



Voluntary Planning Agreement

Sutherland Shire Council

Gandangara Local Aboriginal Land Council

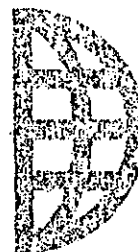
For the development and dedication of land for open space purposes at Barden Ridge Stage II.

Baker & McKenzie

Solicitors
Level 27, AMP Centre
50 Bridge Street
SYDNEY NSW 2000
Tel: (02) 9225-0200
Fax: (02) 9225-1595
Email: andrew.beatty@bakernet.com

16 December 2009

Ref: 995915-v1AUSABX



33402291/v1

Handwritten signature

Contents

Clause Number	Heading	Page
1	Definition and interpretation	1
2	Planning agreement under the Act	4
3	Application of the planning agreement	4
4	Operation of this planning agreement	4
5	Monetary contributions	5
6	Contribution Works	5
7	Dedication of Park	8
8	Security and Enforcement	10
9	Explanatory Note	11
10	Disputes	11
11	Costs	12
12	Notices	13
13	General provisions	13
	Schedule 1	17
	Section 93F Requirements	
	Schedule 2	18
	Land	
	Schedule 3	21
	Park	
	Annexure 1	22
	Specification	
	Exhibit 1	35
	Explanatory Note	

Date 16 December 2009

Parties Sutherland Shire Council (ABN 52 018 204 808) of 4-20 Eton Street, Sutherland,
New South Wales (*Council*)

Gandangara Local Aboriginal Land Council (ABN 59 476 858 149) of 103
Moore Street, Liverpool, New South Wales (*the Developer*)

Recitals

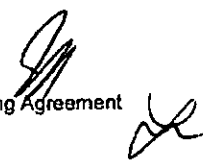
- A On 18 March 2009, the New South Wales Land and Environment Court granted Development Consent to the Developer to carry out the Development on the Land.
- B The Development Consent included approval of a Park (condition 2) and noted that the Developer offered to enter into a Voluntary Planning Agreement which requires:
- a. consultation with Council concerning the contents of the development plan for the open space/park to be dedicated to Council;
 - b. the provision of facilities including a tennis court, childrens' playground/play structures, shelter/gazebo, lighting, pathways, fencing, landscaping and seats;
 - c. a plan prepared by the Developer in accordance with the Specification showing the detail of the park development that shall be submitted to Council for approval in a timely fashion;
 - d. the park shall be developed in accordance with the approved plan prior to the release of any Subdivision Certificate for the Development; and
 - e. the public open space to be dedicated to Council free of cost upon completion of the public open space construction works to Council's satisfaction.
- C Before the Development Consent was granted, the Developer offered in accordance with s93I(3) of the Act to enter into the planning agreement.
- D This Deed sets out the terms of the planning agreement between Council and the Developer, under which the Developer will provide, and Council accepts, the dedication of certain land free of cost and a material public benefit in the form of works and materials to construct the public amenities comprised in the Park.

Operative provisions

1 Definition and interpretation

- 1.1 In this Deed, unless the context requires another meaning:

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



Authorised Officer means for a party:

- (a) where it is a corporation, each person from time to time authorised by it to sign, give or make all notices and other documents required under or for the purposes of this Deed, a certified copy of whose signature has been provided to the other party; or
- (b) where he or she is a natural person, that person.

Bank Guarantee means an unconditional and irrevocable undertaking issued by a major Australian bank in favour of Council, in a form acceptable by Council to pay on demand the amount specified in the guarantee.

Business Day means a day that is not a Saturday, Sunday, a public holiday or bank holiday in Sydney.

Commencement Date means the date on which the Development is physically commenced within the meaning of the Act. The Developer must provide written notice to Council indicating physical commencement within two days of the physical commencement.

Complete, Completed means, in relation to the Contribution Works, that it has been completed to the standard required under this Deed and Council has notified the Developer in writing.

Contribution Works means the works to be undertaken by the Developer under this Deed, being construction of the works on the Park as contemplated by, and in accordance with, the Development Consent and the Park Design approved by Council.

Development means the development approved by the Development Consent, being the subdivision of Lots 42 and 43 in DP 1061416, Timbrey Circuit, Barden Ridge into 39 residential lots, 1 residual lot, a Park and local roads, subject to the conditions in annexure A of the Development Consent.

Development Consent means the Order and conditions of the New South Wales Land and Environment Court dated 18 March 2009 and entered 8 April 2009 granting consent to the Development.

Dispute means any difference or claim arising under this Deed that:

- (a) a party has not complied with or is in breach of this Deed; or
- (b) this Deed has a different meaning, interpretation or effect from the way in which a party (or parties) is implementing this Deed.

Expert Determination Notice has the meaning given to it in clause 10.5.

Government Agency means:

- (a) a government, whether federal, state or local or a department, office or minister of a government acting in that capacity; or
- (b) a commission, delegate, instrumentality, agency, board, or other government, semi-government, judicial, administrative, monetary or fiscal body, department, tribunal, or authority, whether statutory or not.

Land means the land described in Schedule 2 which as at the date of this Deed is subject to the reservations and registered interests which are also set out in Schedule 2.



LPI means the Land and Property Information division of the New South Wales Department of Lands.

Notice of Dispute is defined in clause 10.3.

Park means the public reserve shown on Drawing Number 07_86 UD01 prepared by Habitation and marked "PARK", as approved by the Development Consent, a copy of which plan indicating the Park is set out in Schedule 3.

Park Creation Date is defined in clause 7.1.

Park Design is defined in clause 6.2.

Real Property Act means the *Real Property Act 1900* (NSW).

Register means the Torrens title register maintained under the Real Property Act.

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

Specification means the information and details contained at Attachment 1 to the Development Consent. The *Specification* is also attached at Annexure 1 of this Deed.

1.2 In this Deed, unless the context requires another meaning:

- (a) a reference:
 - (i) to the singular includes the plural and vice versa;
 - (ii) to a document (including this Deed) is a reference to that document (including any Schedules and Annexures) as amended, consolidated, supplemented, novated or replaced;
 - (iii) to a party means a party to this Deed;
 - (iv) to an item, Recital, clause, Schedule or Annexure is to an item, Recital, clause, Schedule or Annexure of or to this Deed;
 - (v) to a notice means a notice, approval, demand, request, nomination or other communication given by one party to another under or in connection with this Deed;
 - (vi) to a person (including a party) includes:
 - (A) an individual, company, other body corporate, association, partnership, firm, joint venture, trust or Government Agency;
 - (B) the person's successors, permitted assigns, substitutes, executors and administrators; and
 - (vii) to a law includes any legislation, judgment, rule of common law or equity or rule of any applicable stock exchange, and is a reference to that law as amended, consolidated, supplemented or replaced and includes a reference to any regulation, by-law or other subordinate legislation;
 - (viii) to proceedings includes litigation and arbitration;
 - (ix) to time is to Eastern Standard time;



- (x) the words "including" or "includes" means "including, but not limited to", or "includes, without limitation" respectively;
- (b) where a word or phrase is defined, its other grammatical forms have a corresponding meaning.
- (c) headings are for convenience only and do not affect interpretation of this Deed.
- (d) if a payment or other act must (but for this clause) be made or done on a day that is not a Business Day, then it must be made or done on the next Business Day.
- (e) if a period must be calculated from, after or before a day or the day of an act or event, it must be calculated excluding that day.

2 Planning agreement under the Act

- 2.1 This Deed constitutes a planning agreement within the meaning of section 93F of the Act.
- 2.2 The table in Schedule 1 summarises matters set out in this Deed that are necessary or convenient for the purpose of complying with the Act.

3 Application of the planning agreement

- 3.1 The planning agreement constituted by this Deed applies to:
 - (a) the Land; and
 - (b) the Development.

4 Operation of this planning agreement

Commencement

- 4.1 This Deed is to be executed by the parties prior to commencement of works on the Land and commences on the date it is executed (or exchanged, if executed in counterparts) but the obligations in clauses 6.9, 7 (with the exception of clause 7.4) and 8 take effect only on and from the Commencement Date. Both parties will act reasonably with due expedition to give effect to their respective obligations under this Agreement.

Termination

- 4.2 The parties agree that this Deed terminates and will be of no further force or effect:
 - (a) if the Development Consent lapses; or
 - (b) when the obligations under this Deed have been performed.



