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Third Deed of Variation

Woorong Park Planning Agreement

Under s203(5) of the *Environmental Planning and Assessment Regulation 2021*

Blacktown City Council

Woorong Park Pty Limited

Date: 3 May 2023

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Third Deed of Variation

Woorong Park Planning Agreement

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Third Deed of Variation to Woorong Park Planning Agreement
Summary Sheet

Council:

Name: Blacktown City Council

Address: 62 Flushcombe Rd, Blacktown NSW 2148

Telephone: (02) 9839 6000

Facsimile: (02) 9831 1961

Email: council@blacktown.nsw.gov.au

Representative: Dennis Bagnall

Developer:

Name: Woorong Park Pty Limited

Address: Level 20, 100 Arthur Street North Sydney NSW 2060

Telephone: (02) 9929 5000

Facsimile: (02) 9929 5001

Email: bsarkis@winten.com.au

Representative: William Sarkis

Third Deed of Variation to Woorong Park Planning Agreement

Under s203(5) of the *Environmental Planning and Assessment Regulation 2021*

Parties

Blacktown City Council ABN 18 153 831 768 of 62 Flushcombe Rd, Blacktown NSW 2148 (**Council**)

and

Woorong Park Pty Limited ABN 51 094 493 428 of Level 20, 100 Arthur Street North Sydney NSW 2060 (**Developer**)

Background

- A The Parties are Parties to the Planning Agreement.
- B The Planning Agreement was amended by the first Deed of Variation on 8 March 2021, and by the second Deed of Variation on 30 March 2022.
- C Pursuant to clause 29 of the Planning Agreement, the Parties have agreed to further amend the Planning Agreement in accordance with this Third Deed of Variation to include six additional land parcels to the Planning Agreement to be dedicated by the Developer for the purposes of detention basins, bio-retention basins, active public reserve, local parks, pathway and bridge crossing being:
- the land identified as ML3.0 Land on the Dedication Land Plan and in Council's Contributions Plan for stand alone bio-retention with an area of 0.2002 hectares,
 - the land identified as ML6.0 Land on the Dedication Land Plan and in Council's Contributions Plan for stand alone bio-retention with an area of 0.2711 hectares,
 - the land identified as MS2.1 Land on the Dedication Land Plan and in Council's Contributions Plan for bio-retention located in detention basin,
 - the land identified as MS3.1 Land on the Dedication Land Plan and in Council's Contributions Plan for bio-retention located in detention basin,
 - the land identified as Reserve 1003 Land on the Dedication Land Plan and in Council's Contributions Plan for local park including playground and landscaping adjoining a riparian zone with an area of 0.8972 hectares, and
 - the land identified as Reserve 1004 Land on the Dedication Land Plan and in Council's Contributions Plan for local park including playground and landscaping with an area of 0.6172 hectares.

Operative provisions

1 Interpretation

- 1.1 In this Deed the following definitions apply:
- Deed** means this Third Deed of Variation and includes any schedules, annexures and appendices to this Deed.
- Planning Agreement** means the Woorong Park Basin 3 and Channel 1 Land Planning Agreement pursuant to s7.4 of the *Environmental Planning and Assessment Act 1979* entered into between the Parties on 2 July 2018, and as amended by the First Deed of Variation and the Second Deed of Variation.
- 1.2 All other capitalised words used in this Deed have the meanings given to those words in the Planning Agreement.
- 1.3 Clauses 1.2 and 22-29 of the Planning Agreement apply as if they form part of this Deed with any necessary changes.

2 Status of this Deed

- 2.1 This Deed is an amendment to the Planning Agreement within the meaning of section 203(5) of the Regulation.
- 2.2 This Deed is not a planning agreement within the meaning of s7.4(1) of the Act.

3 Commencement

- 3.1 This Deed commences and has force and effect on 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 Party who executes this Deed last is to insert on the front page the date they did so and provide a copy of the fully executed and dated Deed to any other person who is a Party.

4 Warranties

- 4.1 The Parties warrant to each other that they:
- 4.1.1 have full capacity to enter into this Deed, and
- 4.1.2 are able to fully comply with their obligations under this Deed and the Planning Agreement as modified by this Deed.

5 Amendment to Planning Agreement

- 5.1 On and from the date this Deed takes effect the Planning Agreement is amended in accordance with the marking-up shown on the copy of the Planning Agreement contained in the Schedule.

6 Costs

- 6.1 The Developer is to pay the Council's costs of preparing, negotiating, executing and stamping this Deed.

7 Explanatory Note

- 7.1 The Appendix contains the Explanatory Note relating to this Deed required by section 205 of the Regulation.
- 7.2 Pursuant to section 205(5) of the Regulation, the Parties agree that the Explanatory Note must not to be used to assist in construing this Deed.

Schedule

(Clause 5.1)

Amended Planning Agreement

The Planning Agreement as amended by this Deed appears on the following pages.

Deed

Woorong Park ~~Basin 3 and Channel 1 Land~~

Planning Agreement

Under s7.4 of the *Environmental Planning and Assessment Act 1979*

Blacktown City Council

Woorong Park Pty Limited

Date:

Woorong Park ~~Basin 3 and Channel 1 Land~~ Planning Agreement

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Woorong Park Pty Limited

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Woorong Park ~~Basin 3 and Channel 1 Land~~ Planning Agreement

Summary Sheet

Council:

Name: Blacktown City Council
Address: 62 Flushcombe Rd, Blacktown NSW 2148
Telephone: (02) 9839 6000
Facsimile: (02) 9831 1961
Email: council@blacktown.nsw.gov.au
Representative: Dennis Bagnall

Developer:

Name: Woorong Park Pty Limited
Address: Level 20, 100 Arthur Street North Sydney NSW 2060
Telephone: (02) 9929 5000
Facsimile: (02) 9929 5001
Email: bsarkis@winten.com.au
Representative: William Sarkis

Land:

See definition of ~~Basin 3 and Channel 1 Land~~ in Dedication Land in clause 1.1.

Development:

See definition of *Development* in clause 1.1.

Development Contributions:

See clauses 10 and 11.

Application of s7.11, s7.12 and s7.24 of the Act:

See clause 8.

Security:

See clause 14.

Registration:

See clause 16.

Restriction on dealings:

See clause 17.

Dispute Resolution:

See clause 13.

