Work, or to remedy any breach by the Developer of its obligations under this Deed relating to the Work.
- 13.2 The Council must give the Developer prior reasonable notice before it enters land under clause 13.1 and ensure that the Council and its employees comply with all reasonable directions of the Developer and all site construction requirements including without limitation all workplace health and safety requirements and reporting to a site office or site superintendent.

14 Protection of people, property & utilities

- 14.1 The Developer is to ensure to the fullest extent reasonably practicable in relation to the performance of its obligations under this Deed that:
 - 14.1.1 all necessary measures are taken to protect people and property,
 - 14.1.2 unnecessary interference with the passage of people and vehicles is avoided, and
 - 14.1.3 nuisances and unreasonable noise and disturbances are prevented.

Penny Lane Carpark, Thirlmere Planning Agreement

Wollondilly Shire Council

Ozy Investments Pty Ltd as Trustee for Ozy Investment Trust

- 14.2 Except as contemplated in clause 12, the Developer is not to obstruct, interfere with, impair or damage any public road, public footpath, public cycleway or other public thoroughfare, or any pipe, conduit, drain, watercourse or other public utility or service on any land except as contemplated by the Works under this Deed and as authorised in writing by the Council or any relevant Authority.

15 Maintenance and Repair of damage prior to completion

- 15.1 The Developer is to Maintain any Work required to be carried out by the Developer under this Deed until the Work is completed for the purposes of this Deed or such later time as agreed in writing between the Parties.
- 15.2 The Developer is to carry out its obligation under clause 15.1 at its own cost and to the reasonable satisfaction of the Council.

16 Completion of Work

- 16.1 The Developer must give the Council written notice of the date on which it will complete Work required to be carried out under this Deed.
- 16.2 The Council must inspect the Work the subject of the notice referred to in clause 16.1 within 14 days of the date specified in the notice for completion of the Work.
- 16.3 Work required to be carried out by the Developer under this Deed is completed for the purposes of this Deed when the Council, acting reasonably, gives a written notice to the Developer to that effect.
- 16.4 Council must either give a direction under clause 16.6 or the notice in 16.3 within 14 days of the inspection under clause 16.2.
- 16.5 If the Council is the owner of the land on which Work the subject of a notice referred to in clause 16.3 is issued, the Council assumes responsibility for the Work upon the issuing of the notice.
- 16.6 Before the Council gives the Developer a notice referred to in clause 16.3, it may give the Developer a written direction to complete, rectify or repair any specified part of the Work to the reasonable satisfaction of the Council.
- 16.7 The Developer, at its own cost, is to promptly comply with a direction referred to in clause 16.6. If Council gives the Developer a direction under clause 16.6 and the Developer complies with the direction, the process contemplated in clauses in 16.1 to 16.6 is repeated.

17 Rectification of defects

- 17.1 The Council may give the Developer a Rectification Notice during the Defects Liability Period.
- 17.2 The Developer, at its own cost, is to comply with a Rectification Notice according to its terms or the terms agreed between the Council and the Developer to rectify the Defect to the reasonable satisfaction of the Council.

- 17.3 The Council is to do such things as are reasonably necessary to enable the Developer to comply with a Rectification Notice that has been given to it under clause 17.1.

18 Works-As-Executed-Plan

- 18.1 No later than 60 days after Work is completed for the purposes of this Deed, the Developer is to submit to the Council a full works-as-executed-plan in respect of the Work.
- 18.2 The Developer, being the copyright owner in the plan referred to in clause 18.1, gives the Council a non-exclusive licence to use the copyright in the plans for the purposes of this Deed.

19 Removal of Equipment

- 19.1 When Work on any Council owned or controlled land is completed for the purposes of this Deed, the Developer, without delay, is to:
- 19.1.1 remove any Equipment from the Council Land and Penny Lane and make good any damage or disturbance to the land as a result of that removal, and
- 19.1.2 leave the land in a neat and tidy state, clean and free of rubbish.

Part 3 – Dispute Resolution

20 Dispute resolution – expert determination

- 20.1 This clause applies to a Dispute between any of the Parties to this Deed concerning a matter arising in connection with this Deed that can be determined by an appropriately qualified expert if:
- 20.1.1 the Parties to the Dispute agree that it can be so determined, or
- 20.1.2 the Chief Executive Officer of the professional body that represents persons who appear to have the relevant expertise to determine the Dispute gives a written opinion that the Dispute can be determined by a member of that body.
- 20.2 A Dispute to which this clause applies is taken to arise if one Party gives another Party a notice in writing specifying particulars of the Dispute.
- 20.3 If a notice is given under clause 20.2, the Parties are to meet within 14 days of the notice in an attempt to resolve the Dispute.
- 20.4 If the Dispute is not resolved within a further 28 days, the Dispute is to be referred to the President of the NSW Law Society to appoint an expert for expert determination.
- 20.5 The expert determination is binding on the Parties except in the case of fraud or misfeasance by the expert.