5 Monetary contributions

5.1 The parties agree that:

- (a) there are no monetary contributions payable under this Deed for the Development;
- (b) this Deed does not exclude the application of sections 94, 94A or 94EF to the Development (noting that the Development Consent for the Development requires the payment of contributions under section 94 of the Act); and
- (c) the Park has been omitted from the number of lots used to calculate the development contribution payable under the Development Consent in accordance with section 94 of the Act, but the benefits under this Deed are not otherwise to be taken into consideration in determining development contributions under section 94 of the Act.

6 Contribution Works

Material public benefit

6.1 The Developer agrees to provide the **Contribution Works** to be used for a public purpose, being the provision of public amenities, and the Council agrees to accept the Contribution Works for this purpose.

Preparation of Park Design

- 6.2 Within two (2) weeks from the date of execution of this Deed the Developer agrees to consult with the Council's Director of Engineering or his delegate concerning the contents of the Park Design for the Park that is to be dedicated to Council. The Developer must prepare a plan in accordance with the Specification set out in Annexure 1 (as approved by the Development Consent) showing the detail of the facilities and finishes for the Park ("Park Design").
- 6.3 The Park Design must provide a tennis court, children's playground with play structures, shelter/gazebo, lighting, pathways, fencing, landscaping and seats. All utilities shall be separately metered and billed.
- 6.4 The Park Design shall be submitted to the Council's Director of Engineering or his delegate for approval in a timely fashion, such approval not to be unreasonably withheld.
- 6.5 Council must give the Developer written notice, within 7 days of receipt of the Park Design, of the acceptability of the Park Design or, if not acceptable, identify in writing the specific information or modifications required before the Park Design will be acceptable to Council.
- 6.6 In the event that Council gives the Developer written notice (pursuant to clause 6.5) that the Park Design is not acceptable, the Developer must, within 7 days of the date of such written notice from Council, submit an amended Park Design to Council for consideration that reflects the information and modification required by Council.
- 6.7 If Council is again not satisfied, the process set out at clauses 6.5 and 6.6 re-applies until Council advises the Developer in writing that the Park Design is acceptable.
- 6.8 The parties agree that they and their representatives will cooperate in good faith and use their best endeavours to finalise the Park Design within 1 month from the date of this Deed.



Works Developer is to undertake

- 6.9 The Developer undertakes to carry out, or procure the carrying out of, the Contribution Works, at no cost to Council.

The Developer acknowledges that the works detailed in the Park Design approved by Council are to be completed prior to the release of any Subdivision Certificate for the Development. The Developer will not pursue or seek a Subdivision Certificate until all works in relation to the Park have been completed in accordance with the Park Design approved by Council, the Development Consent and the Specification to the satisfaction of Council.

- 6.10 Prior to the issue of a Subdivision Certificate for the Development, the Developer must provide certification to Council stating that the playground equipment and softfall areas have been inspected by a Level 3 Playground Inspector accredited by the Royal Society for the Prevention of Accidents (ROSPA) and that the playground equipment and softfall areas are structurally adequate, comply with the relevant standards and are suitable for their intended purpose.
- 6.11 Prior to the issue of any Subdivision Certificate for the Development, the Developer must provide certification to Council that all other equipment and structures comply with relevant standards, the Development Consent and the Specification set out in Annexure 1 (as approved by the Development Consent) and are suitable for their intended purpose. The parties acknowledge that Council's Specification does generally conform to all applicable standards.

6.12 Completion Notice

The Developer must provide a Completion Notice to Council within seven (7) days of finishing the Contribution Works.

6.13 Council to inspect

Council must inspect the Park within seven (7) days of the receipt of the Completion Notice.



6.14 Notice by Council

Within the earlier of:

- (1) seven (7) days of inspecting the Park; or
- (2) fourteen (14) days from the receipt of the relevant Completion Notice,

Council must provide notice in writing to the Developer that the Contribution Works :

- (a) have been Completed to Council's satisfaction and the Developer may now seek a Subdivision Certificate; or
- (b) have not been Completed to Council's satisfaction, in which case the notice must also detail:
 - (i) the defects or other matters that require rectification; and
 - (ii) the work Council requires the Developer to carry out in order to rectify those deficiencies.

6.15 Effect of Council Notice

(1) Where Council serves notice on the Developer pursuant to clause 6.14 (b), the Developer must:

- (a) rectify the deficiencies in relation to the Contribution Works in accordance with that notice within one (1) month from the date it is issued by Council; or
- (b) serve a notice on Council, within 7 days of receipt of Council's notice, that it disputes the matters set out in the notice.

(2) Where the Developer:

- (a) serves notice on Council in accordance with paragraph 6.15 (1)(b), the dispute resolution provisions of this agreement apply; or
- (b) rectifies the Park and its improvements in accordance with paragraph 6.15 (1)(a) it must serve upon Council a new Completion Notice for the Contribution Works as rectified (New Completion Notice).

(3) The provisions of clauses 6.12 to 6.15 (inclusive) apply to any New Completion Notice issued by the Developer.

6.16 Defects liability

Defects Notice

(1) Where the works required under this agreement in relation to the Park are Complete but the Park contains a material defect (being a defect which is not minor or insignificant whether caused by a third party or otherwise) which:

- (a) adversely affects the ordinary use and/or enjoyment of the Park and its improvements; or
- (b) will require maintenance or rectification works to be performed as a result of the existence of the defect (Defect) Council may issue a defects notice (Defects Notice) concerning the Park and its improvements, but only within the relevant Defects Liability Period.

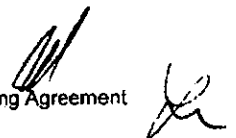
(2) The Defects Liability period ends:

- (a) For the purposes of the Defects Security, 6 months from the date of dedication of the Park to Council, and
- (b) For the purposes of the Landscape Security, 12 months from the date of dedication of the Park to Council.

(2) A Defects Notice must contain the following information:

- (a) the nature and extent of the Defect;
- (b) the work Council requires the Developer to carry out in order to rectify the Defect; and
- (c) the time within which the Defect must be rectified (which must be a reasonable time and not less than fourteen (14) days).

(3) The Developer must rectify the Defects contained within a Defects Notice as soon as practicable after receipt of the Defects Notice.



(4) The Developer must follow the procedure set out in clauses 6.12 to 6.15 (inclusive) in respect of the rectification of any Defect.

(5) Right of Council to Step-In

Council may, at its discretion, rectify a Defect set out in the Defects Notice where the Developer has failed to comply with a Defects Notice, but only after giving the Developer fourteen (14) days written notice to the Developer of its intention to do so.

(6) Consequence of Step-In

If Council elects to exercise the step-in rights granted to it under this clause then:

(1) Council may:

(a) enter upon any part of the Developer's Land that it requires access to in order to satisfy the obligations of the Developer in accordance with the Defects Notice; and

(b) rectify the relevant Defects in accordance with the Defects Notice; and

(2) the Developer must not impede or interfere with the Council in exercising those rights.

(7) Costs of Council

Where Council exercises its step-in rights under this clause:

(1) all reasonable costs incurred by Council in rectifying the relevant Defects may be claimed by Council as a liquidated debt owed by the Developer; and

(2) Council is entitled to call upon the relevant Defects or Landscape Security in recovery of such debt.

(8) Landscape Security

Where the 6 month Defects Liability period identified at 6.16(2)(a) has expired, Council can only issue a Defects notice under this clause 6 where it relates to landscaping works, but only up until the expiry of the 12 month period identified at 6.16(2)(b).

(9) The parties agree that this clause 6.16 does not create an obligation for the Developer to rectify or repair damage resulting from acts of third party vandalism which take place after the dedication of the Park.

7 Dedication of Park

Obligation to dedicate Park

7.1 The Developer must, at no cost to the Council, carry out all steps required to dedicate the Park and its improvements to Council on the date on which the Plan of Subdivision for the Development is registered within the meaning of the Real Property Act ("Park Creation Date"). The Developer must immediately notify Council of the lodgement of the Plan of Subdivision with the LPI.

7.2 The Developer must, as soon as practicable and within one month of the Park Creation Date effect the dedication in clause 7.1 after the Park Creation Date, if the dedication has not



already been effected. The parties agree that if the LPI requires further documents or information to enable the effective transfer of title, they will promptly do all things necessary to enable the registration.

7.3 For the avoidance of doubt, the Developer will, if possible, dedicate the Park to Council in the plan of subdivision registered for the Development.

7.4 Registration of this planning agreement

7.4.1 Obligation to Register

(1) The Developer and Council agree that this agreement will be registered on the title of the Land pursuant to s 93H of the Act no later than seven (7) days after its execution.

