

WARNING TO PURCHASERS:

Before completing the purchase of any land to which this planning agreement relates, be sure that you understand the rights and obligations of the Developer under the *Environmental Planning & Assessment Act 1979*, including section 93H(3).

Section 93H(3) provides that: "A planning agreement that has been registered by the Registrar-General under [section 93H] is binding on, and is enforceable against, the owner of the land from time to time as if each owner for the time being had entered into the agreement."

Planning Agreement

Dated *16/2/2011*

The Minister for Planning ("Minister")

AND

The Meadows Tamworth Pty. Limited ("Developer")

Susan Budd, Deputy Director, Legal Services
Department of Planning
23-33 Bridge Street
SYDNEY NSW 2000
T: 02 9228 6518

The block contains two handwritten signatures. On the left is a signature that appears to be 'S. P. Budd'. On the right is a signature that appears to be 'Stephen Hume'.

1	Planning Agreement under the Act	6
2	Application of this planning agreement	6
3	Operation of this planning agreement	6
4	Definitions and Interpretation	6
4.1	Definitions	6
4.2	General	6
5	Contributions	7
5.1	Development Contributions to be made under this planning agreement	7
5.2	Application of the Development Contributions	7
5.3	Security	7
6	Application of s94, s94A and s94EF of the Act to the Development	7
6.1	Application of sections 94 and 94A of the Act	7
6.2	Benefits under this planning agreement	8
7	Registration of this planning agreement	8
7.1	Developer	8
7.2	Release and discharge of this planning agreement	8
8	Review of this planning agreement	8
9	Dispute Resolution	8
10	Notices	8
10.1	Form	8
10.2	Delivery	9
10.3	When effective	9
10.4	Receipt - post	9
10.5	Receipt - fax	9
11	Approvals and Consent	9
12	Assignment and dealings	10
12.1	Developer dealing with interests	10
12.2	Dealings by the Minister	10
13	Costs	10
14	Entire agreement	11
15	Further Acts	11
16	Governing Law and Jurisdiction	11
16.1	Governing law	11
16.2	Serving documents	11

17	Joint and individual liability and benefits	11
18	No fetter	11
18.1	Discretion	11
18.2	No fetter	12
19	Representations and warranties	12
20	Severability	12
21	Modification	13
22	Waiver	13
23	GST	13
23.1	Construction	13
23.2	Consideration GST exclusive	13
23.3	Payment of GST	13
23.4	Timing of GST payment	13
23.5	Tax Invoice	13
23.6	Adjustment event	14
23.7	Reimbursements	14
24	Effect of Schedulised terms and conditions	14
25	New Laws	14
26	Confidentiality	14
26.1	This deed not confidential	14
26.2	Other confidential information	14
26.3	Proceedings	15
	Schedule 1 - s93F Requirements	16
	Schedule 2 - Land (clause 2)	18
	Schedule 3 - Interpretation (clause 4)	19
	Schedule 4 - Contributions and requirements (clauses 5.2 and 5.3)	22
	Schedule 5 - Dispute Resolution (clause 9)	24
1.1	Notice of Dispute	24
1.2	Response to Notice	24
1.3	Negotiation	24
1.4	Further Notice if not Settled	24
1.5	Mediation	24
1.6	Litigation	25
1.7	Continue to perform obligations	25

Planning Agreement

Details

Interpretation – definitions are at the end of the General terms

Parties	Minister and Developer	
Minister	Name	The Minister for Planning
	ABN	38 755 709 681
	Address	Level 34, Governor Macquarie Tower, 1 Farrer Place Sydney NSW 2000
	Fax	9228 4711
Developer	Name	The Meadows Tamworth Pty. Limited
	ACN	106 476 466
	ABN	32 106 476 466
	Address	c/o Forsyths 127 Marius Street TAMWORTH NSW 2340
	Fax	02 6766 8538
	Attention	David Hall
Recitals	A	The Developer owns the Land.
	B	The Developer proposes to carry out the Development on the Land.
	C	Clause 55 of the Tamworth Local Environmental Plan 1996 (“ LEP ”) provides that the Consent Authority must not consent to any subdivision of the Land that will create a lot smaller than the minimum lot size permitted by the LEP before the coming into force of the Tamworth Local Environmental Plan 1996 (Amendment No 21) unless the Director-General has certified in writing to the Consent Authority that satisfactory arrangements have been made to contribute to the provision of infrastructure, facilities and services referred to in clause 55 of the LEP.
	D	The Developer offers to enter into this planning agreement with the Minister to make the Contributions.

