

26 June 2024

By email: records@woollahra.nsw.gov.au

General Manager  
Woollahra Municipal Council  
PO Box 61  
Double Bay NSW 1360

Attention: Craig Smith-McNair

Dear Mr Smith-McNair

## **Public benefits and offer to enter into Local Voluntary Planning Agreement associated with the development of the Edgecliff Centre, 203-233 New South Head Road, Edgecliff**

### **1 Introduction**

- 1.1 As Council is aware, Longhurst Investments No 1 Pty Limited (**Longhurst Group**) has submitted a planning proposal (**Planning Proposal**) seeking a variation to the planning controls in the *Woollahra Local Environmental Plan 2014 (WLEP)* at 203-233 New South Head Road, Edgecliff (known as the Edgecliff Centre) and part of the adjoining Council-owned road reserve fronting New McLean Street (**Site**).
- 1.2 We refer to our ongoing engagement with Council to establish opportunities for public benefits which can be realised through the well overdue regeneration of the Edgecliff Centre.
- 1.3 The planning proposal is centred around revitalising the Site to create a vibrant mixed-use development that can contribute to the community and social infrastructure. This will be done through a combination of creating a new town centre for the wider Edgecliff corridor, providing public spaces for community uses, unlocking unproductive land uses within close proximity of the centre and the train station, the provision of retail services whilst also increasing employment by generating floor space (and hence job opportunities) and importantly, adding crucial housing supply close to public transport.
- 1.4 This letter outlines the public benefits which Longhurst Group is proposing to provide to support the Planning Proposal and the redevelopment of the Site. Longhurst Group's preference is to document the public benefits to be provided in a Voluntary Planning Agreement (**VPA**) under section 7.4 of the *Environmental Planning and Assessment Act 1979 (EPA Act)*.
- 1.5 The total value of the public benefits (excluding the value of the land dedication component & costs associated with the Substation Works) which Longhurst Group proposes to provide is approximately \$36,333,153. As further detailed in section 3 below, this vastly exceeds the amount which Council would otherwise be able to require

Longhurst Group provide for the development of the Site under any affordable levy and section 7.11/7.12 contributions, being an amount of approximately \$14,823,919.

## **2 Public benefits**

- 2.1 The public benefits which Longhurst Group is proposing to provide are detailed in the table below. The works in kind outlined below (except item 7, which is an additional public benefit identified by Longhurst Group, are entirely consistent with Council's Draft Edgecliff Commercial Centre Planning and Urban Design Strategy (**Draft ECC Strategy**).

Description		Value	Timing	Consistency with Council's Draft ECC Strategy
<b>Works in Kind</b>				
1.	<u>Village Green Plaza and Green Space Town Centre</u> : delivery of an approximately 2,300m <sup>2</sup> town centre comprising plaza, hard and soft landscaping, communal and recreational lawns, public staircase from street level, glass entry box to retail/trains, recreational activities/public art opportunities, seating, landscaping and urban greening.	\$12,133,120.42	The Works in Kind will be delivered prior to the issue of the final occupation certificate for the Development.	The Draft ECC Strategy identified an above grade plaza with the new key pedestrian entry being located at the north-west corner of the Site consistent with the Planning Proposal. The extent of the plaza is not specified. However, there is a key destination symbol as well as planning principles for the site that identify that the new open space could be located on the north-west corner of the site.
2.	<u>Village Green Community Facility</u> : delivery of an approximately 695m <sup>2</sup> community facility to a warm shell with configuration of enclosed and open space subject to Council's requirements.	\$2,857,387.22		Although not identified in the original Draft ECC study, the revised Draft ECC Strategy it identifies the opportunity to connect a community facility to the above grade plaza, subject to future design. The study also identifies a possible connection along the south-east portion of the site towards a new open space.
3.	<u>New McLean Plaza</u> : delivery of a plaza/forecourt with hard and soft landscaping opportunities, located at the South-West corner of the site along New McLean Street.	\$1,356,498.02		The Draft ECC Strategy identified that this area can be an opportunity for public art and pause points.
4.	<u>New McLean Site Through Link</u> : delivery of through-link connection from New McLean Street travelling east through the Site and connecting to the railway connection and concourse via the central void.	\$791,290.19		The Draft ECC Strategy identified link as a key pedestrian link to be explored.