Woorong Park ~~Basin 3 and Channel 1 Land~~ Planning Agreement
Blacktown City Council
Woorong Park Pty Limited

Woorong Park ~~Basin 3 and Channel 1 Land~~ Planning Agreement

Under s7.4 of the *Environmental Planning and Assessment Act 1979*

Parties

Blacktown City Council ABN 18 153 831 768 of 62 Flushcombe Rd, Blacktown NSW 2148 (**Council**)

and

Woorong Park Pty Limited ABN 51 094 493 428 of Level 20, 100 Arthur Street North Sydney NSW 2060 (**Developer**)

Background

- A The Developer owns the Dedication Land.
- B The Dedication Land is earmarked under the Contributions Plan for ~~a drainage basin~~s and channel, detention basins, bio-retention basins, active public reserve, local parks, pathway, and bridge crossing.
- C The Developer has made an application to modify the Development Consent for the Development.
- D Stockland Development Pty Ltd is carrying out development on neighbouring land in the Marsden Park Precinct and proposes to construct the drainage basin and channel on the Basin 3 and Channel 1 Land in connection with its development on the neighbouring land.
- E The Developer has offered to dedicate the Dedication Land to the Council free of cost for the purposes and by the times specified in Schedule 1.
- F The Parties agree that the value of the Dedication Land may be used by the Developer for the Development and other developments on land to which the Contributions Plan applies that are carried out by the Developer.
- G The Developer will not be required to pay s7.11 contributions for those developments to the extent of the value of the Dedication Land that is used.
- H The Parties have agreed to enter into this Deed for the above purposes.

Operative provisions

1 Interpretation

- 1.1 In this Deed the following definitions apply:

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

Woorong Park ~~Basin 3 and Channel 1 Land~~ Planning Agreement
Blacktown City Council
Woorong Park Pty Limited

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

Basin 3 and Channel 1 Land means the land identified as lots 3, 4 and 7 in the proposed plan of subdivision DP1232886 contained in the Schedule 2.

Basin 3 and Channel 1 Land Work means a drainage basin and channel located on the Basin 3 and Channel 1 Land.

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

Clearance Certificate means a clearance certificate issued by the [Commissioner for Taxation under paragraph 14-220 of Schedule 1 of the Taxation Administration Act 1953 \(Cth\)](#).

Contributions Plan means the Council's Section [94-7.11](#) Contributions Plan No. 21 as amended from time to time and any document that replaces that document.

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

Dedication Land means the land specified or described in Column 1 of the table in Schedule 1.

Dedication Land Plan means the plans identified as -Sheet 1 and Sheet 2 in Schedule 3.

Dedication Land Value means the sum of the agreed values of all Dedication Land as specified in Column 4 of the table in Schedule 1.

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

Development means the development the subject of [the Major Development Consent, and](#) Development Consent to Development Application DA-16-04553 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 provided by a Party to the Council to secure the enforcement of that Party's obligations under this Deed for the purposes of s7.4(3)(g) of the Act.

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

First Deed of Variation means the document titled '*First Deed of Variation to Woorong Park Basin 3 and Channel 1 Land Planning Agreement*' entered into between the Council and the Developer on 8 March 2021.

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.

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

Woorong Park ~~Basin 3 and Channel 1 Land~~ Planning Agreement
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Woorong Park Pty Limited

Major Development Consent means SPP-17-00046 for torrens title subdivision to create 1,842 lots and 1 residue lot, ancillary subdivision works, roads, and landscaping, approved by the Sydney Central Planning Panel on 27 June 2018.

ML3.0 Land means the land identified as ML3.0 Land on Sheet 1 of the Dedication Land Plan.

ML4.0 Land means the land under the bridge crossing Little Creek listed as 'ML4.0' in the Contributions Plan and identified as 'Channel Crossing' on Sheet 1 of the Dedication Land Plan.

ML5.0 Land means Lot 4271 DP1236022 as shown on Sheet 1 of the Dedication Land Plan.

ML5.0 Surplus Land means Lot 4274 DP1236022 as shown on Sheet 2 of the Dedication Land Plan.

ML5.0 Work means the detention basin as described in the ML5.0 WIK Agreement.

ML 5.0 WIK Agreement means the document titled 'Section 7.11 Works-in-Kind Deed Newpark Estate, Precinct 4, Marsden Park' with reference number WIK-10-2018 entered into between the Council and the Developer on 15 January 2019.

ML6.0 Land means the land identified as ML6.0 Land on Sheet 1 of the Dedication Land Plan.

ML7.0 Land means proposed Lot 4 in unregistered DP1271004 as shown on Sheet 2 of the Dedication Land Plan.

ML7.0 Work means the standalone bio-retention and gross pollutant trap as described in the ML7.0 WIK Agreement.

ML7.0 WIK Agreement means the document titled 'Works-in-Kind Agreement' with reference number WIK-01-2020 entered into between the Council and the Developer on 9 June 2021.

MS2.1 Land means the land identified as MS2.1 Land on Sheet 1 of the Dedication Land Plan.

MS3.1 Land means the land identified as MS3.1 Land on Sheet 1 of the Dedication Land Plan.

MS3.1 Work means the bio-retention located in detention basin as described in the MS3.1 WIK Agreement.

MS3.1 WIK Agreement means the document titled 'Works-in-Kind Agreement' with reference number WIK-02-2020 entered into between the Council and the Developer on 25 May 2022.

Party means a party to this Deed.

Regulation means the *Environmental Planning and Assessment Regulation 2021*.

Reserve 994 Land means Lot 655 DP1245439 as shown on Sheet 1 of the Dedication Land Plan.

Reserve 1002 Land means Lot 5000 DP1236023 as shown on Sheet 1 of the Dedication Land Plan.

Reserve 1003 Land means the land described as such on Sheet 1 of the Dedication Land Plan.

Woorong Park ~~Basin 3 and Channel 1 Land~~ Planning Agreement
Blacktown City Council
Woorong Park Pty Limited

Reserve 1004 Land means the land described as such on Sheet 1 of the Dedication Land Plan.

Second Deed of Variation means the document titled '*Second Deed of Variation to Woorong Park Basin 3 and Channel 1 Land Planning Agreement*' entered into between the Council and the Developer.

Stage means a stage under the Major Development Consent, as shown on the Staging Plan.

Staging Plan means the plan at Schedule 4.

Third Deed of Variation means the document titled '*Third Deed of Variation to Woorong Park Planning Agreement*' entered into between the Council and the Developer.

- 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.

- 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 servants, 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 s7.4(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:
 - 4.1.1 the Dedication Land, and
 - 4.1.2 the Development.
- 4.2 Clauses 8 and 9 of this Deed apply to any development on any other land to which the Contributions Plan applies that is carried out by the Developer at any future time.

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

- 8.1 This Deed does not exclude the application of s7.12 or s7.24 of the Act to the Development.
- 8.2 The benefits to be provided by the Developer under this Deed are to be taken into consideration in determining the Development Contributions under s7.11 of the Act as provided for in clause 8.3.
- 8.3 This Deed excludes the application of s7.11 of the Act to:
- 8.3.1 the Development, and
 - 8.3.2 any development on any other land to which the Contributions Plan applies that is carried out by the Developer at any future time, to the extent that the Dedication Land Value is used.