(2) The Developer must:

(a) do all things necessary to allow the registration of this agreement to occur under paragraph (1); and

(b) pay any reasonable costs incurred by Council in undertaking that registration.

7.4.2 Discharge of agreement

(1) Where the registration of a Plan of Subdivision effects a transfer or dedication of the Park to Council, Council will immediately, upon the registration of the Plan of Subdivision for the Development, remove the registration of this agreement from the title of the Developer's Land or otherwise do all things necessary to enable the Developer to remove that registration.

(2) If the Park is not transferred or dedicated to Council upon registration, Council is obligated to remove the registration of this agreement immediately following such transfer or dedication to Council.

(3) The Developer must pay any reasonable costs incurred by Council in undertaking that discharge.

Cooperation with dedication of Park

7.5 Council agrees that it will accept the dedication of the Park to it in accordance with this clause 7 and cooperate in ensuring that the dedication can be registered.

7.6 If Council is not appointed as the Principal Certifying Authority and is consequently not the issuer of the Subdivision Certificate, the Developer is to provide Council with a copy of the plan of subdivision that the Developer intends to lodge with the LPI, fourteen (14) days prior to lodgement with the LPI.

7.7 The Developer warrants that there is no native title in relation to the Land to be dedicated to Council for the Park and that the Developer has taken all steps necessary to extinguish any native title which may apply to the Land under the relevant state and Commonwealth legislation.

7.8 Until the Park is dedicated to Council all risk and maintenance (maintenance includes repair and replacement) liability remains with the Developer. The Developer acknowledges that all liability arising from the Park (including but not limited to the use of the Park before the Park is dedicated to Council) remains with the Developer, until the Park is dedicated to Council.



- 7.9 The Developer is to ensure that the standard and condition of the Contribution Works at the date of dedication of the Park is to be the same standard and condition of the Contribution Works as at the date of Council's Notice referred to in clause 16.4 (a).
- 7.10 The Developer shall transfer title of the Park to Council free from all encumbrances.

8 Security and Enforcement

8.1 Pursuant to section 93F(3)(g), the Developer will, upon the Commencement Date, provide security to the Council as follows:

- (a) bank guarantee in favour of Council in the amount of \$450,000 ("Returnable Security"); and
- (b) bank guarantee in favour of Council in the amount of \$40,000 ("Defects Security"); and
- (c) bank guarantee in favour of Council in the amount of \$10,000 ("Landscape Security")

8.2 The bank guarantees referred to in clause 8.1 must provide security for the required time periods pursuant to clauses 6 and 8.

8.3 Council may call on the Returnable Security, Defects Security and Landscape Security

(1) If the Developer does not construct the Park in accordance with the Park Design approved by Council, the Development Consent and the Specification to the reasonable satisfaction of Council as required under this agreement, Council may issue the Developer with a notice requiring the Developer to construct the Park within a reasonable period.

(2) If the Developer fails to comply with a notice issued under paragraph (1) to the reasonable satisfaction of Council, Council may, without limiting any other avenues available to it, call upon the bank guarantee being the Returnable Security to the extent necessary to carry out or complete the Park, and utilise those funds to complete the Park.

(3) Where the amount of the Returnable Security exceeds the sum to which Council is entitled under clause 8.3(2), Council shall return the balance to the Developer immediately after Council has access to the amount called upon under that sub-clause.

(4) Should Council exercise its step-in rights under clause 6.16 Council may, without limiting any other avenues available to it, call upon the bank guarantees being the Defects Security and the Landscape Security to the extent necessary to reimburse Council for any costs incurred by it in rectifying the relevant default of the Developer.

(5) Where there is any dispute between the parties over Council's call on either the Returnable Security, the Defects Security or the Landscape Security, the provisions of clause 10 shall apply.

8.4 Return of Security

Where Council advises, pursuant to clause 6.14 (a), that the works have been Completed, Council must return the Returnable Security (or such balance which has not been called upon) to the Developer.




- 8.5 Subject to clauses 6.16(7) and 8.3(4) Council shall hold the Defects Security and the Landscape Security until the expiry of the relevant Liability periods. Council shall return the Defects Security (or such balance which has not been called upon) immediately upon the expiration of the Defects Liability Period as calculated in accordance with clause 6.16(2)(a). Council shall return the Landscape Security (or such balance which has not been called upon) immediately upon the expiration of the Defects Liability period as calculated in accordance with clause 6.16(2)(b).
- 8.6 This Deed may be enforced by either party in accordance with the process in clause 10 and, if that process fails to provide an appropriate remedy to enforce this Deed, in any Court of competent jurisdiction in New South Wales in accordance with clause 13.16.

9 Explanatory Note

- 9.1 The parties note their agreement to the Explanatory Note but it is not to be used to assist in construing this Deed.

10 Disputes

Dispute resolution procedures to apply

- 10.1 If a Dispute arises under this Deed, a party will not commence any Court proceedings unless it has complied with this clause 10, except to seek:
- (a) urgent interlocutory relief; or
 - (b) a remedy where a delay in commencing proceedings in Court could prejudice the party's entitlement to seek that remedy.

Negotiations

- 10.2 The parties will attempt to resolve any Dispute which arises under this Deed expeditiously by negotiation between representatives of the parties who have authority to settle the Dispute.

Notice of Dispute

- 10.3 If any Dispute arises under this Deed which cannot be resolved under clause 10.2, the party raising the Dispute will:
- (a) as soon as practicable give notice of the Dispute to the other party ("Notice of Dispute"); and
 - (b) at the same time, or as soon as practicable thereafter, give to the other party detailed particulars of the matters in issue in the Dispute (comprising a statement of relevant facts and issues, and the quantum and legal basis of any claim).

Resolution by Managers

- 10.4 Managers with sufficient authority from each party will convene a meeting of the parties within fourteen (14) days after a Notice of Dispute has been given. At that meeting:
- (a) representatives of the parties concerned must confer in good faith to attempt to resolve the Dispute, putting to each other the issues in dispute and any points of difference;



- (b) if the parties agree as to how the dispute should be resolved, they will document that agreement; and
- (c) if the parties cannot agree as to how the dispute should be resolved, the Dispute will be referred to expert determination under clause 10.5.

Expert Determination

- 10.5 If the procedures in clauses 10.2 and 10.4 do not lead to resolution of any Dispute, then not earlier than seven (7) days after the meeting in clause 10.4 either party may give notice in writing to the other referring the Dispute to expert determination ("**Expert Determination Notice**").
- 10.6 Notwithstanding the giving by either party of an Expert Determination Notice, the parties must continue to take all reasonable steps to attempt resolution of the Dispute without expert determination.
- 10.7 No later than fourteen (14) days (unless otherwise agreed by the parties) from the date on which the Expert Determination Notice is provided to a party, the parties will organise for the Dispute (unless it has been otherwise settled) to be heard and determined by an independent expert agreed by the parties (or if no agreement can be reached, appointed by the President of the Law Society of New South Wales).
- 10.8 It is intended that the decision of the independent expert will be final and binding if neither party commences further proceedings in respect of the Dispute within 14 days after the independent expert's decision is given to the parties.



11 Costs

Legal and administrative costs

- 11.1 Each party must bear its own costs of preparing and entering into this Deed.

Stamp duty

- 11.2 The Developer is liable for and must pay all stamp duty (including any fine or penalty except where it arises from default by any other party) on or relating to this Deed, any document executed under it or any dutiable transaction evidenced or effected by it.

12 Notices

Requirements

12.1 All notices must be:

- (a) in legible writing and in English;
- (b) addressed to the recipient at the address or facsimile number set out below or to any other address or facsimile number that a party may notify to the other:

to the Council:

Address: Locked Bag 17
Sutherland NSW 1499
Attention: Mr Peter Anderson
Facsimile no: (02) 9710 0671

to the Developer:

Address: c/o Arben Management Limited
60 Elizabeth Street
Sydney, NSW 2000
Australia
Attention: Mr Grahame Clare
Facsimile no: (02) 9231 2799

- (c) signed by the party or, where the sender is a company, by an Authorised Officer or under the common seal of the sender ; and
- (d) sent to the recipient by hand, prepaid post (airmail if to or from a place outside Australia) or facsimile.

13 General provisions

GST

- 13.1 Terms used in clauses 13.1 to 13.6 have the meanings given to them in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).
- 13.2 Unless expressly stated otherwise, all fees, charges, prices or other sums payable or consideration to be provided under or in accordance with this Deed are exclusive of GST.
- 13.3 If GST is payable on any supply made under or in accordance with this Deed, the recipient of the taxable supply must pay to the supplier an additional amount equal to the GST payable for the taxable supply. Payment of the additional amount will be made at the same time as payment for the taxable supply is required to be made in accordance with this Deed.