Description	Value	Timing	Consistency with Council's Draft ECC Strategy
<p>5. <u>New South Head Road Laneways</u>: delivery of a retail activated colonnade &amp; laneway to provide amenity, connectivity, and recreation opportunity along the ground plane.</p>	\$1,356,498.02		<p>The Draft ECC Strategy identified that a key pedestrian entryway along the northwest of the Site would be advantageous with a colonnade along New South Head Road and internal pedestrian laneways within the retail.</p>
<p>6. <u>Integration to Railway and Bus Interchange</u>: subject to approval from Transport for NSW and adjoining owners, delivery of three new points of connection:</p> <ul style="list-style-type: none"> <li>a. from the ground floor of the Development to the train station concourse;</li> <li>b. from the first floor of the Development to the retail arcade; and</li> <li>c. from the second floor of the Development to the bus terminal,</li> </ul> <p>comprising the demolition of existing structural walls and temporary support, construction of structural openings, means and columns, interfacing of finishes, services reconfiguration, fire separation and security separation.</p>	\$3,014,440.15		<p>The Draft ECC Strategy identified a connection to the station as a key part of the site through link.</p>
<p>7. <u>Substation Works</u>: subject to Ausgrid approval, demolition of the existing above ground substation and construction of a new chamber substation below ground.</p>	\$TBC.		<p>N/A – This is an additional public benefit for the Site &amp; Road Reserve identified by Longhurst Group.</p>

Description		Value	Timing	Consistency with Council's Draft ECC Strategy
<b>Land dedication</b>				
8.	Longhurst Group proposes to transfer or dedicate an approximately 138.5m <sup>2</sup> stratum parcel (from RL33.60 to RL47.25 – subject to final design development) of land to Council ( <b>Dedication Land</b> ). The Dedication Land will facilitate the development of Council's proposed multi-purpose community facility.	\$TBC.	The Dedication Land will be provided with the registration of a strata plan of subdivision for the Development	N/A.
<b>Monetary contributions</b>				
9.	A monetary contribution of \$9,910,318 which is equivalent to 5% of the new residential gross floor area (886.75m <sup>2</sup> ) multiplied by a rate of \$11,176/m <sup>2</sup> , and the amount which would otherwise be able payable as a contribution towards affordable housing.	\$9,910,318	Longhurst Group will pay monetary contributions prior to the issue of a construction certificate for Stage 1 of the Development.	N/A.
10.	A monetary contribution of \$4,913,601, which Longhurst's planners have calculated based on an assessment of likely contributions under a hypothetical section 7.11 policy.  As a benchmark comparison, the amount payable pursuant to Council's current section 7.12 policy is approximately \$4,800,000, being 1% of the estimated costs of carrying out the Development.  Longhurst Group's offer is for the higher of the two amounts.	\$4,913,601		N/A.

2.2 Should Council agree to proceed with a VPA, the other key terms of the VPA offer are outlined in **Annexure A** to this letter.

### **3 Contribution assessment methodology**

3.1 The total value of the contributions which Longhurst Group proposes to provide (excluding the value of the land dedication component & associated costs with the Substation Works) is \$36,333,153.

3.2 The value of contributions proposed greatly exceeds the value of contributions which would otherwise be payable under a affordable housing levy and section 7.11/7.12 (based on a Social Impact Assessment prepared by Cred Consulting for the Edgecliff Centre) of approximately \$14,823,919.

3.3 Longhurst Group acknowledges that Council's VPA policy outlines a method of calculating development contributions based on value capture. However, Longhurst Group does not consider it would be appropriate for the development contributions for the Site to be calculated on a value capture basis as:

- (i) value capture is contrary to the Department of Planning, Housing and Infrastructure's VPA Practice Note;
- (ii) in Council's value capture calculation, determining the value of a site under existing planning controls does not take into account land acquisition and holding costs and determining the value of a site following a change in planning controls does not take into account the uncertainty of site-specific constraints which cannot be accurately assessed at the concept design stage. For example, whilst Transport for NSW is generally aware of Longhurst Group's proposed development over Edgecliff Station, the specific constraints associated with an over station development will need to be the subject of further assessment and strategic advice. This results in any general value capture assessment being highly likely to be inaccurate and oversimplified;
- (iii) Council's Draft ECC Strategy for the Site has not assessed the contributions required on a value capture basis. Instead, we understand that Council's Draft ECC Strategy will adopt a nexus-based contributions plan under sections 7.11 or 7.12, similar to the baseline assessment which Longhurst Group has undertaken in determining the value of contributions which are expected for the Site.
- (iv) Longhurst Group's proposed development of the Site is generally consistent with Council's Draft ECC Strategy and it is inappropriate for Council to require a value capture contributions assessment, when its own Draft ECC Strategy does not require this; and
- (v) in view of Council's planning proposal, any value capture assessment could only be limited to the approximately 3,000m<sup>2</sup> GFA difference between Council and Longhurst Group's planning proposals. However, it is not appropriate to adopt a value capture analysis with respect to this land as this is the area for which Longhurst Group has allowed for the inclusion of Council's proposed community

facility on the Site. It is entirely inappropriate for contributions to be levied on land which will ultimately be developed for public purposes.

A value capture assessment based on the change in residual land value from land values under the existing planning controls to land values following Longhurst Group's Planning Proposal, would simply render the entire redevelopment of the Site unfeasible.

We look forward to receiving Council's response to this letter.

Please contact the undersigned if you have any questions or would like to discuss the above.

Kind Regards,

A handwritten signature in black ink, appearing to read 'Paolo', written in a cursive style.

Paolo Razza  
CEO

## Annexure A

<b>Parties</b>	The parties to the VPA will be Longhurst Investments No 1 Pty Limited and Woollahra Municipal Council.
<b>Description of the land (s7.4(3)(a))</b>	Lot 203 DP1113922 & Lot 5 DP243380
<b>Description of the development application/change to an environmental planning instrument (s7.4(3)(b)(i) and (ii))</b>	<p>The VPA relates to an amendment of the WLEP with respect to the Site to:</p> <ol style="list-style-type: none"> <li>1. increase the maximum permitted height of buildings from part 0m, part 6m and part 26m to part 60m, and part 124m to 128m;</li> <li>2. increase the maximum permitted Floor Space Ratio (<b>FSR</b>) on the Edgecliff Centre portion of the Site from 2.5:1 to 9:1;</li> <li>3. increase the maximum permitted FSR on the Council-owned road reserve from 0 to 3.5:1; and</li> <li>4. introduce a Site-specific provision to retain a minimum 2:1 FSR (of the overall 9:1 FSR) for non-residential purposes.</li> </ol> <p>The Planning Proposal will support a separate development application for a mixed use redevelopment of the Site (<b>Development</b>).</p>
<b>Nature and extent of the provision to be made by the developer, and the times and manner in which the provision is to be made (s7.4(3)(c))</b>	<p>Longhurst Group proposes to provide contributions in the form of works in kind, monetary contribution and land dedication. The total contribution value (excluding the value of the land dedication component and costs associated with the Substation Works) is \$36,333,153.</p> <p>The development contributions are outlined in the table in the body of this letter.</p>
<b>Exclusion of s7.11, s7.12 and s7.24 contributions (s7.1(3)(d))</b>	<p>Sections 7.11 and 7.12 contributions will be excluded as they apply to the Site and the Development. A monetary contribution is being provided for the equivalent of the section 7.11 amount (being the higher of the contribution amounts).</p> <p>Section 7.24 contributions are not to be excluded as they apply to the Site and the Development.</p>
<b>Whether benefits under the Agreement are or are not to be taken into consideration in determining a development</b>	N/A



<b>contribution under s7.11 (s7.4(3)(e))</b>	
<b>Mechanisms for resolution of disputes (s7.4(3)(f))</b>	A conventional dispute resolution provision will be included providing for resolution of disputes by way of mediation or expert determination.
<b>Enforcement of the agreement by a suitable means (s7.4(3)(g))</b>	The VPA will provide for provision of a bank guarantee to secure the delivery of the Works in Kind at the time the first construction certificate is obtained

Longhurst Group agrees to pay Council's reasonable legal costs incurred in negotiating, drafting and preparing the VPA. Please provide an estimate of Council's costs for Longhurst Group's consideration.