



19 November 2025

General Manager
Lithgow City Council
180 Mort St
Lithgow NSW 2790

Attention: Sandra Politi (Development Manager)

Dear Sandra,

**Letter of Offer - Voluntary Planning Agreement - Clarifications and Response
The Foundations, Portland, NSW 2847**

Thank you for Council's letter of 17 November 2025 responding to our Letter of Offer to enter into a Voluntary Planning Agreement (VPA) dated 25 July 2025.

In relation to the matters raised in your letter, our Client has provided the following responses, shown in 'mark up' on our letter of 31 July 2025.

1. Scope and Staging of the Agreement

We confirm the scope of the VPA will apply to Stages 1 to 6.

~~We also propose that the VPA will apply to existing approved development subject to Development Consent DA117/19 for the adaptive reuse of the heritage precinct and Development Consent DA145/22 for the first 8 dwellings. We are prepared to submit modification applications to ensure that the VPA will apply to these developments.~~

2. Land Dedication Clarifications

Council has been provided extensive information during the MOU phase regarding the social infrastructure/community facilities and community benefit of this proposed VPA.

We clarify the Staging, Lots and Public Benefit of the proposed land dedication in the following table and the plan included as Attachment 1.

Stage to be Completed prior to Dedication	Lots to be Dedicated	Public Benefit
Stage 1	Lot 510	Enhanced pedestrian connectivity and improved urban permeability and maintenance access to the drainage channel

Stage to be Completed prior to Dedication	Lots to be Dedicated	Public Benefit
Stage 2	Proposed Lots 40, 41, 42, 43, 508 and 509	Public open space and pocket parks for passive recreation and enhanced pedestrian connectivity.
Stage 3	Proposed Lots 500, 501, 502, 503, <u>511</u>	Significant public open space, including a recreational water body, pocket parks and enhanced pedestrian connectivity.
Stage 4	Proposed Lot 504	Pocket park for passive recreation.
Stage 5	Proposed Lot 507	Pocket park for passive recreation.
Stage 6	Proposed Lots 505, 506	Pocket parks for passive recreation.

3. Section 7.12 Contributions – Clarification of Exclusion Scope

It is agreed that the VPA will not exclude application of s. 7.11 and s. 7.12 Development Contributions to all future development.

~~The proposed exclusion of Section 7.12 contributions applies to 'The land' (all future development applications including subdivision and future dwellings, and existing development consents DA117/19 and DA145/22).~~

In the event that valuation of the land to be dedicated is required, we also note the discussion and agreement at the meeting on 9 April 2025 regarding the standard valuation methods for the land to be dedicated including a joint brief, accredited valuer, dispute mechanism.

4. Financial Security Arrangements

Our Client is open to the inclusion of a reasonable financial security mechanism in the form of a Bank Guarantee or Cash Bond for a 2 year maintenance period of infrastructure and landscaping that reduces as the various Stages and maintenance obligations are completed. We note that the registration of the agreement on title and restrictions on the issue of Subdivision Certificates provide additional security for Council against the obligations under the proposed VPA.

5. Cost Recovery for Agreement Preparation and Administration

Our Client is open to making a reasonable contribution towards costs (amount to be negotiated) incurred by Council for:

- Legal drafting and review costs,
- Registration and enforcement,
- Progressive review and certification of works.

Please provide an estimate of the costs allocated for this work.

6. Council would like to see Foundations Portland offer a suitable monetary contribution or works in kind contributions towards the provision of a future local community centre to service the development. Council has identified a suitable benchmark provision standard for this type of infrastructure at 80m² per 1000 people.

Our Client agrees in principle to the inclusion in the VPA of a monetary contribution or works in kind contribution towards the provision of a future local community centre to service the development; the quantum of which is to be benchmarked on the provision of this this type of infrastructure at 80m² per 1000 people.

The details and timing of this contribution or works in kind to be negotiated in good faith between the Parties and provided before the issue of the last subdivision certificate for Stage 6.