- 13.4 If this Deed requires a party to pay for, reimburse or contribute to any expense, loss or outgoing (*reimbursable expense*) suffered or incurred by another party, the amount required to be paid, reimbursed or contributed by the first party will be the sum of the amount of the reimbursable expense net of input tax credits (if any) to which the other party is entitled in respect of the reimbursable expense and any GST payable by the other party.
- 13.5 Where required by law, the supplier will give the recipient of the taxable supply a tax invoice complying with any legislation under which GST is imposed.
- 13.6 Each party must pay any amount it is required to pay under clauses 13.2 to 13.5 in full and without deduction, notwithstanding any entitlement that it may have to a credit or offset.

Further assurances

- 13.7 Each party must, at its own expense, whenever reasonably requested by the other party, promptly do or arrange for others to do, everything reasonably necessary or desirable to give full effect to this Deed and the transactions contemplated by this Deed.

Entire agreement

- 13.8 This Deed contains everything to which the parties have agreed in relation to the matter it deals with. No party can rely on an earlier document (apart from the Development Consent), 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.

Counterparts

- 13.9 This Deed may be signed in counterparts and all counterparts taken together constitute one document.

No fetter

- 13.10 Nothing in this agreement is intended to limit or fetter Council's proper performance of its statutory functions or duties and clauses are to be construed (if possible) consistently with the proper exercise of those functions and duties.

Assignment

- 13.11 The Developer may transfer or assign its rights or obligations under this Deed to any owner of the Park from time to time subject to:

- (a) 13.12; and
- (b) the proposed assignee entering into an agreement to the satisfaction of Council under which the assignee agrees to be bound by all the terms of this agreement.

- 13.12 Until the Developer has provided to Council the security pursuant to clauses 8.1 to 8.2, the Developer must not Assign its interest in the Land unless:

- (1) Council consents to the Assignment; and
- (2) the proposed assignee enters into an agreement to the satisfaction of Council under which the assignee agrees to be bound by all of the terms of this agreement.



Invalid or unenforceable provisions

13.13 If a provision of this Deed is invalid or unenforceable in a jurisdiction:

- (a) it is to be read down or severed in that jurisdiction to the extent of the invalidity or unenforceability; and
- (b) that fact does not affect the validity or enforceability of that provision in another jurisdiction or the remaining provisions.

Waiver and exercise of rights

13.14 A provision of or a right under this Deed may not be waived or varied except in writing signed by the person to be bound.

Amendment

13.15 This may be amended only by a document signed by all parties.

Governing law

13.16 This Deed is governed by the laws of New South Wales.

Jurisdiction

13.17 Each party irrevocably and unconditionally:

- (a) submits to the non-exclusive jurisdiction of the courts of New South Wales; and
- (b) waives, without limitation, any claim or objection based on absence of jurisdiction or inconvenient forum.



Execution

Executed as a deed.

THE COMMON SEAL of THE COUNCIL OF SUTHERLAND SHIRE was hereto affixed this Wednesday the sixteenth day of December 2009 in accordance with a resolution of the COUNCIL passed on Monday the fourteenth day of December 2009.



Mayor
Lorraine Kelly

General Manager
John Rayner

Name of witness (please print)
SUSAN MOIRA MDSS

Signed for and on behalf of
Gandangara Local Aboriginal Land Council by its Chairperson in accordance with section 245 of the *Aboriginal Land Rights Act 1983* in the presence of:

Signature of witness

Signature of Chairperson

Mark (Jack) Johnson

Name of witness (please print)

Cinderella Cronan

Name of Chairperson
(please print)

Schedule 1

Section 93F Requirements

Requirement under the Act	This planning agreement
<p>Planning instrument and/or development application – section 93F(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</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) No</p> <p>(b) Yes</p> <p>(c) Not applicable</p>
<p>Description of land to which this planning agreement applies – section 93F(3)(a)</p>	<p>The whole of the Land – see Schedule 2 and clause 3.1(a).</p>
<p>Description of the development to which this planning agreement applies – section 93F(3)(b)</p>	<p>See clause 3.1(b).</p>
<p>The scope, timing and manner of delivery of contribution required by this planning agreement – section 93F(3)(c)</p>	<p>See clauses 6 and 7.</p>
<p>Applicability of section 94 of the EP&A Act – section 93F(3)(d)</p>	<p>See clause 5.</p>
<p>Consideration of benefits under this Agreement if section 94 applies – section 93F(3)(e)</p>	<p>See clause 5.</p>
<p>Mechanism for dispute resolution – section 93F(3)(f)</p>	<p>See clauses 6, 8, 10</p>
<p>Enforcement of this planning agreement – section 93F(3)(g)</p>	<p>See clause 8.</p>
<p>Registration of this planning agreement – section 93H</p>	<p>See clause 7.4</p>
<p>No obligation to grant development consent or change environmental planning instrument – section 93F(9)</p>	<p>Not applicable – Development Consent already granted.</p>



Schedule 2

Land

Title details

Lots 42 and 43 in DP 1061416

Encumbrances



LAND AND PROPERTY INFORMATION NEW SOUTH WALES - TITLE SEARCH

FOLIO: 43/1061416

SEARCH DATE	TIME	EDITION NO	DATE
14/10/2009	2:33 PM	1	16/1/2004

LAND

LOT 43 IN DEPOSITED PLAN 1061416
 AT BARDEN RIDGE
 LOCAL GOVERNMENT AREA GUTHERLAND SHIRE
 PARISH OF HOLSWORTHY COUNTY OF CUMBERLAND
 TITLE DIAGRAM DP1061416

FIRST SCHEDULE

GANDANGARA LOCAL ABORIGINAL LAND COUNCIL

SECOND SCHEDULE (5 NOTIFICATIONS)

- 1 SUBJECT TO CONDITIONS IN MEMORANDUM Y757000. RESTRICTIONS ON DEALINGS - SEE SECTION 40 ABORIGINAL LAND RIGHTS ACT 1983 (THIS IS NOT AFFECTED BY SECTION 40AA).
- 2 DP1061416 RESTRICTION(S) ON THE USE OF LAND REFERRED TO AND NUMBERED (2) IN THE S. 88B INSTRUMENT
- 3 DP1061416 RESTRICTION(S) ON THE USE OF LAND REFERRED TO AND NUMBERED (3) IN THE S. 88B INSTRUMENT
- 4 DP1061416 RESTRICTION(S) ON THE USE OF LAND REFERRED TO AND NUMBERED (4) IN THE S. 88B INSTRUMENT
- 5 DP1061416 BASEMENT FOR DRAINAGE OF WATER VARIABLE WIDTH AFFECTING THE PART(S) SHOWN SO BURDENED IN THE TITLE DIAGRAM

NOTATIONS

AA501351 NOTE: THE PRINT QUALITY OF THE CERTIFICATE OF TITLE, ISSUED IN JANUARY 2004, MAY BE DEFICIENT. IF THE PRINT QUALITY IS AT ISSUE PLEASE CONTACT CUSTOMER SERVICES CENTRE, LAND AND PROPERTY INFORMATION DIVISION, PH. (02) 9228 6713.
 REFER ALL DEALINGS TO SD6 AND ALL PLANS TO LEG16
 UNREGISTERED DEALINGS: NIL

*** END OF SEARCH ***

PP1/8522158-00003 A BEATTY

PRINTED ON 14/10/2009

Espreon hereby certifies that the information contained in this document has been provided electronically by the Registrar-General in accordance with Section 86B(2) of the Real Property Act, 1900.

*Any entries preceded by an asterisk do not appear on the current edition of the Certificate of Title.
 Warning: The information appearing under notations has not been formally recorded in the register.