- 20.6 Each Party is to bear its own costs arising from or in connection with the appointment of the expert and the expert determination.
- 20.7 The Parties are to share equally the costs of the President, the expert, and the expert determination.

21 Dispute Resolution - mediation

- 21.1 This clause applies to any Dispute arising in connection with this Deed other than a Dispute to which clause 20 applies.
- 21.2 Such a Dispute is taken to arise if one Party gives another Party a notice in writing specifying particulars of the Dispute.
- 21.3 If a notice is given under clause 21.2, the Parties are to meet within 14 days of the notice in an attempt to resolve the Dispute.
- 21.4 If the Dispute is not resolved within a further 28 days, the Parties are to mediate the Dispute in accordance with the Mediation Rules of the Law Society of New South Wales published from time to time and are to request the President of the Law Society to select a mediator.
- 21.5 If the Dispute is not resolved by mediation within a further 28 days, or such longer period as may be necessary to allow any mediation process which has been commenced to be completed, then the Parties may exercise their legal rights in relation to the Dispute, including by the commencement of legal proceedings in a court of competent jurisdiction in New South Wales.
- 21.6 Each Party is to bear its own costs arising from or in connection with the appointment of a mediator and the mediation.
- 21.7 The Parties are to share equally the costs of the President, the mediator, and the mediation.

Part 4 - Enforcement

22 Security for performance of obligations

- 22.1 Prior to the issuing of the first Construction Certificate for the Development:
 - 22.1.1 the Developer must call for and receive competitive tenders from 3 civil contractors for the carrying out of the Work to be carried out under this Deed, and
 - 22.1.2 the Developer must notify the Council in writing of the preferred civil contractor as a result of the tender process, and
 - 22.1.3 the Developer must provide Security to the Council in relation to the performance of its obligations under this Deed for the Security Amount (**Works Security**).
- 22.2 The Council, in its absolute discretion and despite clause 12, may refuse to allow the Developer to enter, occupy or use any land owned or controlled by the Council or refuse to provide the Developer with any plant, equipment, facilities or assistance relating to the carrying out the Development if the

Penny Lane Carpark, Thirlmere Planning Agreement
Wollondilly Shire Council
Ozy Investments Pty Ltd as Trustee for Ozy Investment Trust

- Developer has not provided the Security to the Council in accordance with this Deed.
- 22.3 The Council is to release and return the Works Security, or any unused part of it, to the Developer within the latter of:
- 22.3.1 14 days of the date Council gives a notice to the Developer pursuant to clause 16.3 that the Works are completed for the purpose of this Deed; and
- 22.3.2 receipt of the Security referred to in condition 9(7) of the Development Consent for the Development which the Parties agree is to be in an amount equal to 10% of the Security Amount (**Defects Liability Security**).
- 22.4 The Developer must provide the Defects Liability Security in relation to the performance of its obligations under clause 17 to satisfy condition 9(7) of the Development Consent for the Development.
- 22.5 The Council is to release and return the Defects Liability Security or any unused part of it to the Developer within 14 days of the latter of:
- 22.5.1 if no Rectification Notice has been issued, the end of the Defects Liability Period; or
- 22.5.2 if one or more Rectification Notices have been issued, the date that all Defects have been rectified to the reasonable satisfaction of the Council under clause 17.2.
- 22.6 If the Developer sells or transfers the Developer Land, or assigns its rights and obligations under this Deed or novates this Deed in accordance with clause 26, the Council must release and return the Works Security or the Defects Liability Security (as the case may be) or any unused part of them to the Developer within 14 days after the date the purchaser, transferee, assignee or novatee provides the Council a replacement Works Security or Defects Liability Security (as the case may be) following such a sale, transfer, assignment or novation in the full amount of the Works Security or Defects Liability Security (as the case may be) that the Council is entitled to hold under this Deed.
- 22.7 The Developer may at any time provide the Council with a replacement Works Security or Defects Liability Security (as the case may be).
- 22.8 On receipt of a replacement Security, the Council is to release and return the Security that has been replaced to the Developer.
- 22.9 If the Council calls-up the Security or any portion of it (whether the Works Security or the Defects Liability Security), the Council may, by written notice to the Developer, require the Developer to provide a further or replacement Security to ensure that the amount of Security held by the Council equals the indexed Works Security or the Defects Liability Security (as the case may be).
- 22.10 The Developer is to ensure that the Security provided to the Council is at all times maintained to the full current indexed value (whether the Works Security or the Defects Liability Security).