Governing law	New South Wales
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Date of planning agreement	See Signing page
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Planning Agreement

Operative Provisions

1 Planning Agreement under the Act

The parties agree that this deed is a planning agreement within the meaning of section 93F of the Act.

2 Application of this planning agreement

This planning agreement applies to:

- (a) the Land; and
- (b) the Development.

3 Operation of this planning agreement

The parties each agree that this planning agreement operates on and from the date of this planning agreement.

4 Definitions and Interpretation

4.1 Definitions

Terms used in this planning agreement which are defined in Schedule 3 ("**Interpretation**") shall have the same meaning as ascribed to them by that Schedule and such meanings apply unless the contrary intention appears.

4.2 General

In this planning agreement unless the contrary intention appears:

- (a) a reference to this planning agreement or another instrument includes any variation or replacement of any of them;
- (b) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (c) the singular includes the plural and vice versa;
- (d) the word "person" includes a firm, a body corporate, an unincorporated association or an authority;
- (e) a reference to a person includes a reference to the person's executors, administrators, successors, substitutes (including, without limitation, persons taking by novation) and assigns;
- (f) a reference to any thing (including, without limitation, any amount) is a reference to the whole and each part of it and a reference to a group of persons is a reference to all of them collectively, to any two or more of them collectively and to each of them individually;

- (g) "include" or "including" when introducing a list of items does not limit the meaning of the words to which the list relates to those items or to items of a similar kind;
- (h) if a party is prohibited from doing anything, it is also prohibited from:
 - (i) allowing or causing it to be done; and
 - (ii) doing or omitting to do anything which results in it happening;
- (i) a reference to a statute, ordinance, code or law includes a statute, ordinance code or law of the Commonwealth of Australia;
- (j) a reference to a body, whether statutory or not which ceases to exist or whose powers or functions are transferred to another body is a reference to the body which replaces it or which substantially succeeds to its powers or functions;
- (k) no rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of this planning agreement;
- (l) any capitalised term used, but not defined in this planning agreement, will have the meaning ascribed to it under, and by virtue of, the Act; and
- (m) the Schedules form part of this planning agreement.

5 Contributions

5.1 Development Contributions to be made under this planning agreement

The Developer will for the purpose of providing amenities or services to the public at its risk and expense provide the Contributions in accordance with this planning agreement.

5.2 Application of the Development Contributions

The Developer will provide the Contributions at the time or times and in the manner set out in the Schedule 4.

5.3 Security

The Developer will provide security for payment of the Contributions in the form of a Bank Guarantee as provided in Schedule 4.

6 Application of s94, s94A and s94EF of the Act to the Development

6.1 Application of sections 94 and 94A of the Act

Sections 94, 94A and 94EF of the Act apply to the Development.

6.2 Benefits under this planning agreement

Benefits under this planning agreement are excluded from being taken into consideration under section 94 of the Act in its application to development of the Land.

7 Registration of this planning agreement

7.1 Developer

- (a) The Developer agrees to procure the registration of this planning agreement on the relevant folios of the Register pertaining to the Land as soon as practicable (and within 10 Business Days after execution of this planning agreement) in accordance with this **clause 7** including obtaining the consent of any mortgagee or other person with an interest in those lots to such registration.
- (b) The Developer will provide the Minister or the Minister's nominee a copy of the relevant folios of the Register pertaining to the Land within 10 Business Days following registration of this planning agreement.

7.2 Release and discharge of this planning agreement

The Minister agrees to provide a release and discharge of this planning agreement with respect to any part of the Land if the Developer requests a release (or partial release) and discharge of this planning agreement:

- (a) upon full satisfaction of the Developer's obligations under this planning agreement; or
- (b) to effect a transfer of subdivided Residential Lots created from the Land where the Developer has, at the time of the request complied with the relevant terms of this planning agreement.