Printed by Espreon 14/10/2009 14:33 PM AEST For: PP1 Ref: 8522158-00003 A BEATTY Page 1/1

LAND AND PROPERTY INFORMATION NEW SOUTH WALES - TITLE SEARCH

FOLIO: 42/1061416

SEARCH DATE	TIME	EDITION NO	DATE
14/10/2009	2:33 PM	1	16/1/2004

LAND

LOT 42 IN DEPOSITED PLAN 1061416
 AT BARDEN RIDGE
 LOCAL GOVERNMENT AREA SUTHERLAND SHIRE
 PARISH OF HOLSWORTHY COUNTY OF CUMBERLAND
 TITLE DIAGRAM DP1061416

FIRST SCHEDULE

GANDANGARA LOCAL ABORIGINAL LAND COUNCIL

SECOND SCHEDULE (4 NOTIFICATIONS)

- 1 SUBJECT TO CONDITIONS IN MEMORANDUM Y757000. RESTRICTIONS ON DEALINGS - SEE SECTION 40 ABORIGINAL LAND RIGHTS ACT 1983 (THIS IS NOT AFFECTED BY SECTION 40AA).
- 2 DP1061416 RESTRICTION(S) ON THE USE OF LAND REFERRED TO AND NUMBERED (2) IN THE S. 88B INSTRUMENT
- 3 DP1061416 RESTRICTION(S) ON THE USE OF LAND REFERRED TO AND NUMBERED (3) IN THE S. 88B INSTRUMENT
- 4 DP1061416 RESTRICTION(S) ON THE USE OF LAND REFERRED TO AND NUMBERED (4) IN THE S. 88B INSTRUMENT

NOTATIONS

AA501351 NOTE: THE PRINT QUALITY OF THE CERTIFICATE OF TITLE, ISSUED IN JANUARY 2004, MAY BE DEFICIENT. IF THE PRINT QUALITY IS AT ISSUE PLEASE CONTACT CUSTOMER SERVICES CENTRE, LAND AND PROPERTY INFORMATION DIVISION, PH. (02) 9228 6713.
 REFER ALL DEALINGS TO SD6 AND ALL PLANS TO LEQ16
 UNREGISTERED DEALINGS: NIL

*** END OF SEARCH ***

PP1/8522158-00003 A BEATTY

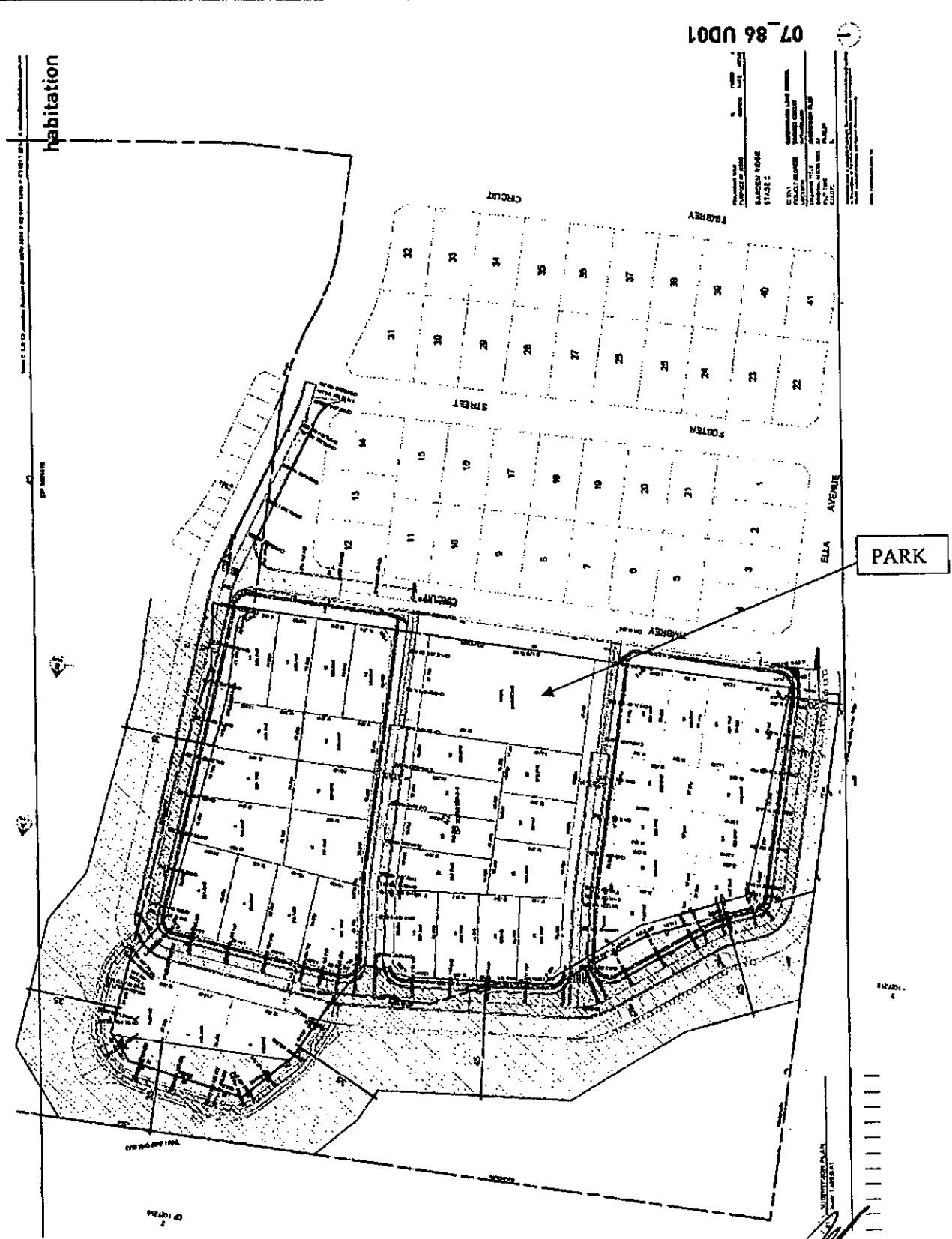
PRINTED ON 14/10/2009

Espreon hereby certifies that the information contained in this document has been provided electronically by the Registrar-General in accordance with Section 88(2) of the Real Property Act, 1900.
 *Any entries preceded by an asterisk do not appear on the current edition of the Certificate of Title.
 Warning: The information appearing under notations has not been formally recorded in the register.

Printed by Espreon 14/10/2009 14:33 PM AEST For: PP1 Ref: 8522158-00003 A BEATTY Page 1/1

Schedule 3

Park



07 86 UD01

PROJECT NO. 07 86 UD01
SUBJECT: PARK
DATE: 1986
DRAWN BY: [Name]
CHECKED BY: [Name]
APPROVED BY: [Name]

habitation

PARK

Annexure 1
Specification

Handwritten signatures in black ink, appearing to be initials or names, located at the bottom right of the page.

ATTACHMENT 1

Introduction

This specification has been produced to inform the applicant of the requirements of embellishment of public open space. The plan submitted does not provide adequate information or specification information. The drawing infers layout and the main issues have been raised as part of this document to direct the applicant to provide a design that fulfils the performance requirements for public open space within the Sutherland Shire Council Local Government Area.

1. Perimeter Works

- 1.1 The perimeter of the site shall restrict vehicular access to the public open space. This can be achieved in a variety of ways including perimeter fencing, masonry walls or tennis court fencing where fencing is installed. The material, height, design and colour selection for the fence shall be as approved by Council but is envisaged to be no higher than 900mm. The perimeter fence shall provide a minimum of three (3) openings without gates for pedestrians a minimum of 1500mm wide where pathways enter the park. These openings shall not be obstructed and shall comply with disabled access requirements (see clause 2.2 below).
- 1.2 The fence shall include a minimum of one (1) lockable vehicular gate suitable for maintenance vehicles with a clear opening width of 4m (min).
- 1.3 The planting of trees along the perimeter of the park shall consider the following issues:
 - o maintaining solar access into the park
 - o screening is required of adjacent residential buildings to provide a buffer for park users.
 - o Shrub planting along the boundaries shall take into account the need to maintain passive supervision into the park as a high priority.

2. Access and Circulation

- 2.1 Paths through the park shall be a minimum of 1.5m width.
- 2.2 Equitable pedestrian access is to be provided throughout the park by designing in accordance with AS 1428.2 Design for Access and



Mobility and establishing good connections to all major facilities including shared pedestrian path, playground, picnic facilities and tennis court.

3. Provisions for Park Maintenance

- 3.1 Any proposed grass slopes shall have an absolute maximum gradient of 1V:4H to facilitate maintenance using ride-on mowers. Where possible grassed slopes are to have gradients less than or equal to 1V:6H.
- 3.2 Planted or revegetated embankments shall be a maximum gradient of 1V:3H.
- 3.3 An automatic pop-up sprinkler irrigation system is to be installed to water all proposed turfed areas where harvested water is available.
- 3.4.1 x tap for use by gardeners and attached to harvested water (if applicable) or otherwise attached to a potable water supply.