23 Breach of obligations

- 23.1 If the Council reasonably considers that the Developer is in breach of any obligation under this Deed, it may give a written notice to the Developer:

Penny Lane Carpark, Thirlmere Planning Agreement
Wollondilly Shire Council
Ozy Investments Pty Ltd as Trustee for Ozy Investment Trust

- 23.1.1 specifying the nature and extent of the breach,
- 23.1.2 requiring the Developer to:
 - (a) rectify the breach if it reasonably considers it is capable of rectification, or
 - (b) pay compensation to the reasonable satisfaction of the Council in lieu of rectifying the breach if it reasonably considers the breach is not capable of rectification,
- 23.1.3 specifying the period within which the breach is to be rectified or compensation paid, being a period that is reasonable in the circumstances.
- 23.2 If the Developer fails to fully comply with a notice referred to in clause 23.1, the Council may, without further notice to the Developer, call-up the Works Security or Defects Liability Security provided by the Developer under this Deed and apply it to remedy the Developer's breach notwithstanding any other remedy it may have under this Deed, under any Act or otherwise at law or in equity.
- 23.3 If the Developer fails to comply with a notice given under clause 23.1 relating to the carrying out of Work under this Deed, the Council may step-in and remedy the breach and may enter, occupy and use any land owned or controlled by the Developer and any Equipment on such land for that purpose.
- 23.4 Before the Council calls-up the Works Security or Defects Liability Security under clause 23.2 or steps-in to remedy the breach under clause 23.3, it is to (acting reasonably and in good faith) take into consideration any dispute-resolution process which has commenced under clause 20 or 21.
- 23.5 Any costs necessarily and reasonably incurred by the Council in remedying a breach in accordance with clause 23.2 or clause 23.3 may be recovered by the Council by either or a combination of the following means:
 - 23.5.1 by calling-up and applying the Security provided by the Developer under this Deed, or
 - 23.5.2 as a debt due in a court of competent jurisdiction.
- 23.6 For the purpose of clause 23.4, the Council's costs of remedying a breach the subject of a notice given under clause 23.1 include, but are not limited to:
 - 23.6.1 the costs of the Council's employees, agents and contractors reasonably incurred for that purpose,
 - 23.6.2 all fees and charges necessarily or reasonably incurred by the Council in remedying the breach, and
 - 23.6.3 all legal costs and expenses reasonably incurred by the Council, by reason of the breach.
- 23.7 Nothing in this clause 23 prevents the Council from exercising any rights it may have at law or in equity in relation to a breach of this Deed by the Developer, including but not limited to seeking relief in an appropriate court.

24 Enforcement in a court of competent jurisdiction

- 24.1 Without limiting any other provision of this Deed, the Parties may enforce this Deed in any court of competent jurisdiction.

- 24.2 For the avoidance of doubt, nothing in this Deed prevents:
- 24.2.1 a Party from bringing proceedings in the Land and Environment Court to enforce any aspect of this Deed or any matter to which this Deed relates, or
 - 24.2.2 the Council from exercising any function under the Act or any other Act or law relating to the enforcement of any aspect of this Deed or any matter to which this Deed relates.

Part 5 – Registration & Restriction on Dealings

25 Registration of this Deed

- 25.1 The Parties agree to register this Deed for the purposes of section 7.6(1) of the Act.
- 25.2 Upon commencement of this Deed, the Developer is to deliver to the Council:
- 25.2.1 in registrable form an instrument requesting registration of this Deed on the title to the Developer Land duly executed by the Developer, and
 - 25.2.2 the written irrevocable consent of each person referred to in section 7.6(1) of the Act to that registration, and
 - 25.2.3 the Certificate of Title to the Developer Land or written evidence that the Certificate of Title has been produced to the NSW Land Registry Services for the purposes of registering this Deed.
- 25.3 The Developer is to do such other things as are reasonably necessary to enable registration of this Deed to occur.
- 25.4 The Parties are to do such things as are reasonably necessary to remove any notation relating to this Deed from the title to the Developer Land:
- 25.4.1 after the Council has given the notice under clause 16.3 in relation to Work required to be carried out under this Deed;
 - 25.4.2 this Deed is terminated or otherwise comes to an end for any other reason.
- 25.5 For the purposes only of clause 25.4, the Council must do what is reasonably necessary (at the Developer's cost) to facilitate the removal of any notation relating to this Deed from the title to the Developer Land in accordance with clause 25.4 promptly upon receiving a request from the Developer to do so including, without limitation signing and delivering to the Developer in registrable form an instrument requesting cancellation or removal of this Deed on the title to the Developer Land.