8 Review of this planning agreement

This planning agreement may be reviewed or modified by the agreement of the parties using their best endeavours and acting in good faith.

9 Dispute Resolution

If a dispute between any of the parties arises in connection with this planning agreement or its subject matter, then the process and procedures set out in Schedule 5 ("**Dispute Resolution**") will apply.

10 Notices

10.1 Form

Unless expressly stated otherwise in this agreement, all notices, certificates, consents, approvals, waivers and other communications in connection with this agreement must be in writing, signed by the sender (if an individual) or an Authorised Officer of the sender and marked for the attention of the person identified in the Details or, if the recipient has notified otherwise, then marked for attention in the way last notified.

10.2 Delivery

They must be:

- (a) left at the address set out or referred to in the Details;
- (b) sent by prepaid ordinary post (airmail if appropriate) to the address set out or referred to in the Details;
- (c) sent by fax to the fax number set out or referred to in the Details; or
- (d) given in any other way permitted by law.

However, if the intended recipient has notified a changed postal address or changed fax number, then the communication must be to that address or number.

10.3 When effective

They take effect from the time they are received unless a later time is specified.

10.4 Receipt - post

If sent by post, they are taken to be received three days after posting (or seven days after posting if sent to or from a place outside Australia).

10.5 Receipt - fax

If sent by fax, they are taken to be received at the time shown in the transmission report as the time that the whole fax was sent.

11 Approvals and Consent

The parties acknowledge that:

- (a) except as otherwise set out in this planning agreement, and subject to any statutory obligations, a party may give or withhold an approval or consent to be given under this planning agreement in that party's absolute discretion and subject to any conditions determined by the party;
- (b) a party is not obliged to give its reasons for giving or withholding consent or for giving consent subject to conditions; and
- (c) this planning agreement does not impose any obligation on a Consent Authority to:
 - (i) grant development consent; or
 - (ii) exercise any function under the Act in relation to a change in an environmental planning instrument.

12 Assignment and dealings

12.1 Developer dealing with interests

The Developer may not sell, transfer, assign or novate or similarly deal with ("**Dealing**") its right, title or interest in the Land (if any) or its rights or obligations under this planning agreement, or allow any interest in them to arise or be varied, in each case, without the Minister's consent and unless, prior to any such sale, transfer, assignment, charge, encumbrance or novation, the Developer:

- (a) gives the Minister no less than 10 Business Days notice in writing of the proposed Dealing; and
- (b) procures that the transferee, assignee or novatee executes and delivers to the Minister prior to any such Dealing taking effect, a deed in favour of the Minister in form and substance acceptable to the Minister (acting reasonably) whereby:
 - (i) the transferee, assignee or novatee becomes contractually bound with the Minister to perform all of the Developer's obligations (including obligations which may have arisen before the transfer, assignment or novation takes effect) and have the benefit of all the Developer's rights under this deed; and
 - (ii) the Developer is released from its Future Obligations under this deed.

12.2 Dealings by the Minister

- (a) If another Authority takes over the functions of the Minister under this planning agreement, or if the Minister determines that it is desirable for this to happen, then the Minister may assign or novate or otherwise deal with its rights and obligations under this planning agreement to give effect to this change, and the Developer agrees to enter into such documentation, at the cost of the Minister, as may be necessary to confer on the new Authority the rights and obligations of the Minister under this planning agreement.
- (b) Normally any such action would take place by a statutory novation or delegation. However, this clause applies to the extent that it is necessary.
- (c) Without restricting **clause 18 ("No fetter")**, the Minister must not otherwise deal with its rights and obligations under this planning agreement.

13 Costs

The Developer agrees to pay or reimburse the Costs of the Minister in connection with:

- (a) the negotiation, preparation and execution of this planning agreement; and
- (b) advertising and exhibiting this planning agreement in accordance with the Act,

within 3 Business Days after receipt of a tax invoice from the Minister.

14 Entire agreement

This agreement constitutes the entire agreement of the parties about its subject matter and supersedes all previous agreements, understandings and negotiations on that subject matter.