9 Application of Dedication Land Value

- 9.1 The Developer may use the Dedication Land Value or any part of it for any development referred to in clause 8.3.
- 9.2 Each time the Developer uses the Dedication Land Value or a part of it under clause 9.1, the amount of the Dedication Land Value is to be reduced to the extent that it has been used.
- 9.3 The Developer may notify the Council in writing that it has completed all of its development on land to which the Contributions Plan applies and requires the Council to pay the Dedication Land Value (as reduced under clause 9.2) to it.
- 9.4 The Council is only required to pay the Dedication Land Value (as reduced under clause 9.2) to the Developer to the extent of:
- 9.4.1 any available monies held by it in respect of the Dedication Land at the time of receiving the notice referred to in clause 9.3 in an account under the Contributions Plan, and
 - 9.4.2 any monies subsequently paid to it under the Contributions Plan in respect of the Dedication Land.

10 Provision of Development Contributions

- 10.1 The Developer is to dedicate the Dedication Land to the Council in accordance with Schedule 1 and any other provisions of this Deed relating to the making of Development Contributions and otherwise to the satisfaction of the Council.
- 10.2 The Dedication Land Values specified in this Deed in relation to the Dedication Land does not serve to define the extent of the Developer's obligation to make the Development Contribution.
- 10.3 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.

11 Dedication of land

- 11.1 The Developer is to dedicate the Dedication Land to the Council free of cost to the Council for the purposes specified in Column 2, and by the time specified in Column 3, of the table in Schedule 1 corresponding to the Dedication Land.
- 11.2 Dedication Land is dedicated for the purposes of this Deed when:
- 11.2.1 the Council is given:
- (a) a Clearance Certificate that is valid at the time of dedication of the Dedication Land, or
 - (b) the Foreign Resident Capital Gains Withholding Amount in respect of the Dedication Land, and
- 11.2.2 one of the following has occurred:
- (a) a deposited plan is registered in the register of plans held with the Registrar-General that dedicates the land as a public road under the *Roads Act 1993* or creates that land as a public reserve or drainage reserve under the *Local Government Act 1993*, or
 - (b) the Council is given evidence that a transfer of the Dedication Land to the Council has been effected by means of electronic lodgement and registration through PEXA or another ELNO:
 - (c) an instrument in registrable form under the *Real Property Act 1900* duly executed by the Developer as transferor that is effective to transfer the title to the land to the Council when executed by the Council as transferee and registered,
 - (d) the written consent to the registration of the transfer of any person whose consent is required to that registration, and
 - (e) a written undertaking from any person holding the certificate of title to the production of the certificate of title for the purposes of registration of the transfer.
- 11.3 The Developer is to do all things reasonably necessary to enable registration of the instrument of transfer to occur.

- 11.4 The Developer is to ensure that land dedicated to the Council under this Deed is free of all encumbrances and affectations (whether registered or unregistered and including without limitation any charge or liability for rates, taxes and charges) except as otherwise agreed in writing by the Council.
- 11.5 If, having used all reasonable endeavours, the Developer cannot ensure that land to be dedicated to the Council under this Deed is free from all encumbrances and affectations, the Developer may request that Council agree to accept the land subject to those encumbrances and affectations, but the Council may withhold its agreement in its absolute discretion.

12 Access to Dedication Land

- 12.1 The Developer is to permit the Council to enter the Basin 3 and Channel 1 Land in order to enable the construction and completion of the Basin 3 and Channel 1 Work by the Council if required by the Council.
- 12.2 Without limiting clause 12.1, the Council may enter the Basin 3 and Channel 1 Land in order to inspect, examine or test the Basin 3 and Channel 1 Work, or to remedy any breach by the person who is carrying out the Basin 3 and Channel 1 Work of its obligations relating to the construction and completion of the Basin 3 and Channel 1 Work.
- 12.3 Without limiting clauses 12.1 or 12.2, the Council may enter any other Dedication Land in order to inspect, examine or test any work that is carried out on that land, or to remedy any breach by the person who is carrying out work on that land of their obligations relating to the construction and completion of that work.
- 12.4 The Council indemnifies the Developer from and against all Claims that may be sustained, suffered, recovered or made against the Developer arising in connection with the construction of any work on the Dedication Land by the Council except if, and to the extent that, the Claim arises:
 - 12.4.1 from the negligent act or omission of the Developer, its employees or agents,
 - 12.4.2 from the proper exercise by the Council of a function pursuant to any statutory power or any other law,
 - 12.4.3 pursuant to any agreement or other arrangement between Developer and Council for the construction of the work by the Council.

13 Dispute Resolution - Mediation

- 13.1 This clause applies to any Dispute arising in connection with this Deed [if clause 13A does not apply to the Dispute.](#)
- 13.2 Such a Dispute is taken to arise if one Party gives another Party a notice in writing specifying particulars of the Dispute.
- 13.3 If a notice is given under clause 13.2, the Parties are to meet within 14 days of the notice in an attempt to resolve the Dispute.
- 13.4 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.

- 13.5 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.
- 13.6 Each Party is to bear its own costs arising from or in connection with the appointment of a mediator and the mediation.
- 13.7 The Parties are to share equally the costs of the President, the mediator, and the mediation.

13A Dispute Resolution – Expert determination

- 13A.1 This clause 13A applies to a Dispute arising in connection with this Deed if:
 - 13A.1.1 the Parties agree that the Dispute can be appropriately determined by Expert Determination, or
 - 13A.1.2 the Chief Executive Officer (or equivalent) 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.
- 13A.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.
- 13A.3 If a notice is given under clause 13A.2, the Parties are to meet within 14 days of the notice in an attempt to resolve the Dispute.
- 13A.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.
- 13A.5 The expert determination is binding on the Parties except in the case of fraud or misfeasance by the expert.
- 13A.6 Each Party is to bear its own costs arising from or in connection with the appointment of the expert and the expert determination.
- 13A.7 The Parties are to share equally the costs of the President, the expert, and the expert determination.

14 Acquisition of land required to be dedicated

- 14.1 If the Developer does not dedicate land required to be dedicated under this Deed at the time at which it is required to be dedicated, the Developer consents to the Council compulsorily acquiring the land for compensation in the amount of \$1 without having to follow the pre-acquisition procedure under the Just Terms Act.
- 14.2 The Council is to only acquire land pursuant to clause 14.1 if it considers it is reasonable to do so having regard to the circumstances surrounding the failure by the Developer to dedicate the land required to be dedicated under this Deed.
- 14.3 Clause 14.1 constitutes an agreement for the purposes of s30 of the Just Terms Act.