26 Restriction on dealings

- 26.1 The Developer is not to:
- 26.1.1 sell or transfer the Developer Land, other than a Final Lot, or

Penny Lane Carpark, Thirlmere Planning Agreement

Wollondilly Shire Council

Ozy Investments Pty Ltd as Trustee for Ozy Investment Trust

- 26.1.2 assign the Developer's rights or obligations under this Deed, or novate this Deed,
- to any person, unless:
- 26.1.3 the Developer has, at no cost to the Council, first procured the execution by the person to whom the Developer Land or part is to be sold or transferred or the Developer's rights or obligations under this Deed are to be assigned or novated, of a deed in favour of the Council on terms reasonably satisfactory to the Council, and
- 26.1.4 where the transferee is not a Related Party the Council has given written notice to the Developer stating that it reasonably considers that the purchaser, transferee, assignee or novatee, is reasonably capable of performing its obligations under this Deed, and
- 26.1.5 the Developer is not in breach of this Deed, and
- 26.1.6 where the transferee is not a Related Party the Council otherwise consents to the transfer, assignment or novation, such consent not to be unreasonably withheld.
- 26.2 Subject to clause 26.3, the Developer acknowledges and agrees that it remains liable to fully perform its obligations under this Deed unless and until it has complied with its obligations under clause 26.1.
- 26.3 Clause 26.1 does not apply in relation to any sale or transfer of the Developer Land if this Deed is registered on the title to the Developer Land at the time of the sale.

Part 6 – Indemnities & Insurance

27 Risk

- 27.1 The Developer performs this Deed at its own risk and its own cost.

28 Release

- 28.1 The Developer releases the Council from any Claim it may have against the Council arising in connection with the performance of the Developer's obligations under this Deed except if, and to the extent that, the Claim arises because of the Council's negligence or default.

29 Indemnity

- 29.1 The Developer indemnifies the Council from and against all Claims that may be sustained, suffered, recovered or made against the Council arising in connection with the performance of the Developer's obligations under this Deed except if, and to the extent that, the Claim arises because of the Council's negligence or default.

30 Insurance

- 30.1 The Developer is to take out and keep current to the satisfaction of the Council the following insurances in relation to Work required to be carried out by the Developer under this Deed up until the Work is taken to have been completed in accordance with this Deed:
- 30.1.1 contract works insurance, noting the Council as an interested party, for the full replacement value of the Works (including the cost of demolition and removal of debris, consultants' fees and authorities' fees), to cover the Developer's liability in respect of damage to or destruction of the Works,
 - 30.1.2 public liability insurance for at least \$20,000,000.00 for a single occurrence, which covers the Council, the Developer and any subcontractor of the Developer, for liability to any third party,
 - 30.1.3 workers compensation insurance as required by law, and
 - 30.1.4 any other insurance required by law.
- 30.2 If the Developer fails to comply with clause 30.1, the Council may effect and keep in force such insurances and pay such premiums as may be necessary for that purpose and the amount so paid shall be a debt due from the Developer to the Council and may be recovered by the Council as it deems appropriate including:
- 30.2.1 by calling upon the Security provided by the Developer to the Council under this Deed, or
 - 30.2.2 recovery as a debt due in a court of competent jurisdiction.
- 30.3 The Developer is not to commence to carry out any Work unless it has first provided to the Council satisfactory written evidence of all of the insurances specified in clause 30.1.

Part 7 – Other Provisions

31 Annual report by Developer

- 31.1 The Developer is to provide to the Council by not later than 29 July of each year a report detailing the performance of its obligations under this Deed.
- 31.2 The report referred is to be in such a form and to address such matters as required by the Council from time to time.