15 Further Acts

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 planning agreement and all transactions incidental to it.

16 Governing Law and Jurisdiction

16.1 Governing law

This planning agreement is governed by the law in force in the place specified in the Details. Each party submits to the non-exclusive jurisdiction of the courts of that place.

16.2 Serving documents

Without preventing any other method of service, any document in an action may be served on a party by being delivered or left at that party's address in the Details.

17 Joint and individual liability and benefits

Except as otherwise set out in this planning agreement, any agreement, covenant, representation or warranty under this planning agreement by two or more persons binds them jointly and each of them individually, and any benefit in favour of two or more persons is for the benefit of them jointly and each of them individually.

18 No fetter

18.1 Discretion

This planning agreement is not intended to operate to fetter, in any unlawful manner:

- (a) the sovereignty of the Parliament of the State to make any Law;
- (b) the power of the Executive Government of the State to make any statutory rule; or
- (c) the exercise of any statutory power or discretion of any minister of the State or any Authority.

(all referred to in this planning agreement as a “**Discretion**”).

18.2 No fetter

No provision of this planning agreement is intended to, or does, constitute any unlawful fetter on any Discretion. If, contrary to the operation of this clause, any provision of this planning agreement is held by a court of competent jurisdiction to constitute an unlawful fetter on any Discretion, the parties agree:

- (a) they will take all practical steps, including the execution of any further documents to ensure the objective of this clause is substantially satisfied;
- (b) in the event that **clause 18.1** cannot be achieved without giving rise to an unlawful fetter on a Discretion, the relevant provision is to be severed and the remainder of this planning agreement has full force and effect; and
- (c) to endeavour to satisfy the common objectives of the parties in relation to the provision of this planning agreement which is held to be an unlawful fetter to the extent that is possible having regard to the relevant court judgment.

19 Representations and warranties

The parties represent and warrant that they have power to enter into this planning agreement and comply with their obligations under the planning agreement and that entry into this planning agreement will not result in the breach of any law.

20 Severability

- (a) The parties acknowledge that under and by virtue of Section 93F(4) of the Act, any provision of this planning agreement is not invalid by reason only that there is no connection between the Development and the object of the expenditure of any money required to be paid by that provision.
- (b) The parties acknowledge that under and by virtue of Section 93F(10) of the Act, any provision of this planning agreement is void to the extent to which it requires or allows anything to be done that, when done, would breach:
 - (i) any provision of the Act; or
 - (ii) the provisions of an environmental planning instrument; or
 - (iii) a development consent applying to the relevant land.
- (c) The parties agree that to the extent permitted by Law, this planning agreement prevails to the extent it is inconsistent with any Law.
- (d) If a clause or part of a clause of this planning agreement 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.

- (e) If any clause or part of a clause is illegal, enforceable or invalid, that clause or part is to be treated as removed from this planning agreement, but the rest of this planning agreement is not affected.

21 Modification

No modification of this planning agreement will be of any force or effect unless it is in writing and signed by the parties.

22 Waiver

- (a) The fact that a party fails to do, or delays in doing, something the party is entitled to do under this planning agreement, does not amount to a waiver of any obligation of, or a breach of obligation by, another party.
- (b) A waiver by a party is only effective if it is in writing.
- (c) 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.

23 GST

23.1 Construction

In this clause 23:

- (a) words and expressions which are not defined in this document but which have a defined meaning in GST Law have the same meaning as in the GST Law; and
- (b) GST Law has the same meaning given to that expression in the *A New Tax System (Goods and Services Tax) Act 1999*.

23.2 Consideration GST exclusive

Unless expressly stated, all prices or other sums payable or consideration to be provided under this document are exclusive of GST.

23.3 Payment of GST

If GST is payable on any supply made under this document, the recipient will pay to the supplier an amount equal to the GST payable on the supply.

23.4 Timing of GST payment

The recipient will pay the amount referred to in **clause 23.3** in addition to and at the same time that the consideration for the supply is to be provided under this document.

23.5 Tax Invoice

The supplier must deliver a tax invoice or an adjustment note to the recipient before the supplier is entitled to payment of an amount under **clause 23.3**.