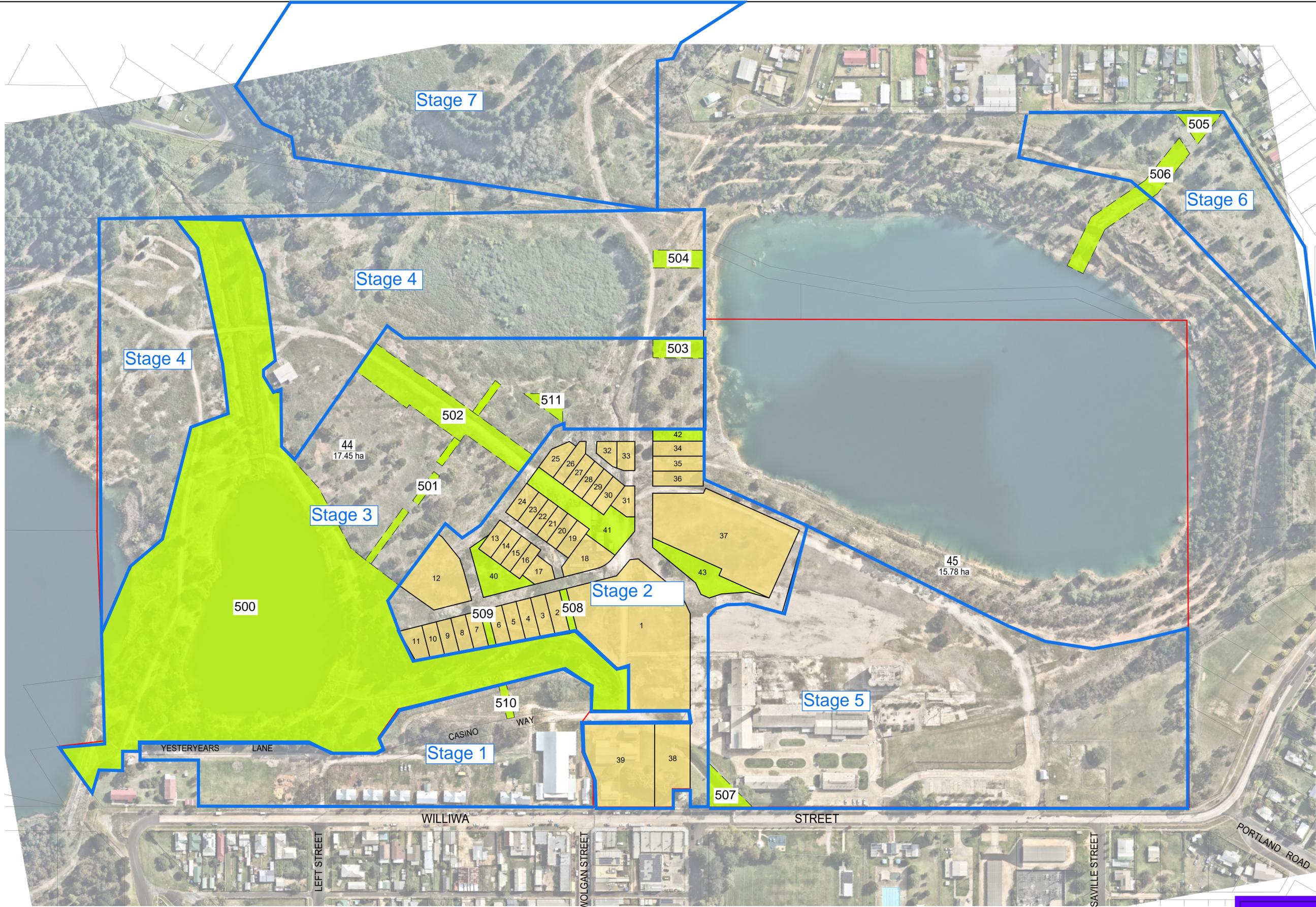
We have incorporated these responses in a revised summary of Terms set out in Attachment 2 and look forward to Council providing its preferred planning agreement template for our review.

Your faithfully,



Craig McGaffin
Town Planner – BTP (UNSW)
Lawyer - Dip Law (LPAB)

Attachment 1



LAND TO BE DEDICATED

All dimensions, areas, and easements are subject to final survey, endorsement by council and the registration of the final plan. All care has been taken in the preparation of this preliminary plan but no responsibility is taken for any errors or omissions.