32 Review of Deed

- 32.1 The Parties agree to review this Deed every year, and otherwise if either party is of the opinion that any change of circumstance has occurred, or is imminent, that materially affects the operation of this Deed.
- 32.2 For the purposes of clause 32.1, the relevant changes include (but are not limited to) any change to a law that restricts or prohibits or enables the

Penny Lane Carpark, Thirlmere Planning Agreement
Wollondilly Shire Council
Ozy Investments Pty Ltd as Trustee for Ozy Investment Trust

- Council or any other planning authority to restrict or prohibit any aspect of the Development.
- 32.3 For the purposes of addressing any matter arising from a review of this Deed referred to in clause 32.1, the Parties are to use all reasonable endeavours to agree on and implement appropriate amendments to this Deed.
- 32.4 If this Deed becomes illegal, unenforceable or invalid as a result of any change to a law, the Parties agree to do all things necessary to ensure that an enforceable agreement of the same or similar effect to this Deed is entered into.
- 32.5 A failure by a Party to agree to take action requested by the other Party as a consequence of a review referred to in clause 32.1 (but not 32.4) is not a Dispute for the purposes of this Deed and is not a breach of this Deed.

33 Notices

- 33.1 Any notice, consent, information, application or request that is to or may be given or made to a Party under this Deed is only given or made if it is in writing and sent in one of the following ways:
- 33.1.1 delivered or posted to that Party at its address set out in the Summary Sheet, or
- 33.1.2 emailed to that Party at its email address set out in the Summary Sheet.
- 33.2 If a Party gives the other Party 3 business days' notice of a change of its address or email, any notice, consent, information, application or request is only given or made by that other Party if it is delivered, posted or emailed to the latest address.
- 33.3 Any notice, consent, information, application or request is to be treated as given or made if it is:
- 33.3.1 delivered, when it is left at the relevant address,
- 33.3.2 sent by post, 2 business days after it is posted, or
- 33.3.3 sent by email and the sender does not receive a delivery failure message from the sender's internet service provider within a period of 24 hours of the email being sent.
- 33.4 If any notice, consent, information, application or request is delivered, or an error free transmission report in relation to it is received, 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.

34 Approvals and Consent

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

35 Costs

- 35.1 The Developer is to pay to the Council the Council's reasonable costs of preparing, negotiating, executing and stamping this Deed, and any document related to this Deed excluding Council's costs of seeking legal advice that it considers arises as a consequence of this VPA within 7 days of a written demand by the Council for such payment.
- 35.2 The Developer is also to pay to the Council the Council's reasonable costs of enforcing this Deed within 7 days of a written demand by the Council for such payment.

36 Entire Deed

- 36.1 This Deed contains everything to which the Parties have agreed in relation to the matters it deals with.
- 36.2 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 Deed was executed, except as permitted by law.

37 Further Acts

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

38 Governing Law and Jurisdiction

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

39 Joint and Individual Liability and Benefits

- 39.1 Except as otherwise set out in this Deed:
 - 39.1.1 any agreement, covenant, representation or warranty under this Deed by 2 or more persons binds them jointly and each of them individually, and
 - 39.1.2 any benefit in favour of 2 or more persons is for the benefit of them jointly and each of them individually.

40 No Fetter

- 40.1 Nothing in this Deed shall be construed as requiring Council to do anything that would cause it to be in breach of any of its obligations at law, and without

limitation, nothing shall be construed as limiting or fettering in any way the exercise of any statutory discretion or duty.

41 Illegality

- 41.1 If this Deed or any part of it becomes illegal, unenforceable or invalid as a result of any change to a law, the Parties are to co-operate and do all things necessary to ensure that an enforceable agreement of the same or similar effect to this Deed is entered into.

42 Severability

- 42.1 If a clause or part of a clause of this Deed 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.
- 42.2 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 Deed, but the rest of this Deed is not affected.

43 Amendment

- 43.1 No amendment of this Deed will be of any force or effect unless it is in writing and signed by the Parties to this Deed in accordance with clause 25C of the Regulation.

44 Waiver

- 44.1 The fact that a Party fails to do, or delays in doing, something the Party is entitled to do under this Deed, does not amount to a waiver of any obligation of, or breach of obligation by, another Party.
- 44.2 A waiver by a Party is only effective if it:
- 44.2.1 is in writing,
 - 44.2.2 is addressed to the Party whose obligation or breach of obligation is the subject of the waiver,
 - 44.2.3 specifies the obligation or breach of obligation the subject of the waiver and the conditions, if any, of the waiver,
 - 44.2.4 is signed and dated by the Party giving the waiver.
- 44.3 Without limitation, a waiver may be expressed to be conditional on the happening of an event, including the doing of a thing by the Party to whom the waiver is given.
- 44.4 A waiver by a Party is only effective in relation to the particular obligation or breach in respect of which it is given, and 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.