The recipient can withhold payment of the amount until the supplier provides a tax invoice or adjustment note as appropriate.

23.6 Adjustment event

If an adjustment event arises in respect of a taxable supply made by a supplier under this document, the amount payable by the recipient under **clause 23.3** will be recalculated to reflect the adjustment event and a payment will be made by the recipient to the supplier or by the supplier to the recipient as the case requires.

23.7 Reimbursements

Where a party is required under this document to pay or reimburse an expense or outgoing of another party, the amount to be paid or reimbursed by the first party will be the sum of:

- (a) the amount of the expense or outgoing less any input tax credits in respect of the expense or outgoing to which the other party, or to which the representative member for a GST group of which the other party is a member, is entitled; and
- (b) if the payment or reimbursement is subject to GST, an amount equal to that GST.

24 Effect of Scheduled terms and conditions

The parties agree to comply with the terms and conditions contained in the Schedules as if those rights and obligations were expressly set out in full in the operative parts of this planning agreement.

25 New Laws

If the Developer is obliged by a New Law to do something or pay an amount which it is already contractually obliged to do or pay under this planning agreement then, to the extent only that the relevant obligation is required under both the New Law and this planning agreement, compliance with the New Law will constitute compliance with the relevant obligation under this planning agreement.

26 Confidentiality

26.1 This deed not confidential

The parties agree that the terms of this planning agreement are not confidential and this planning agreement may be treated as a public document and exhibited or reported without restriction by any party.

26.2 Other confidential information

The parties agree, and must procure that any mediator or expert appointed under Schedule 5 ("**Dispute Resolution**") agrees as a condition of their appointment:

- (a) Confidential Information has been supplied to some or all of the parties in the negotiations leading up to the making of this planning agreement; and

- (b) the parties may disclose to each other further Confidential Information in connection with the subject matter of this planning agreement; and
- (c) subject to paragraphs (d) and (e) below, to keep confidential all Confidential Information, disclosed to them during or in relation to the expert determination or mediation; and
- (d) a party may disclose Confidential Information in the following circumstance:
 - (i) to a party or adviser who has signed a confidentiality undertaking to the same effect as this clause 26 (“**Confidentiality**”); or
 - (ii) in order to comply with a Law, State Government policy, local government policy or the ASX Listing Rules; or
- (e) for a purpose necessary in connection with an expert determination or mediation.

26.3 Proceedings

The parties must keep confidential and must not disclose or rely upon or make the subject of a subpoena to give evidence or produce documents in any arbitral, judicial or other proceedings:

- (a) views expressed or proposals or suggestions made by a party or the expert during the expert determination or mediation relating to a possible settlement of the dispute; and
- (b) admissions or concessions made by a party during the expert determination or mediation in relation to the dispute; and
- (c) information, documents or other material, including Confidential Information concerning the dispute which are disclosed by a party during the expert determination or mediation unless such information, documents or facts will have been otherwise discoverable in judicial or arbitral proceedings.

EXECUTED as a deed

Planning Agreement

Schedule 1 - s93F Requirements

SCHEDULE 1 - s93F REQUIREMENTS	
SUBJECT and SUB-SECTION OF THE ACT	THIS PLANNING AGREEMENT
Planning instrument and/or Development Application - (Section 93F(1)) The Developer has <ul style="list-style-type: none"> (a) sought a change to an environmental planning instrument; (b) made, or proposes to make, a Development Application; (c) entered into an agreement with, or is otherwise associated with, a person to whom paragraph (a) or (b) applies. 	<ul style="list-style-type: none"> (a) No (b) Yes (c) No
The Land affected by this planning agreement - (Section 93F(3)(a))	The Land described in Schedule 2.
The environmental planning instrument or the development affected by this planning agreement - (Section 93F(3)(b)) Describe: <ul style="list-style-type: none"> (a) the proposed change to the environmental planning instrument to which the agreement applies; OR <ul style="list-style-type: none"> (b) the development to which the agreement applies. 	<ul style="list-style-type: none"> (a) N/A OR <ul style="list-style-type: none"> (b) Proposed subdivision of Lot 421 DP 1142307 into 124 residential lots and open space.
The scope, timing and manner of delivery of contribution required by this planning agreement - (Section 93F(3)(c))	See Schedule 4 to this planning agreement.