4. Lighting

- 4.1 Permanent lighting is to be provided for the pedestrian path. This lighting is to be in accordance with *AS/NZS 1158.3.1:2005 Lighting for Roads and Public Spaces*.
- 4.2 Opportunities for amenity and feature lighting within the park shall be identified during the design process.
- 4.3 The use of cut-off luminaires/lighting systems is required so that light is not emitted above the horizontal plane through the luminaires.
- 4.4 The minimum height of the mounting posts shall be a minimum of 6m high.
- 4.5 Lighting shall be positioned so that participants and spectators are protected from the glare of floodlights.
- 4.6 The operation of tennis courts shall not extend beyond 8pm every night.
In the 8.am – 8pm during daylight saving times
8am to 6pm during non-daylight saving times
- 4.7 The fitting of louvres, hoods and shields are required so that adjacent residents are further protected from the glare of floodlights, and to screen bright lamps and reflected images.



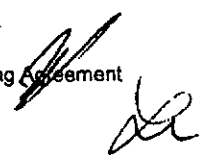
5. Playground Precinct

5.1 A playground with a minimum area of 300 m² of attenuating softfall is to be provided. The area shall contain playground equipment and shall provide seating and other facilities to provide a comfortable place for carers and encourage adult interaction.

5.2 The playground precinct shall include formal and informal seating, planting, and other complimentary structures such as picnic facilities.



- 5.3 Play equipment must comply with AS4685:2004 - Playground Equipment and AS4486:1997 Playgrounds and Playground Equipment or the equivalent documents if these documents have been superseded at the time of construction.
- 5.4 The playground is to be designed by a Playground Design Specialist with qualifications in Landscape Architecture.
- 5.5 Playground equipment must cater for a range of ages and abilities and wherever possible must be inclusive so that children with a range of abilities can participate.
- 5.6 Play equipment shall be selected in consultation with Council's Parks & Waterways Branch staff and is to be approved by Council prior to purchase.
- 5.7 Sofffall must comply with the requirements of AS/NZ 4422:1996 Playground Surfacing - Specifications, requirements and test method.
- 5.8 Playground sofffall shall be sand and shall have a minimum depth of 500mm. The sand selected for the playground must have grains of uniform size, of consistently spherical shape and must contain 0% fines passing through a 0.075mm sieve (i.e. 0% clay content). Sand must comply with the requirements of the Australian Standard when tested in-situ. Supplies of sand must not be mixed. A sample of sand proposed to be used as sofffall must be provided to Council's Parks and Waterways Branch for approval prior to installation.
- 5.9 Rubber sofffall is not acceptable at this location.
- 5.10 Edging to sofffall areas must be of masonry construction.
- 5.11 Where sand sofffall is used the top face of edging shall be level in all directions in order to ensure that the sand does not migrate to spill over low points. Edging must be a minimum of 150mm above the finished sand level.
- 5.12 All retaining walls (if any) are to be of masonry construction and where possible are to be designed to double up as seating. If located in the vicinity of the playground, walls are to be oriented toward the playground.
- 5.13 A permanent shade structure shall be provided over the entire area occupied by play equipment designed for use by toddlers. 60% of play areas for use by older children are to be covered by permanent shade structures. Shade sails shall be of fire retardant material and shall provide a minimum of 90% blocking of UV radiation.
- 5.14 Access requirements for maintenance vehicles such as Council's Beachtech sand cleaner must be considered. A flat area immediately



adjacent to the playground is required to allow unloading of the sand cleaning plant from maintenance vehicles.

- 5.15 The playground and playground surrounds are to be designed in such a way as to allow a three tonne truck to manoeuvre in a forward direction in order to avoid reversing manoeuvres in the vicinity of areas used by small children.

6. Tennis Courts

- 6.1 Fencing shall be a minimum height of 2.4 metres. The fence shall be black PVC coated chain wire with minimum 2.5mm chain gauge. Support posts shall be engineered so that protruding support stays into the landscape are not required. The chain wire sections shall be supported with 3.15mm black PVC coated cable double twisted and installed at 600mm centres. The fence shall include a minimum of two gates, one at either end. The gates shall be a minimum of 900mm wide.

- 6.2 The fence shall be certified by a Structural Engineer to comply with the requirements for high wind locations.

- 6.3 Surface treatments of the tennis court shall be as follows:

- UV stabilised polyethylene with a backing made of UV stabilised high density woven polypropylene.
- The denier shall be 10,000 denier.
- Turf length shall be a 43mm and pile height shall be 19mm.
- The turf shall be filled with kiln dried sand. The sand is to be spread to a minimum 17mm depth and installed with a bristle broom for evenness.
- The stitch rate of the turf shall be a minimum of 20.0 stitches to every 10cm.
- The warranty on the tennis court surface shall be a minimum of 10 years for UV de-stabilisation,
- The colour of the court surface shall be green with a sample to be submitted to Council for approval prior to purchase.
- The surface shall be laid free of creases and with minimal disturbance or damage to supporting layers.

7. Picnic Facilities

Minimum infrastructure at picnic areas includes:



- 7.1 Street furniture shall be of a standard similar to that manufactured by "Town and Park" and servicing of the furniture shall not require the use of tools other than those used for the servicing of Town and Park furniture.
- 7.2 The finish of the furniture shall be to a factory painted finish with UV stabilised paint suitable for outdoor application. Colour to be approved by Council.
- 7.3 1 x large picnic tables with holders for a portable umbrella, with at least one bench seat and one seat with a back.
- 7.4 1 x drinking fountains (standard stainless steel Council bubblers or approved similar)
- 7.5 Shelters are to be manufactured to the Sutherland Shire Council standard design for shelters in parks or similar design approved by Council. The two pack paint finish for shelters shall have a guaranteed service life of 20 years without chalking, powdering or peeling.

8. Measures to Minimise the Risk of Damage

Protection of Infrastructure to guard against damage by skateboarders must be integrated into design wherever possible for example on seat edges, retaining walls, stairs and pavements.

9. Waste Bins

- 9.1 1 x 120 litre lockable bin enclosures or approved equivalent shall be provided in the vicinity of the playground area and within a reasonable distance to the park entrances for ease of servicing.
- 9.2 The location of garbage enclosure must take into consideration the means by which the bins can be serviced. Generally bins should be located at the entry points to the park and within close proximity to major facilities so that garbage trucks can service them directly off the road.

10. Signage

- 10.1 Signage shall be provided in accordance with Council's Signage Style Guide for Public Open Space and shall include entry and regulatory signage. Council's Parks and Waterways shall provide the necessary information.
- 10.2 A minimum of three (3) signs of the regulatory sign type are required. These signs shall be located where the pathways enter the park.



11. Crime Prevention Through Environmental Design

- 11.1 As part of the design of the park a formal crime risk assessment shall be completed by a suitably qualified professional having undertaken the appropriate CPTED course. The final design shall incorporate the recommendations of this assessment.

12. Materials and Finishes

- 12.1 Materials and finishes shall be of a high standard and selected for durability and suitably designed for their intended purpose.
- 12.2 A palette of materials and colours for all furniture and fixtures shall be submitted for approval by Council's Parks and Waterways Branch.
- 12.3 Two-pack epoxy paints are to be used in preference to powder coat finishes due to the superior UV stability of epoxy finishes.


13. Planting

- 13.1 Plants indigenous to the site or plants likely to have been present on the site prior to clearing shall be favoured when selecting plants for use in landscaping of the park. The use of indigenous plants is recommended in order to:
- protect and enhance the environmental values of the site's remnant vegetation;
 - create vegetation links between urban development and the surrounding bushland;
 - provide the most appropriate habitat for fauna;
 - strengthen the sense of place; and
 - reduce the opportunity for the spread of environmental weeds.
- 13.2 A list of plant species indigenous to the site and nearby Sydney Shale Sandstone Transition Forest is attached.

The development of the site and the management of its vegetation is likely to involve:

- street tree planting;
- landscape works;
- bush regeneration of vegetation to be retained; and
- slashing to create and maintain an Asset Protection Zone (APZ) for bushfire risk management.

To ensure the integrity of vegetation management activities and the ability to protect and enhance the conservation values of the site it will be important to adhere to the following principles:



- areas identified for bush regeneration will be rehabilitated using industry standards and techniques for weed control and species management;
- plants used in revegetation and landscape plantings will be produced from plants grown from provenance seed and propagation material collected from relic SSTF within a 1 km radius;
- areas identified for revegetation will be planted using a diversity of species and plant densities representing all strata typical of SSTF; and
- maintaining areas for an APZ will involve modification to existing vegetation such as slashing and not the introduction of exotic grasses or other plants.