Penny Lane Carpark, Thirlmere Planning Agreement
Wollondilly Shire Council
Ozy Investments Pty Ltd as Trustee for Ozy Investment Trust

- 44.5 For the purposes of this Deed, an obligation or breach of obligation the subject of a waiver is taken not to have been imposed on, or required to be complied with by, the Party to whom the waiver is given.

45 GST

- 45.1 In this clause:

Adjustment Note, Consideration, GST, GST Group, Margin Scheme, Money, Supply and Tax Invoice have the meaning given by the GST Law.

GST Amount means in relation to a Taxable Supply the amount of GST payable in respect of the Taxable Supply.

GST Law has the meaning given by the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

Input Tax Credit has the meaning given by the GST Law and a reference to an Input Tax Credit entitlement of a party includes an Input Tax Credit for an acquisition made by that party but to which another member of the same GST Group is entitled under the GST Law.

Taxable Supply has the meaning given by the GST Law excluding (except where expressly agreed otherwise) a supply in respect of which the supplier chooses to apply the Margin Scheme in working out the amount of GST on that supply.

- 45.2 Subject to clause 45.4, if GST is payable on a Taxable Supply made under, by reference to or in connection with this Deed, the Party providing the Consideration for that Taxable Supply must also pay the GST Amount as additional Consideration.
- 45.3 Clause 45.2 does not apply to the extent that the Consideration for the Taxable Supply is expressly stated in this Deed to be GST inclusive.
- 45.4 No additional amount shall be payable by the Council under clause 45.2 unless, and only to the extent that, the Council (acting reasonably and in accordance with the GST Law) determines that it is entitled to an Input Tax Credit for its acquisition of the Taxable Supply giving rise to the liability to pay GST.
- 45.5 If there are Supplies for Consideration which is not Consideration expressed as an amount of Money under this Deed by one Party to the other Party that are not subject to Division 82 of the *A New Tax System (Goods and Services Tax) Act 1999*, the Parties agree:
- 45.5.1 to negotiate in good faith to agree the GST inclusive market value of those Supplies prior to issuing Tax Invoices in respect of those Supplies;
- 45.5.2 that any amounts payable by the Parties in accordance with clause 45.2 (as limited by clause 45.4) to each other in respect of those Supplies will be set off against each other to the extent that they are equivalent in amount.
- 45.6 No payment of any amount pursuant to this clause 45, and no payment of the GST Amount where the Consideration for the Taxable Supply is expressly agreed to be GST inclusive, is required until the supplier has provided a Tax Invoice or Adjustment Note as the case may be to the recipient.

Penny Lane Carpark, Thirlmere Planning Agreement
Wollondilly Shire Council
Ozy Investments Pty Ltd as Trustee for Ozy Investment Trust

- 45.7 Any reference in the calculation of Consideration or of any indemnity, reimbursement or similar amount to a cost, expense or other liability incurred by a party, must exclude the amount of any Input Tax Credit entitlement of that party in relation to the relevant cost, expense or other liability.
- 45.8 This clause continues to apply after expiration or termination of this Deed.

46 Explanatory Note

- 46.1 The Appendix contains the Explanatory Note relating to this Deed required by clause 25E of the Regulation.
- 46.2 Pursuant to clause 25E(7) of the Regulation, the Parties agree that the Explanatory Note is not to be used to assist in construing this Planning Deed.

Schedule 1

(Clause 9)

Development Contributions

Column 1	Column 2	Column 3	Column 4
Item/ Contribution	Public Purpose	Manner & Extent	Timing
1. Carpark and associated works on Council Land and Penny Lane	Car parking and roads and traffic	<p>Construct and complete:</p> <ul style="list-style-type: none"> a carpark, footpath and landscaping on the Council Land, and resurfacing and line-marking of Penny Lane, <p>generally as shown on the Carpark Concept Plan, and in accordance with specifications agreed between the Parties.</p> <p>The carpark is to contain an electric vehicle (EV) charging point.</p> <p>All light poles within the carpark are to include two additional conduits which allow for future retrofitting to smart technology.</p>	Completion prior to the issuing of the first Occupation Certificate for the Development.

Schedule 2


(Clause 1.1)

Carpark Concept Plan

See the following page.