SCHEDULE 1 - s93F REQUIREMENTS	
SUBJECT and SUB-SECTION OF THE ACT	THIS PLANNING AGREEMENT
<p>Applicability of Sections 94, 94A and 94EF of the Act - (Section 93F(3)(d))</p> <p>(a) applies wholly to the development;</p> <p>(b) does not apply to the development;</p> <p>(c) parts (insert sections) apply to the development.</p>	See clause 6 of this planning agreement.
<p>Consideration of benefits under this planning agreement if Section 94 applies - (Section 93F(3)(e))</p> <p>Are the benefits under this planning agreement to be taken into consideration if Section 94 of the Act applies?</p>	See clause 6 of this planning agreement.
<p>Dispute resolution - (Section 93F(3)(f))</p> <p>This planning agreement provides a mechanism for the resolution of disputes under the agreement.</p>	Clause 9 ("Dispute resolution") and Schedule 5 ("Dispute resolution") provide a mechanism for the resolution of disputes under this planning agreement.
<p>Security - (Section 93F(3)(g))</p> <p>The Developer has provided suitable security for its obligations under this planning agreement such as a security bond or guarantee.</p>	<p>See clause 7 in relation to the registration of this planning agreement on the relevant folios of the Register.</p> <p>See Schedule 4 to this planning agreement which provides for delivery of a Bank Guarantee</p>
<p>No obligation - (Section 93F(9))</p> <p>The parties acknowledge that this planning agreement does not impose an obligation on a planning authority to grant development consent or to exercise any function under this Act in relation to a change to an environmental planning instrument.</p>	See clauses 11 and 18 of this planning agreement.

Planning Agreement

Schedule 2 - Land (clause 2)

Land means the land comprising the following folio identifiers:

Lot 421 in Deposited Plan 1142307.

Schedule 3 - Interpretation (clause 4)

1 Definitions and Interpretations

Capitalised terms used in this planning agreement which are defined in this Schedule 3 ("Interpretation") shall have the meaning ascribed to them as set out below.

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

ASIC means the Australian Securities and Investments Commission.

Authorised Officer means in the case of any party, a director, secretary or an officer whose title contains the word "manager" or a person performing the functions of any of them or any other person appointed by that party to act as an Authorised Officer for the purpose of this planning agreement.

Authority means a government, semi-government, local government, statutory, public, ministerial, civil, administrative, fiscal or judicial body or other authority or body and includes, where applicable, an accredited certifier accredited under section 109T of the Act.

Bank Guarantee means an irrevocable and unconditional undertaking:

- (a) by an Australian bank and which is an eligible financial institution for the purposes of Treasury Circular NSW TC08/01 dated 21 February 2008 as amended, supplemented or substituted from time to time; and
- (b) on terms,

acceptable to the Minister, in the Minister's absolute discretion, to pay the face value of that undertaking (being such an amount as is required under this Deed) on demand.

Business Day means a day on which banks are open for general banking business in New South Wales (not being a Saturday, Sunday or public holiday in that place).

Certificate means a certification issued by the Director-General to the Consent Authority for the purposes of clause 55 of the LEP.

Confidential Information means any information and all other knowledge at any time disclosed (whether in writing or orally) by the parties to each other, or acquired by the parties in relation to the other's activities or services which is not already in the public domain and which:

- (a) is by its nature confidential;
- (b) is designated, or marked, or stipulated by either party as confidential (whether in writing or otherwise);
- (c) any party knows or ought to know is confidential; or
- (d) is information which may reasonably be considered to be of a confidential nature.

Consent Authority means, in relation to a Development Application, the Authority having the function to determine the Development Application.

Contributions means the total amount of the Contribution Sums payable by the Developer under, and by virtue of, Schedule 4.

Contribution Sum means \$1000 in respect of each Residential Lot.

Costs includes costs, charges and expenses, including those incurred in connection with advisers.

CPI means the Consumer Price Index All Groups Sydney, as published by the Australian Bureau of Statistics.

Department means the Department of Planning.