13.3 The final design will take into account the following:

- The siting of new facilities
- The retention of existing trees particularly remnant and established specimens having regard to the health, amenity, the localised levels around the base of the trees, construction method of the facilities and the location of the facilities themselves.

14. Works-As-Executed Information

14.1 Works-as-executed information shall be provided to Council for all works undertaken in the public open space. This information is to be provided from a Registered Surveyor and shall depict all locations and levels of utility services, irrigation lines and associated systems, pipes, pits, and all park facilities, surfaces and treatments, and detention facilities (if any).

This information is to be provided in hard copy, Autocad drawing format and pdf format.

14.2 All civil engineering, landscape and stormwater works within the public open space shall be certified to have been carried out in accordance with the terms of the development consent, the approved engineering drawings and the specifications contained within this document.



**Indigenous plant species of Sutherland Shire
 suitable for landscape and revegetation projects.**

	BOTANICAL NAME	COMMON NAME	HEIGHT	WIDTH
	TREES			
	<i>Acacia decurrens</i>	Green Wattle	4-10m	4-5m
	<i>Acacia parramattensis</i>	Green Wattle	5-10m	3-6m
	<i>Acacia parvippinula</i>	Silver Stem Wattle	4-6m	3-4m
	<i>Acacia floribunda</i>	Sally Wattle	4-6m	4-5m
	<i>Allocasuarina littoralis</i>	Black She-Oak	4-8m	3-4m
	<i>Allocasuarina torulosa</i>	Forest Oak	5-8m	3-4m
	<i>Angophora costata</i>	Smooth Barked Apple	10-20m	8-10m
	<i>Banksia serrata</i>	Old Man Banksia	4-6m	3-5m
	<i>Elaeocarpus reticulatus</i>	Blueberry Ash	5-10m	3-4m
	<i>Eucalyptus eugenoides</i>	Thin Leaf Stringybark	15-20m	5-10m
	<i>Eucalyptus globoidea</i>	White Stringybark	7-20m	5-8m
	<i>Eucalyptus haemastoma</i>	Scribbly Gum	10-15m	4-10m
	<i>Eucalyptus paniculate</i>	Grey Ironbark	15-25m	6-10m
	<i>Eucalyptus pilularis</i>	Blackbutt	20-30m	6-12m
	<i>Eucalyptus punctata</i>	Grey Gum	20-25m	6-12m
	<i>Eucalyptus racemosa</i>	Scribbly Gum	15-20m	6-12m
	<i>Eucalyptus resinifera</i>	Red Mahogany	15-20m	5-10m
	<i>Eucalyptus tereticornis</i>	Forest Red Gum	15-20m	6-12m
	<i>Ficus rubiginosa</i>	Rusty Fig	10-15m	5-10m
	<i>Glochidion ferdinandi</i>	Cheese Tree	8-15m	4-10m
	<i>Melaleuca decora</i>	White Feather Honey Myrtle	5-10m	3-5m
	<i>Syncarpia glomulifera</i>	Turpentine	10-18m	8-15m
	SHRUBS			
	<i>Acacia brownii</i>	Prickly Moses	0.5-0.7m	0.5m
	<i>Acacia falcata</i>	Sickle Leaf Wattle	1.5-2.5m	2-3m
	<i>Acacia floribunda</i>	Sally Wattle	2-4m	2-4m
	<i>Acacia linifolia</i>	Flax Leaf Wattle	2-3m	0.5-1m
	<i>Acacia longifolia</i>	Sydney Golden Wattle	3-5m	1-3m
	<i>Acacia myrtifolia</i>	Myrtle Wattle	0.5-1m	0.5-1m
	<i>Acacia suaveolens</i>	Scented Wattle	1-2.5m	0.5-1m
	<i>Acacia stricta</i>	Straight Wattle	2-3m	0.5m
	<i>Acacia terminalis</i>	Sunshine Wattle	1.5-3m	1m
	<i>Banksia oblongifolia</i>	Banksia	1-2m	1.5m
	<i>Banksia marginata</i>	Silver Banksia	3-4m	1.5-2m

BOTANICAL NAME	COMMON NAME	HEIGHT	WIDTH
<i>Banksia spinulosa</i>	Hairpin Banksia	1.5-2m	1-1.5m
<i>Bursaria spinosa</i>	Blackthorn	1- 2m	1m
<i>Bossiaea heterophylla</i>	Variable Bossiaea	0.3- 0.5m	0.5m
<i>Callistemon citrinus</i>	Crimson Bottlebrush	1.5- 2.5m	1.5-2m
<i>Callistemon linearis</i>	Narrow Leaf Bottlebrush	1- 2m	1-2m
<i>Ceratopetalum gummiferum</i>	NSW Christmas Bush	2- 5m	2-2.5m
<i>Correa reflexa</i>	Correa	0.5-1m	0.5-1m
<i>Dillwynia parvifolia</i>	Small Leaf Dillwynia	0.4m	0.5-1m
<i>Dillwynia retorta</i>	Egg and Bacon	0.5- 1.5m	0.5-1m
<i>Dodonaea triquetra</i>	Hop Bush	1- 2m	0.5-1m
<i>Gonocarpus teucrioides</i>	Germander Raspwort	0.2- 0.4m	0.3-5m
<i>Grevillea mucronulata</i>	Green Grevillea	1- 1.5m	0.5-1m
<i>Grevillea sericea</i>	Pink Spider Plant	1-1.5m	0.5-1m
<i>Hakea dactyloides</i>	Broad Leaf Hakea	2-4m	1-2m
<i>Hakea sericea</i>	Needlebush	2- 3m	1-2m
<i>Hibbertia empetrifolia</i>	Trailing Guinea Flower	0.1 0.2m	0.5-1m
<i>Hibbertia linearis</i>	Showy Guinea Flower	0.4- 0.6m	0.5m
<i>Hibbertia obtusifolia</i>	Grey Guinea Flower	0.1- 0.3m	0.5m
<i>Hovea linearis</i>	Hovea	0.3- 0.5m	0.5m
<i>Lambertia formosa</i>	Mountain Devil	1- 2m	0.5m-1m
<i>Laslopetalum ferrugineum</i>	Rusty Petals	0.5- 1m	0.5-1m
<i>Leptospermum arachnoides</i>	Spider Tea Tree	0.2- 0.4m	0.5-1m
<i>Leptospermum parvifolium</i>	Small Leaf Tea Tree	0.3- 0.5m	1-1.5m
<i>Leptospermum polygalifolium</i>	Lemon Scented Tea Tree	3-5m	1.5m
<i>Leptospermum squarrosus</i>	Tea Tree	0.5- 1m	0.5-1m
<i>Lobelia dentata</i>	Lobelia	0.2- 0.3m	0.2m
<i>Lobelia gracilis</i>	Lobelia	0.2- 0.3m	0.2m
<i>Lomatia siliifolia</i>	Parsley Bush	0.2- 0.4m	0.3-5m
<i>Melaleuca nodosa</i>	Ball Honeymyrtle	1-2m	1-1.5m
<i>Melaleuca thymifolia</i>	Melaleuca	0.5- 1m	0.5-1m
<i>Ozothamnus diosmifolium</i>	Paper Daisy	1- 2m	0.5-1m
<i>Personia piniifolia</i>	Pine Leaf Geebung	2.5- 3m	1-1.5m
<i>Phebalium squamulosum</i>	Phebalium	0.5-2m	0.5-1.5m
<i>Pimella linifolia</i>	Rice Flower	0.3- 0.5m	0.3-5m
<i>Pittosporum revolutum</i>	Rough Fruited Pittosporum	1.5-2.5m	1-1.5m
<i>Platylobium formosum</i>	Handsome Flat Pea	1-1.5m	0.5-1m
<i>Pomaderris ferruginea</i>	Rusty Pomaderris	1-1.5m	1m
<i>Pomaderris lanigera</i>	Woolly Pomaderris	2-3m	1-1.5m
<i>Pomax umbellata</i>	Pomax	0.1- 0.3m	0.5m
<i>Pultenaea daphnoides</i>	Bush Pea	1.5-3m	1.5-2m
<i>Pultenaea hispidula</i>	Bush Pea	0.3- 1m	0.5-1m
<i>Pultenaea linophylla</i>	Bush Pea	0.5- 1m	0.2-5m
<i>Pultenaea stipularis</i>	Bush Pea	1-1.5m	0.5-1m
<i>Pultenaea villosa</i>	Bush Pea	0.5- 1m	0.5-1m
<i>Tetralthea neglecta</i>	Black Eyed Susan	0.1- 0.2m	0.2m
<i>Viminaria juncea</i>	Native Broom	2-3m	1-1.5m