REV	AMENDMENT	ISSUED	DATE
A	INITIAL ISSUE	SB	23/08/24
B	REVISED FOR CLIENT COMMENT	SB	03/09/24
C	DA ISSUE	SB	10/10/24
D	DA ISSUE	SB	16/05/25

**BARKER
RYAN
STEWART**

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2024

Client:

**THE FOUNDATIONS
PORTLAND NSW**

**PLAN OF SUBDIVISION OF LOT 53 DP 755769
& LOT 8 DP 1304112
WILLIWA STREET, PORTLAND
LGA: LITHGOW CITY**

Surveyed: N/A
Drawn: MC
Checked: SB
Datum: N/A
Contour Interval: N/A

Horizontal Scale 1:1500 (A1)
1:3000 (A3)

Plan No. 210762	Sheet No. 4/4
File Ref. 210762-03-SUB-D.dwg	REV. D

Attachment 2:

ITEM	TERMS
Parties	Lithgow City Council (Council) The Foundations Portland Pty Ltd (Developer)
Land	Lot 1 DP 109592, Lot 1 DP 842890, Lot 5 DP 749907, Lot 6 DP749908, Lot 7 DP 749909, Lot 24 Section 46 DP 758855, Lots 53 & 104 DP 755769, and Lots 1&4 DP1227369, known as the Foundations Site, 40 Williwa Street Portland
Development	The Planning Agreement will apply to the development of the Land generally in accordance with the Masterplan set out in the site specific DCP, including DA142/24.
Open Space and Drainage Land	<p>The Developer will dedicate the land shown in Attachment 1 to Council at no cost. Prior to dedication of the land, the Developer will be responsible for completing the works and infrastructure appropriate for the land's intended use in accordance with any development granted, the Masterplan, DCP and Public Domain Landscape Masterplan.</p> <p>The land to be dedicated in each Stage of the development will be dedicated prior to the issue of the last subdivision certificate for that Stage.</p>
Maintenance	The Developer will establish and maintain infrastructure and improvements on the dedicated land for a period of 2 years after the transfer of the land to Council ownership.
Application of s7.11, s7.12 and s7.24	<p>The Planning Agreement will <u>not</u> exclude the application of sections 7.11 and 7.12 to the Development. to the value of the land inclusive of required works for all future development applications including subdivision and future dwellings.</p> <p><u>If required, we note the adoption of the standard valuation methods for the land to be dedicated including a joint brief, accredited valuer, dispute mechanism.</u></p> <p>The Planning Agreement will not exclude the application of section 7.24 to the Development.</p>
Local Community Centre	<p>The Developer agrees in principle to the inclusion in the VPA of a <u>monetary contribution or works in kind contribution towards the provision of a future local community centre to service the development; the quantum of which is to be benchmarked on the provision of this this type of infrastructure at 80m² per 1000 people.</u></p>

ITEM	TERMS
	<p><u>The details and timing of this contribution or works in kind to be negotiated in good faith between the Parties and provided before the issue of the last subdivision certificate for Stage 6.</u></p>
Registration	<p>The Planning Agreement can be registered on the title of the Land and will be removed once the contributions are delivered under the Agreement, or partially removed as the Development progresses.</p>
Security	<p>The Developer will provide a Bank Guarantee or Cash Bond that reflects an appropriate level of security for the 2 year maintenance period, capped at \$150,000, in accordance with a negotiated schedule.</p> <p>The requirement to complete the works and dedicate the land in each Stage will also operate as restriction on the issue of the last Subdivision Certificate for that Stage of the Development under section 6.15(1)(d) of the Act.</p> <p>The Developer considers that Bank Guarantee or cash bond, restrictions on the issue of Subdivision Certificates, as well as registration of the VPA on title satisfy the requirement under the Act for the agreement to include enforcement mechanisms.</p>
Dispute Resolution	<p>The Developer proposes the agreement will provide for mediation or expert determination of disputes between the parties, at their own cost, before the parties may exercise any other legal rights in relation to the dispute.</p>
Costs	<p>The Developer will make a reasonable contribution towards costs incurred by Council for:</p> <ul style="list-style-type: none"> - Legal drafting and review costs, - Registration and enforcement, - Progressive review and certification of works.