- 14.4 If, as a result of the acquisition referred to in clause 14.1, the Council is required to pay compensation to any person other than the Developer, the Developer is to reimburse the Council that amount, upon a written request being made by the Council.
- 14.5 The Developer indemnifies and keeps indemnified the Council against all Claims made against the Council as a result of any acquisition by the Council of the whole or any part of the land concerned except if, and to the extent that, the Claim arises because of the Council's negligence or default.
- 14.6 The Developer is to promptly do all things necessary, and consents to the Council doing all things necessary, to give effect to this clause 14, including without limitation:
 - 14.6.1 signing any documents or forms,
 - 14.6.2 giving land owner's consent for lodgement of any Development Application,
 - 14.6.3 producing certificates of title to the Registrar-General under the *Real Property Act 1900*, and
 - 14.6.4 paying the Council's costs arising under this clause 14.

15 Enforcement in a court of competent jurisdiction

- 15.1 Without limiting any other provision of this Deed, the Parties may enforce this Deed in any court of competent jurisdiction.
- 15.2 For the avoidance of doubt, nothing in this Deed prevents:
 - 15.2.1 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
 - 15.2.2 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.

16 Registration of this Deed

- 16.1 The Parties agree to register this Deed on the title to the Dedication Land (other than the land identified as lot 4 in the proposed plan of subdivision DP1232886 contained in Schedule 2) for the purposes of s7.6(1) of the Act.
- 16.2 On commencement of this Deed, the Developer is to deliver to the Council in registrable form:
 - 16.2.1 an instrument requesting registration of this Deed on the title to the Basin 3 and Channel 1 Land (other than the land identified as lot 4 in the proposed plan of subdivision DP1232886 contained in Schedule 2) duly executed by the Developer, and
 - 16.2.2 the written irrevocable consent of each person referred to in s7.6(1) of the Act to that registration.
- 16.3 On commencement of the First Deed of Variation, clause 16.2 applies to the Reserve 994 Land, Reserve 1002 Land, ML5.0 Land and ML4.0 Land in the

same way as it applies to the Basin 3 and Channel 1 Land with any necessary modifications.

- 16.4 On commencement of the Second Deed of Variation, clause 16.2 applies to the ML5.0 Surplus Land and ML7.0 Land in the same way as it applies to the Basin 3 and Channel 1 Land with any necessary modifications.

16.5 On commencement of the Third Deed of Variation, clause 16.2 applies to the ML3.0 Land, ML6.0 Land, MS2.1 Land, MS3.1 Land, Reserve 1003 Land and Reserve 1004 Land in the same way as it applies to the Basin 3 and Channel 1 Land with any necessary modifications.

~~16.5~~16.6 The Developer is to do such other things as are reasonably necessary to enable registration of this Deed to occur.

~~16.6~~16.7 The Parties are to do such things as are reasonably necessary to remove any notation relating to this Deed from the title to the Dedication Land once the Developer has completed its obligations under this Deed to the reasonable satisfaction of the Council or this Deed is terminated or otherwise comes to an end for any other reason.

17 Restriction on dealings

- 17.1 The Developer is not to:
- 17.1.1 sell or transfer the Dedication Land or any part, or
 - 17.1.2 assign the Developer's rights or obligations under this Deed, or novate this Deed,
- to any person unless:
- 17.1.3 the Developer has, at no cost to the Council, first procured the execution by the person to whom the Dedication 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
 - 17.1.4 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
 - 17.1.5 the Developer is not in breach of this Deed, and
 - 17.1.6 the Council otherwise consents to the transfer, assignment or novation, such consent not to be unreasonably withheld.
- 17.2 Clause 17.1 does not apply in relation to any sale or transfer of any part of the Dedication Land if this Deed is registered on the title to that part at the time of the sale.

18 Review of Deed

- 18.1 The Parties agree to review this Deed every 12 months, 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.

- 18.2 For the purposes of clause 18.1, the relevant changes include (but are not limited to) any change to a law that restricts or prohibits or enables the Council or any other planning authority to restrict or prohibit any aspect of the Development.
- 18.3 For the purposes of addressing any matter arising from a review of this Deed referred to in clause 18.1, the Parties are to use all reasonable endeavours to agree on and implement appropriate amendments to this Deed.
- 18.4 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.
- 18.5 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 18.1 (but not 18.4) is not a Dispute for the purposes of this Deed and is not a breach of this Deed.

19 Notices

- 19.1 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:
 - 19.1.1 delivered or posted to that Party at its address set out in the Summary Sheet,
 - 19.1.2 faxed to that Party at its fax number set out in the Summary Sheet, or
 - 19.1.3 emailed to that Party at its email address set out in the Summary Sheet.
- 19.2 If a Party gives the other Party 3 business days notice of a change of its address, fax number or email, any notice, consent, information, application or request is only given or made by that other Party if it is delivered, posted, faxed or emailed to the latest address or fax number.
- 19.3 Any notice, consent, information, application or request is to be treated as given or made if it is:
 - 19.3.1 delivered, when it is left at the relevant address,
 - 19.3.2 sent by post, 2 business days after it is posted,
 - 19.3.3 sent by fax, as soon as the sender receives from the sender's fax machine a report of an error free transmission to the correct fax number, or
 - 19.3.4 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.
- 19.4 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.

20 Approvals and Consent

- 20.1 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.
- 20.2 A Party is not obliged to give its reasons for giving or withholding consent or for giving consent subject to conditions.

21 Costs

Costs of Deed

- 21.1 The Developer is to pay to the Council the Council's costs of preparing, negotiating, executing, stamping and registering this Deed, and any document related to this Deed within 30 days of a written demand by the Council for such payment.

Enforcement costs

- 21.2 The Council may serve a notice in writing on the Developer ('Enforcement Cost Notice') requiring the Developer to pay all or any reasonable costs and expenses incurred by the Council in connection with:
- 21.2.1 investigating a non-compliance by the Developer with this Deed, and
- 21.2.2 enforcing compliance by the Developer with this Deed.
- 21.3 For the avoidance of doubt, the costs and expenses referred to in clause 21.2 may include the costs or expenses incurred by the Council relating to the preparation or serving of the Enforcement Cost Notice.
- 21.4 An Enforcement Cost Notice is to specify the amount required to be paid to the Council by the Developer and the date by which the amount is to be paid.
- 21.5 The Council may recover any unpaid costs and expenses specified in an Enforcement Cost Notice as a debt in a court of competent jurisdiction.
- 21.2 ~~The Developer is also to pay to the Council the Council's reasonable costs of enforcing this Deed within 30 days of a written demand by the Council for such payment.~~

22 Entire Deed

- 22.1 This Deed contains everything to which the Parties have agreed in relation to the matters it deals with.
- 22.2 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.