BOTANICAL NAME	COMMON NAME	HEIGHT	WIDTH
CLIMBERS			
<i>Billardiera scandens</i>	Appleberry		
<i>Clematis aristata</i>	Travellers Joy		
<i>Clematis glycinoides</i>	Travellers Joy		
<i>Eustrephus latifolius</i>	Wombat Berry		
<i>Geilonoplesium cymosum</i>	Scrambling Lily		
<i>Glycine clandestinum</i>	Lovers Twine		
<i>Hardenbergia violacea</i>	False Sarsaparilla		
<i>Hibbertia dentata</i>	Twining Guinea Flower		
<i>Kennedia prostrata</i>	Running Postman		
<i>Kennedia rubicunda</i>	Dusky Coral Pea		
<i>Marsdenia rostrata</i>	Common Milk Vine		
<i>Pandorea pandorana</i>	Wonga Vine		
<i>Sarcopetalum harveyanum</i>	Pearl Vine		
<i>Smilax glycyphylla</i>	Sarsaparilla		
<i>Stephania japonica</i>	Snake Vine		
GRASSES AND TUFTED PLANTS			
<i>Cymbopogon refractus</i>	Barbed Wire Grass	0.3- 0.6m	
<i>Danthonia species</i>	Wallaby Grass	0.3- 0.5m	
<i>Dianella caerulea</i>	Blue Flax Lily	0.3- 0.5m	
<i>Dianella revoluta</i>	Mauve Flax Lily	0.3- 0.5m	
<i>Dichelachne crinita</i>	Longhair Plume Grass	0.3- 0.5m	
<i>Dichelachne micrantha</i>	Shorthair Plume Grass	0.5-1m	
<i>Dichelachne rara</i>	Plume Grass	0.5-1.5m	
<i>Echinopogon caespitosus</i>	Hedgehog Grass	0.3m	
<i>Eragrostis brownii</i>	Browns Love Grass	0.2-0.5	
<i>Gahnia aspera</i>	Saw Sedge	1.5m	
<i>Gahnia darkel</i>	Sword Grass	1-2m	
<i>Gahnia melanocarpa</i>	Sword Grass	1m	
<i>Gahnia sieberi</i>	Sword Grass	1-2m	
<i>Imperata cylindrica</i>	Blady Grass	1m	
<i>Lomandra longifolia</i>	Spiny Mat Rush	0.4- 0.6m	
<i>Lomandra multiflora</i>	Mat Rush	0.2-0.3m	
<i>Microlaena stipoides</i>	Weeping Meadow Grass	0.2- 0.4m	
<i>Opismenus aemulus</i>	Basket Grass	0.1m	
<i>Patersonia glabrata</i>	Leafy Purple Flag	0.2- 0.3m	
<i>Patersonia sericea</i>	Silky Purple Flag	0.2- 0.3m	
<i>Poa affinis</i>	Grass	0.3	
<i>Stipa pubescens</i>	Spear Grass	1- 1.5m	
<i>Themeda australis</i>	Kangaroo Grass	0.3- 0.5m	
<i>Wahlenbergia communis</i>	Bluebell	0.2m	
<i>Wahlenbergia gracilis</i>	Slender Bluebell	0.2m	



	BOTANICAL NAME	COMMON NAME	HEIGHT	WIDTH
	GROUNDCOVERS			
	<i>Centella asiatica</i>	Centella	0.1m	
	<i>Dichondra repens</i>	Kidney Weed	0.05m	
	<i>Geranium homeanum</i>	Northern Cranesbill	0.2m	
	<i>Glycine clandestinum</i>	Lovers Twine	0.1m	
	<i>Goodenia hederacea</i>	Ivy Leaf Goodenia	0.1m	
	<i>Hibbertia diffusa</i>	Guinea Flower	0.2m	
	<i>Polymeria calcina</i>	Swamp Bindweed	0.1m	
	<i>Viola hederacea</i>	Native Viloet	0.1m	
	FERNS			
	<i>Adiantum hispidulum</i>	Rough Maidenhair Fern	0.2m	
	<i>Blechnum cartilagineum</i>	Gristle Fern	0.5m	
	<i>Blechnum camfieldii</i>	Fern	0.4m	
	<i>Blechnum indicum</i>	Swamp Water Fern	0.3m	
	<i>Calochlaena dubia</i>	Rainbow Fern	0.5	
	<i>Doodia aspera</i>	Rasp Fern	0.1m	
	<i>Hypolepis muelleri</i>	Harsh Ground Fern	0.3m	
	<i>Pellaea falcata</i>	Sickle Fern	0.2m	
	WETLAND PLANTS			
	<i>Alisma plantago-aquatica</i>	Water Plantain	1m	
	<i>Baumea articulata</i>	Jointed Twig Rush	1m	
	<i>Baumea rubiginosa</i>	Soft Twig Rush	1m	
	<i>Baumea teretifolia</i>	Wrinkle Nut Twig Rush	1m	
	<i>Carex appressa</i>	Carex	0.5-1.0m	
	<i>Cladium procerum</i>	Leafy Twig Rush	1.5m	
	<i>Elaeocharis sphacelata</i>	Tall Spike Rush	1-1.5m	
	<i>Gahnia clarkoi</i>	Sword Grass	1-2m	
	<i>Gahnia sieberii</i>	Sword Grass	1-1.5m	
	<i>Juncus continuus</i>	Rush	1-1.5m	
	<i>Juncus planifolius</i>	Rush	1m	
	<i>Juncus usitatus</i>	Common Rush	0.5m	
	<i>Ottella ovalifolia</i>	Swamp Lily	0.4m	
	<i>Paspalum distichum</i>	Water Couch	0.2m	
	<i>Phylidrum laniginosum</i>	Woolly Frogmouth	1.5m	
	<i>Potamogeton crispus</i>	Curly Pond Weed	0.5m	
	<i>Schoenoplectus littoralis</i>	Club Rush	1- 1.5m	
	<i>Schoenoplectus mucronatus</i>	Twisted Club Rush	1m	
	<i>Schoenoplectus validus</i>	River Club Rush	1m	
	<i>Typha orientalis</i>	Bullrush	2m	



Exhibit 1

Explanatory Note

1. Summary of Objectives, Nature and Effect of the Planning Agreement

On 18 March 2009, the New South Wales Land and Environment Court granted Development Consent to Gandangara Local Aboriginal Land Council to carry out the subdivision of Lots 42 and 43 in DP 1061416, Timbrey Circuit, Barden Ridge into 39 residential lots, 1 residual lot, a Park and local roads. The Development Consent noted that Gandangara Local Aboriginal Land Council offered to enter into a Voluntary Planning Agreement (VPA). The Development Consent requires the Gandangara Local Aboriginal Land Council to enter into a VPA.

The objectives of the VPA are to secure the construction of a new park (including facilities such as a tennis court and children's playground), the removal of the existing park and its facilities, and for the new park to be dedicated to Council in conjunction with the subdivision of Lots 42 and 43 in DP 1061416. The nature of the VPA is a deed binding both Gandangara Local Aboriginal Land Council and Council seeking to meet the above objectives. The effect of the VPA is that local residents and the wider community will be provided with a public park with new facilities.

2. Assessment of the Merits of the VPA

The VPA serves a planning purpose in that condition 1 of the Development Consent requires that Gandangara Local Aboriginal Land Council enter into a VPA. The VPA also serves a further planning purpose by ensuring that the nearby residents have convenient access to a park with a range of facilities, similar to the existing park included in the first stage of the subdivision.

The VPA provides for a reasonable means of achieving these purposes, by defining the process and a sequence of events to be followed to ensure the construction and dedication of the park.

The VPA promotes the following objects of the Environmental Planning and Assessment Act 1979:

- (a) *To encourage the provision of land for public purposes.*
- (b) *To encourage the provision and co-ordination of community services and facilities.*

The VPA promotes the public interest by providing a fully embellished public park for the benefit of the local community and the general public.

The VPA promotes the following elements of the Council's Charter:

- (a) *To provide directly or on behalf of other levels of government, after due consultation, adequate, equitable and appropriate services and facilities for the community and to ensure that those services and facilities are managed efficiently and effectively.*
- (b) *To promote and to provide and plan for the needs of children.*

The VPA does not form part of Council's capital works program.

The VPA has a positive impact on the public, in that it provides for a public park with new embellishments for the benefit of local residents and the wider community generally.

