

**MINISTER FOR PLANNING AND INFRASTRUCTURE  
(Minister)**

**MARLOELLE PTY LIMITED (ABN 86 433 689 342)  
(Developer)**

## **DEED OF VARIATION TO PLANNING AGREEMENT**

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**Contact**  
Sydney  
Level 65, MLC Centre  
19 Martin Place  
SYDNEY NSW 2000  
Ref: RCM:DSH:11640030

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**THIS DEED** is dated

2011

**PARTIES:**

**MINISTER FOR PLANNING AND INFRASTRUCTURE** (ABN 38 755 709 681) of Level 34 Governor Macquarie Tower, 1 Farrer Place, Sydney NSW 2000 (**Minister**)

**MARLOELLE PTY LIMITED** (ABN 86 433 689 342) c/- Everingham Solomons Solicitors, Level 3, Ray Walsh House, 437 Peel Street, Tamworth NSW 2340 (**Developer**)

**INTRODUCTION:**

- A** The Minister and the Developer entered into the Planning Agreement.
- B** Pursuant to the Planning Agreement, the Developer paid the Contribution.
- C** Following the execution of the Planning Agreement, a revised policy position was adopted permitting the discount of contributions payable under planning agreements by one third provided such contributions were paid on or before 30 June 2011.
- D** The Developer is entitled to a one-third credit on account of the payment of the Contribution.
- E** The parties agree to enter into this deed to document the credit that the Developer is entitled to receive on account of the payment of the Contribution.

**IT IS AGREED:**

**1 DEFINITION AND INTERPRETATION**

**1.1 Definitions**

In this deed, unless the contrary intention appears:

**Contribution** means the amount of \$55,000;

**Credit** means the amount of \$18,315.00;

**Planning Agreement** means the planning agreement entered into between the Minister and the Developer dated 7 December 2010;

**Tamworth Urban Release Area** means the land shown as Urban Release Area on sheet CL2\_004B of the Urban Release Area Map within the meaning of the Tamworth Regional Local Environmental Plan 2010.

## 1.2 Interpretation

In this deed, unless the contrary intention appears:

- (a) expressions and phrases used but not defined in this deed will have the same meanings as they have in the Planning Agreement;
- (b) clause 4.2 of the Planning Agreement will apply to the interpretation and construction of this deed.

## 2 VARIATION OF PLANNING AGREEMENT

### 2.1 Variation

The Planning Agreement is varied as set out in this clause 2.

### 2.2 Schedule 3

The definition of Contribution Sum in schedule 3 is deleted and replaced as follows:

**“Contribution Sum** means:

- (a) \$1,000 per Residential Lot, where payment is made on or after 1 July 2011; or
- (b) \$667 per Residential Lot, where payment is made prior to 30 June 2011.”

### 2.3 Schedule 4 - Interpretation

Schedule 4 is deleted and replaced as follows:

#### **Clause 1.1 Contribution**

The Developer must pay to the Minister, or the Minister’s nominee, the Contribution Sum in full within ten (10) Business Days of the date of this Planning Agreement.

#### **Clause 1.2 – Credit for payment of Contribution paid prior to 30 June 2011**

- (a) The Minister acknowledges and agrees that:
  - (i) prior to 30 June 2011, the Developer paid the Contribution, being an amount equal to \$1,000 per Residential Lot in the Development;

- (ii) as payment was made prior to 30 June 2011, the Developer was only required to pay a contribution of \$36,685, being an amount equal to \$667 per Residential Lot in the Development;
  - (iii) the Developer is entitled to the Credit.
- (b) The Minister and the Developer agree that the Credit will be applied as an offset against future contributions towards State infrastructure which the Developer may be required to pay in connection with other developments within the Tamworth Urban Release Area.

## **GENERAL**

### **2.4 Entire agreement**

This deed and the Planning Agreement constitute the entire agreement between the parties regarding the matters set out in it and supersedes any prior representations, understandings or arrangements between the parties, whether orally or in writing.

### **2.5 Legal expenses**

Each party must pay its own legal costs and disbursements in connection with the negotiation, preparation, execution and carrying into effect of this deed.

### **2.6 Incorporation of clauses**

Clauses 16 to 26 of the Planning Agreement are incorporated as though they were fully set out in this deed.

**EXECUTED** as a deed.

**EXECUTED** as a deed.

**SIGNED SEALED AND DELIVERED** )  
 for and on behalf of **MINISTER FOR** )  
**PLANNING AND INFRASTRUCTURE** in )  
 the presence of:

.....  
 Signature of Witness

.....  
 Signature of Delegate

.....  
 Name of Witness

.....  
 Minister for Planning and Infrastructure by his  
 delegate, Andrew Jackson, Executive Director,  
 Strategy and Infrastructure Planning, under  
 instrument of delegation dated 9 Feb 2011

**EXECUTED** by **MARLOELLE PTY** )  
**LIMITED** (ABN 86 433 689 342) in )  
 accordance with section 127 of the )  
 Corporations Act:

.....  
 Signature of Director

.....  
 Signature of Director/Secretary

.....  
 Name of Director

.....  
 Name of Director/Secretary