23 Further Acts

- 23.1 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.

24 Governing Law and Jurisdiction

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

25 Joint and Individual Liability and Benefits

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

26 No Fetter

- 26.1 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.

27 Illegality

- 27.1 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.

28 Severability

- 28.1 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.
- 28.2 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.

29 Amendment

- 29.1 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 25D section 203\(5\)](#) of the Regulation.

30 Waiver

- 30.1 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.
- 30.2 A waiver by a Party is only effective if it is in writing.
- 30.3 A written waiver by a Party is only effective in relation to the particular obligation or breach in respect of which it is given. It is not to be taken as an implied waiver of any other obligation or breach or as an implied waiver of that obligation or breach in relation to any other occasion.

31 GST

- 31.1 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.
- 31.2 Subject to clause 31.4, 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.
- 31.3 Clause 31.2 does not apply to the extent that the Consideration for the Taxable Supply is expressly stated in this Deed to be GST inclusive.
- 31.4 No additional amount shall be payable by the Council under clause 31.2 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.
- 31.5 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:
- 31.5.1 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;

- 31.5.2 that any amounts payable by the Parties in accordance with clause 31.2 (as limited by clause 31.4) to each other in respect of those Supplies will be set off against each other to the extent that they are equivalent in amount.
- 31.6 No payment of any amount pursuant to this clause 31, 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.
- 31.7 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.
- 31.8 This clause continues to apply after expiration or termination of this Deed.

32 Explanatory Note

- 32.1 The Appendix contains the Explanatory Note relating to this Deed required by ~~clause 25E~~ [section 205](#) of the Regulation.
- 32.2 Pursuant to ~~clause 25E(7)~~ [section 205](#) 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 1.1)

Dedication Land

Woorong Park ~~Basin 3 and Channel 1 Land~~ Planning Agreement
Blacktown City Council
Woorong Park Pty Limited

Column 1	Column 2	Column 3	Column 4
Item/ Contribution	Public Purpose	Timing	Dedication Land Value
1. Basin 3 and Channel 1 Land	<p>The part comprising Lots 3 and 7 in the proposed plan of subdivision DP1232886 contained in Schedule 2 are to be dedicated for the purposes of water cycle management facilities.</p> <p>The part comprising Lot 4 in the proposed plan of subdivision DP1232886 contained in Schedule 2 is to be dedicated for the purposes of a public road and water cycle management facilities</p>	By no later than 7 days after the Council notifies the Developer in writing that the Basin 3 and Channel 1 Work is complete or at such earlier time as directed by the Council in writing	\$28,848,623.00
2. Reserve 994 Land	Local park	By no later than 31 December 2022 or as otherwise agreed in writing between the Parties.	\$3,405,000
3. Reserve 1002 Land	Active reserve	By no later than 31 December 2023 or as otherwise agreed in writing between the Parties.	\$15,800,000
4. ML5.0 Land	Water cycle management facilities	By no later than 7 days after the end of the 'Maintenance Period' as defined in the ML5.0 WIK Agreement for the ML5.0 Work.	\$2,490,000
5. ML4.0 Land	Road and traffic facilities	By no later than 30 June 2025 or as otherwise agreed in writing between the Parties.	\$320,000

Woorong Park ~~Basin 3 and Channel 1 Land~~ Planning Agreement
Blacktown City Council
Woorong Park Pty Limited

6. ML5.0 Surplus Land	Water cycle management facilities	By no later than 60 days after the commencement of the Second Deed of Variation.	\$5,240,000
7. ML7.0 Land	Water cycle management facilities	By no later than <u>7 days after the end of the 'Maintenance Period' as defined in the ML7.0 WIK Agreement for the ML7.0 Work.</u> 310 June 2022.	\$680,000
<u>8. ML3.0 Land</u>	<u>Water cycle management</u>	<u>By no later than 30 months after the issue of the first Subdivision Certificate for Stage 7K</u>	<u>\$690,000</u>
<u>9. ML6.0 Land</u>	<u>Water cycle management</u>	<u>By no later than 30 months after the issue of the first Subdivision Certificate for Stage 7G</u>	<u>\$590,000</u>
<u>10. MS3.1 Land</u>	<u>Water cycle management</u>	<u>By no later than 7 days after the end of the 'Maintenance Period' as defined in the MS3.1 WIK Agreement for the MS3.1 Work.</u>	<u>\$2,120,000</u>
<u>11. MS2.1 Land</u>	<u>Water cycle management</u>	<u>By no later than 30 months after the issue of the first Subdivision Certificate for Stage 7J</u>	<u>\$1,490,000</u>
<u>12. Reserve 1003 Land</u>	<u>Local park</u>	<u>By no later than 30 months after the issue of a Subdivision Certificate for Stage 7G, or as otherwise agreed between the parties</u>	<u>\$4,490,000</u>

Woorong Park ~~Basin 3 and Channel 1 Land~~ Planning Agreement
Blacktown City Council
Woorong Park Pty Limited

<u>13. Reserve 1004</u>	<u>Local park</u>	<u>By no later than 30</u>	<u>\$3,090,000</u>
<u>Land</u>		<u>months after the</u>	
		<u>issue of a</u>	
		<u>Subdivision</u>	
		<u>Certificate for</u>	
		<u>Stage 7A, or as</u>	
		<u>otherwise agreed</u>	
		<u>between the</u>	
		<u>parties</u>	