Details means the section of this planning agreement entitled "Details".

Developer means the party described as such in the Details.

Development means the subdivision of the Land into 124 Residential Lots, as proposed in the Development Application.

Development Application means DA 0100/2011 lodged with the Consent Authority.

Development Consent has the same meaning as that term has in the Act.

Director-General means the Director-General of the Department.

Future Obligations means any obligations under or by virtue of this deed which at the time of any proposed assignment or novation contemplated by clause 12.1 ("Developer dealing with interests") are required to be performed or satisfied by the Developer at any time from or after the date on which that assignment or novation takes effect.

GST has the meaning it has in the GST Act.

GST Act means the *A New Tax System (Goods and Services Tax) Act 1999* (Cwlth).

Land means the whole of the land comprised in the titles described in Schedule 2 ("Land").

Law means:

- (a) the common law including principles of equity; and
- (b) the requirements of all statutes, rules, ordinances, codes, regulations, proclamations, by-laws or consents by an Authority,

presently applying or as they may apply in the future.

LEP means the Tamworth Local Environmental Plan 1996.

Minister means the Minister for Planning.

New Law means a Law that is amended, varied or changed or a new Law either of which comes into force on or after the date of this planning agreement.

Register means the Torrens title register held by the New South Wales office of Land and Property Information.

Residential Lot means a lot created on the Land as part of the Development to be used for residential purposes to the exclusion of a Super Lot.

State means the State of New South Wales.

State Government means the government of New South Wales.

Subdivision Certificate has the same meaning as in the Act in respect of the Residential Lots.

Super Lot means a lot created on the Land which following registration of a plan of subdivision is intended for further subdivision for residential housing.

Taxes means taxes, levies, imposts, deductions, charges and duties (including stamp and transaction duties) excluding GST together with any related interest, penalties, fines and expenses in connection with them.

Planning Agreement

Schedule 4 - Contributions and requirements (clauses 5.2 and 5.3)

The Developer agrees to provide the Contributions and satisfy the relevant requirements at its cost and risk in the time and manner specified below.

1 Contribution payments

1.1 Contribution

The Developer must pay to the Minister, or the Minister's nominee, the Contributions as follows:

- (a) the Developer must pay a Contribution Sum in connection with the issue of a Subdivision Certificate for each Residential Lot ("Instalment").
- (b) Each Instalment must be paid at a time nominated by the Director General, and, in relation to each Residential Lot, must be paid no later than the issue of Subdivision Certificate for that Residential Lot.
- (c) The Developer must give the Director General 10 (ten) Business Days prior notice of: the date on which a Subdivision Certificate is due to issue.

1.2 CPI increase

The amount of each Instalment must be increased to reflect any increase in the CPI since the date of this planning agreement with the relevant amount being calculated as at the required date for payment.

2 Bank Guarantee

2.1 Bank Guarantee required

- (a) The Developer agrees to provide security to the Minister in the form of a Bank Guarantee for the face value equivalent to the Contributions to secure the payment of the Contributions required under this planning agreement prior to execution of this planning agreement by the Minister; and
- (b) The terms and conditions of **clause 2.2 and 2.3** of this Schedule apply in relation to those security arrangements.

2.2 Claims under Bank Guarantee

The Developer agrees that the Minister may make claims under a Bank Guarantee provided by it under **clause 2.1** of this Schedule on the following basis:

- (a) the Minister may call upon that Bank Guarantee (in full or in part) in the event that the Developer breaches those obligations and retain and use such monies in his discretion to compensate the Minister for the Developer's breach of those obligations;

- (b) the Minister agrees not to make any claim under a Bank Guarantee without providing at least 10 Business Days' prior written notice to the Developer of its intention to do so.
- (c) the amount appropriated by the Minister under paragraph (a) must be applied towards the costs and expenses incurred by the Minister in rectifying any default by the Developer under this Deed.

2.3 Release of Bank Guarantee

If the Developer has satisfied all of its obligations under this Deed which were secured by the relevant Bank Guarantee, and the whole of the monies secured by the Bank Guarantee have not been expended and the monies accounted for in accordance with **clause 2.2(c)** of this Schedule then the Minister will promptly return the Bank Guarantee (less any costs, charges, duties and taxes payable), or the remainder of the monies secured by the Bank Guarantee (as the case may be), to the Developer.