Penny Lane Carpark, Thirlmere Planning Agreement Wollondilly Shire Council Ozy Investments Pty Ltd as Trustee for Ozy Investment Trust

APPROVED PLAN
Development Consent:
010.2018.0000158.001
Determined: 31/10/2019

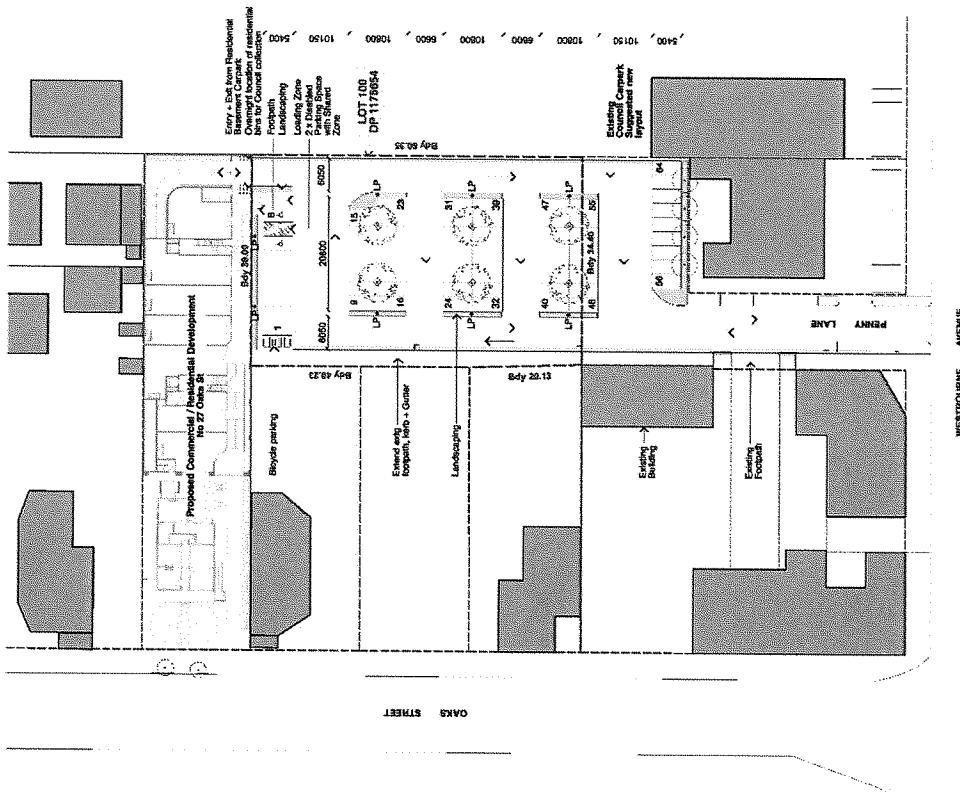


Wollondilly
Shire Council

IMPORTANT
Refer to the Consent Conditions prior to commencing this development. As legislation provisions allow for changing Conditions of Consent.

Notes

- Carpark Layout in accordance with AS 2890.1
 - All parking spaces 2.8m
 - Aisle for 90 deg parking: 6.6m
 - Loading Zone: 5.5m x 2.6m
- Carpark to be bitumen finish with r. conc. kerb + gutters
- Stormwater drainings to be in accordance with Civil Eng dwg 19003-1448-101/104
- Carpark Lighting to be in accordance with Endeavour Energy dwg A1-1
- Landscaping to be in accordance with Landscape Architect dwg L01-L04



SITE PLAN - CARPARK

1. ALL DOCUMENTS AND DRAWINGS TO BE SIGNED AND SEALED BY THE REGISTERED ARCHITECT
2. ALL DOCUMENTS AND DRAWINGS TO BE SIGNED AND SEALED BY THE REGISTERED ENGINEER
3. ALL DOCUMENTS AND DRAWINGS TO BE SIGNED AND SEALED BY THE REGISTERED LANDSCAPE ARCHITECT
4. ALL DOCUMENTS AND DRAWINGS TO BE SIGNED AND SEALED BY THE REGISTERED CIVIL ENGINEER
5. ALL DOCUMENTS AND DRAWINGS TO BE SIGNED AND SEALED BY THE REGISTERED ELECTRICAL ENGINEER



South L. 21, Neville St. Leung, NSW. 2022. www.koa.com.au
KOA
New project reference: 201909121001

Project: Commercial + Residential
27 Oaks St, Thirlmere
Key No: Proposed Car Park Arrangement
Scale: 1:500 (A3)
Date: March 2019
Drawn by: TUSH / DP/ST
Rev: E

**Penny Lane Carpark, Thirlmere Planning Agreement
Wollondilly Shire Council
Ozy Investments Pty Ltd as Trustee for Ozy Investment Trust**