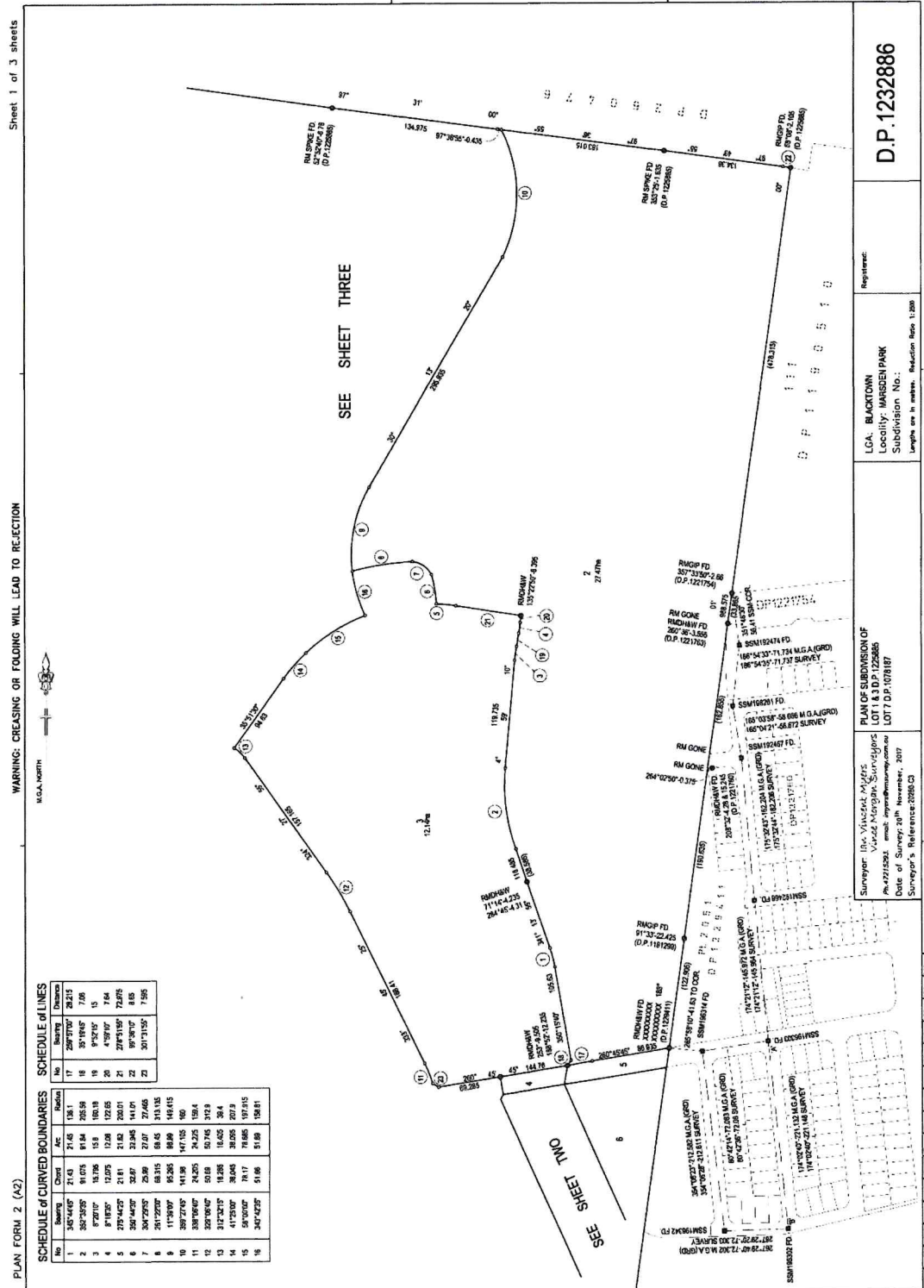
Schedule 2

(Clause 1.1)

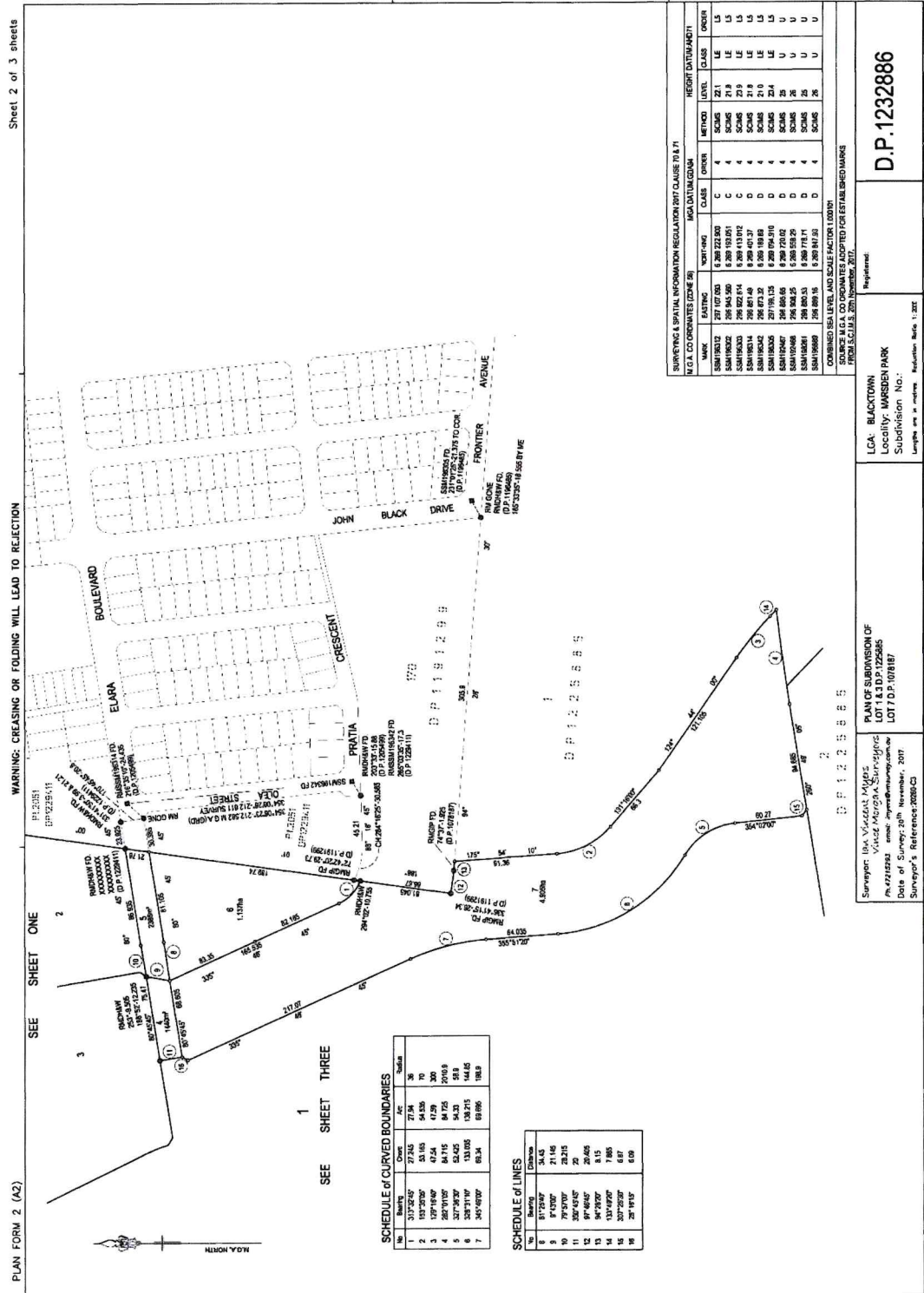
Basin 3 and Channel 1 Land

Plans showing the Basin 3 and Channel 1 Land are contained in the following pages.