Planning Agreement

Schedule 5 - Dispute Resolution (clause 9)

1 Dispute Resolution

1.1 Notice of Dispute

If a party claims that a dispute has arisen under this Agreement ("**Claimant**"), it must give written notice to the other party ("**Respondent**") stating the matters in dispute and designating as its representative a person to negotiate the dispute ("**Claim Notice**").

1.2 Response to Notice

Within 20 Business Days of receiving the Claim Notice, the Respondent must notify the Claimant of its representative to negotiate the dispute.

1.3 Negotiation

The nominated representatives must:

- (a) meet to discuss the matter in good faith within 10 Business Days after service by the Respondent of notice of its representative; and
- (b) use reasonable endeavours to settle or resolve the dispute within 15 Business Days after they have met.

1.4 Further Notice if not Settled

If the dispute is not resolved within 15 Business Days after the nominated representatives have met, either party may give to the other a written notice calling for determination of the dispute ("**Dispute Notice**").

1.5 Mediation

The parties agree that a dispute shall be mediated if it is the subject of a Dispute Notice, in which case:

- (a) the parties must agree the terms of reference of the mediation within 5 Business Days of the receipt of the Dispute Notice (the terms shall include a requirement that the mediation rules of the Institute of Arbitrators and Mediators Australia (NSW Chapter) apply);
- (b) the Mediator will be agreed between the parties, or failing agreement within 5 Business Days of receipt of the Dispute Notice, either party may request the President of the Institute of Arbitrators and Mediators Australia (NSW Chapter) to appoint a mediator;
- (c) the Mediator appointed pursuant to this **clause 1.5** of Schedule 6 must:
 - (i) have reasonable qualifications and practical experience in the area of the dispute; and

- (ii) have no interest or duty which conflicts or may conflict with his function as mediator, he being required to fully disclose any such interest or duty before his appointment;
- (d) the Mediator shall be required to undertake to keep confidential all matters coming to his knowledge by reason of his appointment and performance of his duties;
- (e) the parties must within 5 Business Days of receipt of the Dispute Notice notify each other of their representatives who will be involved in the mediation;
- (f) the parties agree to be bound by a mediation settlement and may only initiate judicial proceedings in respect of a dispute which is the subject of a mediation settlement for the purpose of enforcing that mediation settlement;
- (g) in relation to costs and expenses:
 - (i) each party will bear their own professional and expert costs incurred in connection with the mediation;
 - (ii) the costs of the Mediator will be shared equally by the parties unless the Mediator determines a party has engaged in vexatious or unconscionable behaviour in which case the Mediator may require the full costs of the mediation to be borne by that party.

1.6 Litigation

If the dispute is not finally resolved in accordance with clause 1 of Schedule 5, either party is at liberty to litigate the dispute.

1.7 Continue to perform obligations

Each party must continue to perform its obligations under this planning agreement, notwithstanding the existence of a dispute.

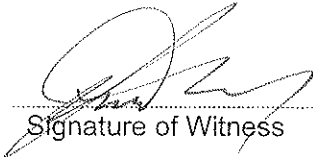
The block contains three handwritten signatures in black ink. The signature on the left is 'L.P. Paul', the one in the middle is 'John', and the one on the right is 'Stephen Hume'.

Signing page

EXECUTED as a Deed

DATED: 16/2/2011


Signed sealed and delivered by)
The **MINISTER FOR PLANNING**)
in the presence of:


Signature of Witness

TERRY NATT


Name of Witness

23-33 Bridge St
Sydney Nov 2001


Signature of Minister
As delegate for the Minister

Hon Anthony Kelly MLC

Signed sealed and delivered by)
THE MEADOWS TAMWORTH)
PTY LTD ABN 32 106 476 466 in)
accordance with section 127(1) of)
the Corporations Act 2001 (Cwlth))
by authority of its directors:)


Signature of director

TERENCE PATRICK BURKE
Name of director


Signature of director/company
secretary

Stephen Neville Hall
Name of director/company
secretary