Execution


Executed as a Deed

Dated: 10 November 2021

Executed on behalf of the Council



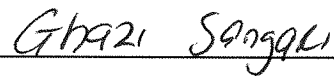
Chief Executive Officer




Witness



Executed on behalf of the Developer in accordance with section 127(1) of the Corporations Act (Cth) 2001



Name/Position



Name/Position

Appendix

(Clause 46)

Environmental Planning and Assessment Regulation 2000

(Clause 25E)

Explanatory Note

Draft Planning Agreement

Under section 7.4 of the *Environmental Planning and Assessment Act 1979*

Parties

Wollondilly Shire Council ABN 93 723 245 808 of 62-64 Menangle Street Picton NSW 2571 (**Council**)

and

Ozy Investments Pty Ltd ACN 163 521 382 as Trustee for Ozy Investment Trust ABN 92 746 957 279 of 2A, 148-150 Canterbury Road, , Bankstown NSW 2200 (**Developer**)

Description of the Land to which the Draft Planning Agreement Applies

This Draft Planning Agreement applies to the Developer Land (Lot 3, Section C DP1569, otherwise known as 27 Oaks Street, Thirlmere), the Council Land (Lot 100 DP1175654) and Penny Lane.

Description of Proposed Development

This Draft Planning Agreement applies to the development described in Development Application DA/2018/188 on the Developer Land for which Development Consent was granted by the Council on 31 October 2019, as modified from time to time

Summary of Objectives, Nature and Effect of the Draft Planning Agreement

Objectives of Draft Planning Agreement

To secure the construction and completion of a carpark and associated works on the Council's land and Penny Lane, Thirlmere.

Nature of Draft Planning Agreement

The Draft Planning Agreement is a planning agreement under section 7.4 of the *Environmental Planning and Assessment Act 1979* ('Act').

It is an agreement between Council and the Developer under which the Development Contributions (as defined in clause 1.1 of the Draft Planning Agreement) are to be made by the Developer for public purposes (as defined in section 7.4(2) of the Act).

Effect of the Draft Planning Agreement

The Draft Planning Agreement:

- relates to the Developer's development at 27 Oaks Street, Thirlmere,
- does not exclude the effect of sections 7.11, 7.12 and 7.24 of the Act,
- requires the construction and completion of a carpark and associated works on the Council's land and Penny Lane, Thirlmere in connection with the Development, and for the works to be completed prior to the issuing of the first occupation certificate for the Developer's development,
- is to be registered on the title to the Developer's land,
- requires the Developer to provide security in the form of a bank guarantee for the works prior to the issuing of the first construction certificate for the Developer's development,
- imposes restrictions on the transfer of the Developer's land, or the assignment or novation of the Developer's obligations under the Draft Planning Agreement,
- provides for dispute resolution by expert determination and mediation,
- provides that the Draft Planning Agreement is subject to the law of New South Wales, and
- provides that the A New Tax System (Goods and Services Tax) Act 1999 (Cth) applies to the Agreement.

Assessment of the Merits of the Draft Planning Agreement

The Planning Purposes Served by the Draft Planning Agreement

The Draft Planning Agreement:

- promotes the orderly and economic use and development of land,

- facilitates ecologically sustainable development by integrating economic, environmental and social considerations in the Development of the Developer's land.

How the Draft Planning Agreement Promotes the Public Interest

The draft Planning Agreement promotes the public interest by addressing the objects of the Act as set out in section 1.3 (b), (c).

For Planning Authorities:

Development Corporations - How the Draft Planning Agreement Promotes its Statutory Responsibilities

N/A

Other Public Authorities – How the Draft Planning Agreement Promotes the Objects (if any) of the Act under which it is Constituted

N/A

Councils – How the Draft Planning Agreement Promotes the Principles for local government (formerly the Council's charter) in the Local Government Act 1993

The Draft Planning Agreement promotes the elements of the Council's charter by:

- ensuring the management of lands and other assets so that current and future local community needs can be met in an affordable way,
- working with others to secure appropriate services for local community needs,
- engaging with the local community, through the public notification of this Draft Planning Agreement.

All Planning Authorities – Whether the Draft Planning Agreement Conforms with the Authority's Capital Works Program

The Draft Planning Agreement is not inconsistent with the Council's Capital Works Program.

All Planning Authorities – Whether the Draft Planning Agreement specifies that certain requirements must be complied with before a construction certificate, occupation certificate or subdivision certificate is issued

Yes. Security is required to be provided before the issuing of the first construction certificate for the Development. Works are required to be completed before the issuing of the first occupation certificate for the Development.