Woorong Park ~~Basin 3 and Channel 1~~ Land Planning Agreement
Blacktown City Council
Woorong Park Pty Limited



Woorong Park ~~Basin 3 and Channel 1~~ Land Planning Agreement
Blacktown City Council
Woorong Park Pty Limited



Schedule 3

(Clause 1.1)

Dedication Land Plan

See the following page.

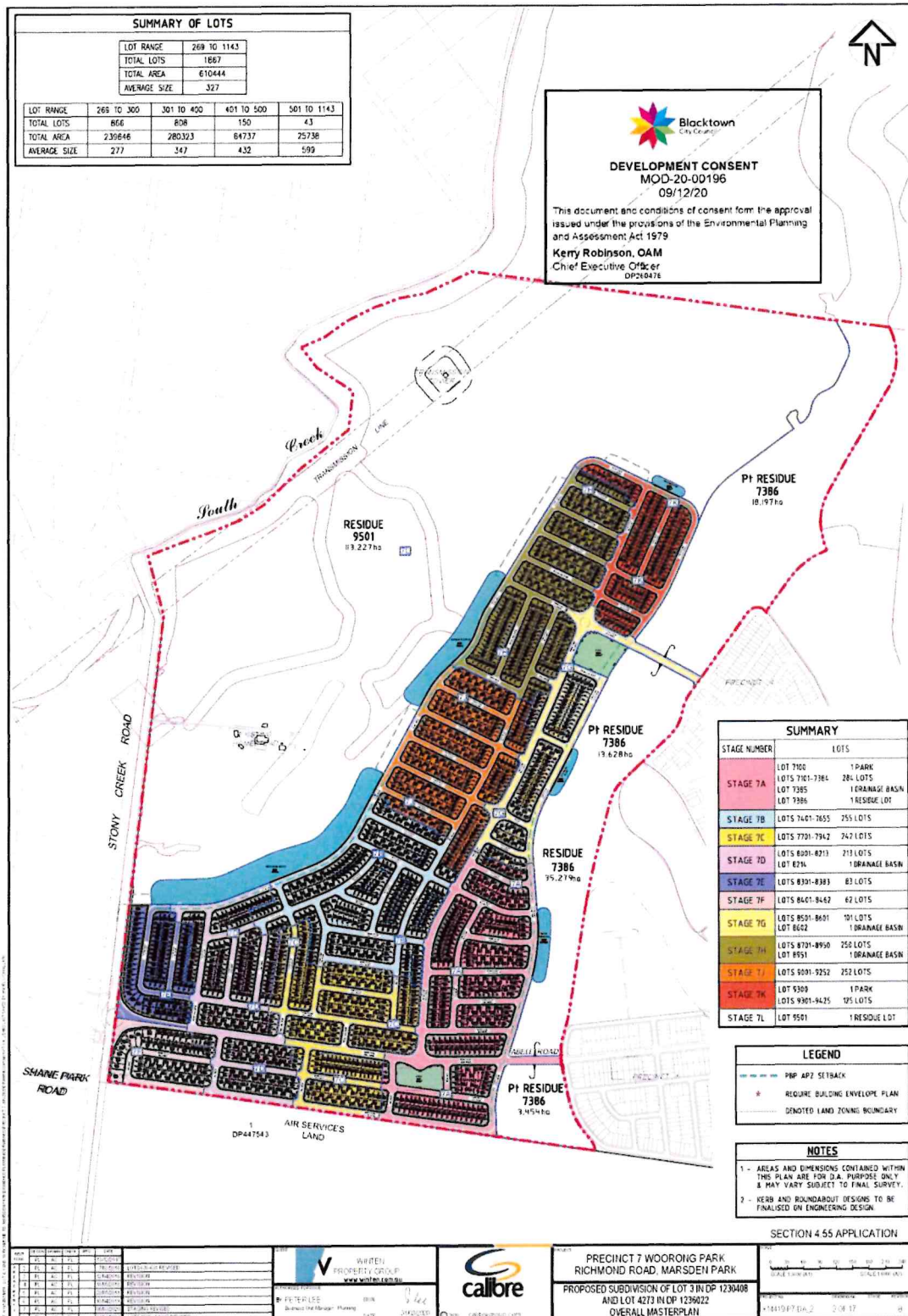
Schedule 4

(Clause 1.1)

Staging Plan

See the following page.

Woorong Park Basin 3 and Channel 1 Land Planning Agreement
Blacktown City Council
Woorong Park Pty Limited



Woorong Park ~~Basin 3 and Channel 1 Land~~ Planning Agreement
Blacktown City Council
Woorong Park Pty Limited

Execution

Executed as a Deed

Dated:

Executed on behalf of the Council

General Manager

Witness

Mayor

Witness

Executed on behalf of the Developer in accordance with s127(1) of the
Corporations Act (Cth) 2001

Name/Position

Name/Position

Appendix

(Clause 32)

Environmental Planning and Assessment Regulation ~~2000~~2021

(~~Clause 25E~~Section 205)

Explanatory Note

Draft Planning Agreement

Under s7.4 of the *Environmental Planning and Assessment Act 1979*

Parties

Blacktown City Council ABN 18 153 831 768 of 62 Flushcombe Rd, Blacktown NSW 2148 (**Council**)

Woorong Park Pty Ltd ABN 51 094 493 428 of Level 20, 100 Arthur Street North Sydney NSW 2060 (**Developer**)

Description of the Land and Development to which the Draft Planning Agreement Applies

The Draft Planning Agreement applies to the land identified as lots 3, 4 and 7 in the proposed plan of subdivision DP1232886 contained in the Schedule and the development the subject of Development Consent to Development Application DA-16-04553 as modified from time to time. Clauses 8 and 9 of the Draft Planning Agreement applies to any development on any other land to which the Contributions Plan applies that is carried out by the Developer at any future time.

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

Objectives of Draft Planning Agreement

The objectives of the Draft Planning Agreement is to require the Developer to dedicate the land on which drainage works are carried out.

Nature of Draft Planning Agreement

The Draft Planning Agreement is a planning agreement under s7.4 of the *Environmental Planning and Assessment Act 1979 (Act)*. The Draft Planning Agreement is a voluntary agreement under which Development Contributions (as defined in clause 1.1 of the Draft Planning Agreement) are made by the Developer for public purposes (as defined in s7.4(3) of the Act).

Effect of the Draft Planning Agreement

The Draft Planning Agreement:

- relates to the carrying out by the Developer of development on the Land,
- does not exclude the application of s7.12 or s7.24 of the Act to the Development,
- excludes the application of s7.11 of the Act to the Development and any development on any other land to which the Contributions Plan applies that is carried out by the Developer at a future time to the extent of the agreed value of the land to be dedicated by the Developer,
- requires the dedication of land by the Developer for the purpose of water cycle management facilities,
- is to be registered on the title to the land to be dedicated,
- imposes restrictions on the Developer transferring the land to be dedicated or any part of that land or assigning an interest under the agreement,
- provides one dispute resolution methods for a dispute under the agreement, being mediation,
- provides that the agreement is governed by 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 and co-ordinates the orderly and economic use and development of the Land to which the agreement applies,
- provides and co-ordinates the provision of public infrastructure and facilities in connection with the Development, and
- provides increased opportunity for public involvement and participation in environmental planning and assessment of the Development.

How the Draft Planning Agreement Promotes the Public Interest

The Draft Planning Agreement promotes the public interest by promoting the objects of the Act as set out in s.1.3(c), (g), (h) and (j).

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 Elements of the Council's Charter (now the Principles for Local Government Contained in Chapter 3 of the Local Government Act 1993)

The Draft Planning Agreement promotes the principles for local government by:

- ensuring that effective and efficient services are provided to meet the needs of the local community
- ensuring that land and assets are properly manage lands so that current and future local community needs can be met in an affordable way,
- setting out how the Council works with others to secure appropriate services for local community need,
- actively engaging the local and wider community by informing them about its activities through public notification.

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

All land dedications are for the purpose of providing public works. As such the planning agreement conforms with the Council's Capital Works Program.

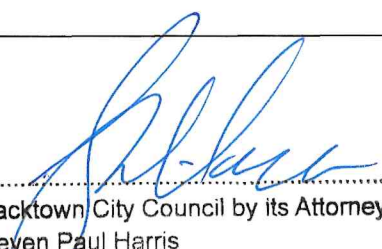
All Planning Authorities – Whether the Draft Planning Agreement specifies that certain requirements must be complied with before a construction certificate, occupation certificate or subdivision certificate is issued

The Draft Planning Agreement does not contain requirements that must be complied with before any certificates under Part 6 of the Act are issued.

Third Deed of Variation to Woorong Park Planning Agreement
Blacktown City Council
Woorong Park Pty Limited

Execution

Executed as a Deed


Blacktown City Council by its Attorney
Steven Paul Harris
pursuant to power of attorney
Registered Book 4758 No 886

03/05/2023

Dated:

Executed on behalf of the Council



General Manager

Mayor



Witness



Witness

Executed by the Developer in accordance with s127(1) of the Corporations Act (Cth)
2001

GARRY ROTHWELL

Director



Director/Secretary

Appendix

(Clause 7)

Environmental Planning and Assessment Regulation 2021

(Section 205)

Explanatory Note

Draft Third Deed of Variation to Woorong Park Planning Agreement

Under s203(5) of the *Environmental Planning and Assessment Regulation 2021*

Parties

Blacktown City Council ABN 18 153 831 768 of 62 Flushcombe Rd, Blacktown NSW 2148
(Council)

Woorong Park Pty Ltd ABN 51 094 493 428 of Level 20, 100 Arthur Street North Sydney
NSW 2060 (Developer)

Description of the Land to which the Draft Third Deed of Variation Applies

The Draft Third Deed of Variation applies to the same land that the Planning Agreement applies, being the land identified as Lots 3, 4 and 7 in the proposed plan of subdivision DP1232886.

Description of Proposed Development

The Draft Third Deed of Variation relates to the same Development the subject of the Planning Agreement, being any development on the land that was made permissible under the *Environmental Planning and Assessment Act 1979*.

Summary of Objectives, Nature and Effect of the Draft Third Deed of Variation

Objectives, Nature and Effect of Draft Third Deed of Variation

The Draft Third Deed of Variation is a deed of variation to the Planning Agreement under s203(5) of the *Environmental Planning and Assessment Regulation 2021*.

The objective and effect of the Draft Third Deed is to further amend the Planning Agreement with respect to the inclusion of six additional land parcels to the Planning Agreement to be dedicated by the Developer for the purposes of detention basins, bio-retention basins, active public reserve, local parks, pathway and bridge crossing being:

- the land identified as ML3.0 Land on the Dedication Land Plan and in Council's Contributions Plan for stand alone bio-retention with an area of 0.2002 hectares,
- the land identified as ML6.0 Land on the Dedication Land Plan and in Council's Contributions Plan for stand alone bio-retention with an area of 0.2711 hectares,
- the land identified as MS2.1 Land on the Dedication Land Plan and in Council's Contributions Plan for bio-retention located in detention basin,
- the land identified as MS3.1 Land on the Dedication Land Plan and in Council's Contributions Plan for bio-retention located in detention basin,
- the land identified as Reserve 1003 Land on the Dedication Land Plan and in Council's Contributions Plan for local park including playground and landscaping adjoining a riparian zone with an area of 0.8972 hectares, and
- the land identified as Reserve 1004 Land on the Dedication Land Plan and in Council's Contributions Plan for local park including playground and landscaping with an area of 0.6172 hectares.

Assessment of the Merits of the Draft Third Deed of Variation

How the Draft Third Deed of Variation Promotes the Public Interest

The Draft Third Deed of Variation requires the Developer to provide the additional six parcels of dedicated land in connection with the Developer's development, which may be used for the public benefit under the Planning Agreement. These development contributions are land on which public infrastructure will be located that will serve the Developer's development and the wider community.

The Draft Third Deed of Variation promotes the objects of the Act as set out in s1.3(c) and (j) of the Act being:

- promoting and co-ordinating the orderly and economic use and development of the Land to which the Planning Agreement applies;
- providing and co-ordinating community services and facilities in connection with the Development; and

Third Deed of Variation to Woorong Park Planning Agreement
Blacktown City Council
Woorong Park Pty Limited

- provides increased opportunity for public involvement and participation in the form of public notification of the draft Third Deed of Variation.

The Draft Third Deed of Variation also promotes the following guiding principles for local councils as set out in s8A of the *Local Government Act 1993* by amending the Planning Agreement:

- the Draft Third Deed of Variation facilitates the Council's management of assets so that current and future local community needs can be met in an affordable way by requiring the Developer to dedicate the six additionally dedicated parcels of land for water-cycle-management facilities, active public reserve, local parks, pathway and bridge crossing to meet current and future local community needs, and will benefit the wider community,
- the Draft Third Deed of Variation is an example of Council working with others, being the Developer, to secure appropriate services for local community needs,
- the Draft Third Deed of Variation promotes active engagement with local communities by being required to be publicly notified in accordance with the *Environmental Planning and Assessment Regulation 2021*.

All Planning Authorities – Whether the Draft Third Deed of Variation Conforms with the Authority's Capital Works Program

The Planning Agreement as amended by this Draft Third Deed conforms with the Council's capital works program.

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

The Draft Third Deed of Variation contains requirements that must be complied with before any certificates under Part 6 of the Act are issued.