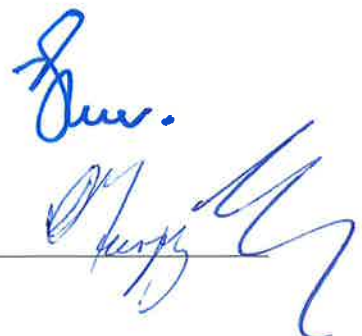

The Minister for Planning

Huntlee Pty Ltd (in its capacity as bare trustee of
the Relevant Partnership)

Deed of Variation to Planning Agreement

Huntlee New Town

A handwritten signature in blue ink, appearing to be 'J. Lee', is written over a horizontal line.

Contents

| | | |
|-----------|---|-----------|
| 1 | Definitions | 2 |
| 2 | Status of this Deed | 3 |
| 3 | Commencement | 3 |
| 4 | Representations and warranties | 3 |
| 4.1 | Representations and warranties | 3 |
| 4.2 | Additional representations and warranties | 3 |
| 5 | Registration | 4 |
| 6 | Amendment of Planning Agreement | 5 |
| 7 | Affirmation of Planning Agreement | 5 |
| 8 | Expenses | 6 |
| 9 | Explanatory Note | 6 |
| 10 | Notices | 6 |
| 10.1 | Form | 6 |
| 10.2 | Change of address | 7 |
| 10.3 | Receipt | 7 |
| 10.4 | Receipt – next Business Day | 7 |
| 11 | GST | 7 |
| 12 | General | 7 |
| 12.1 | Amendment | 7 |
| 12.2 | Waiver and exercise of rights | 8 |
| 12.3 | Further acts | 8 |
| 12.4 | Governing law and jurisdiction | 8 |
| 12.5 | Assignment and dealings | 8 |
| 12.6 | No fetter | 8 |
| 12.7 | Severability | 8 |
| 12.8 | Entire agreement | 9 |
| 12.9 | Joint and individual liability and benefits | 9 |
| 12.10 | Approvals and Consent | 9 |
| 12.11 | Deed not confidential | 9 |
| 12.12 | Construction | 9 |
| 12.13 | Deed | 10 |
| | Execution | 11 |
| | Appendix 1 – Annexure C | 12 |
| | Appendix 2 - Explanatory Note | 14 |

Date **2 January 2018**

Parties

The Minister for Planning ABN 38 755 709 681 c/- the NSW Department of Planning and Environment, 320 Pitt Street, Sydney NSW 2000 (**Minister**)

Huntlee Pty Ltd ACN 143 744 745 in its capacity as bare trustee of the Relevant Partnership c/- LWP Property Group, 34 Main Street, Ellenbrook, Western Australia 6069 (**Land Owner**)

Background

- A The Parties to this Deed are parties to the Planning Agreement.
- B On 5 July 2016, approval was granted to Mod 5 to the Stage 1 Project Approval under Ministerial delegation by the Planning Assessment Commission. Mod 5 provides for the extension of the boundary to the Project Approval to include an additional 3.1ha, extension of the existing road network and amended plans.
- C Condition 7 of Mod 5 amended Condition E6 to the Project Approval, requiring an amendment to the Planning Agreement to include the additional land to which Mod 5 applies.
- D The Parties have agreed to vary the Planning Agreement in accordance with this Deed, so that the Planning Agreement applies to the same land to which the Project Approval as modified by MOD 5 applies.

Agreed terms

1 Definitions

- (a) In this Deed these terms have the following meanings:

| | |
|-------------------------|--|
| Deed | This Deed including any schedules, annexures and appendices to this Deed. A reference to this Deed includes the agreement recorded in this Deed. |
| Explanatory Note | The Explanatory Note at Appendix 2 of this Deed. |
| Mod 5 | Modification application MP10_0137 MOD 5 approved under Ministerial delegation by the Planning Assessment |

Commission, as delegate of the Minister, on 5 July 2016, pursuant to section 75W of the Act, subject to conditions.

Party A party to this Deed. A reference to a Party to this Deed includes a reference to the servants, agents and contractors of the Party, and the Party's successors and assigns.

Planning Agreement The planning agreement between the Minister and the Land Owner executed by the Minister on 4 September 2013.

Project Approval Project Approval MP10_0137 approved under Ministerial delegation by the Planning Assessment Commission, as delegate of the Minister, under Part 3A of the Act on 24 April 2013, as modified from time to time.

- (b) Capitalised terms which are not defined in this Deed have the same meaning as in the Planning Agreement.

2 Status of this Deed

This Deed is an amendment to the Planning Agreement within the meaning of clause 25C(3) of the Regulation.

3 Commencement

- (a) Until this Deed operates, this deed constitutes an irrevocable offer from the Land Owner to enter into the Deed.
- (b) This Deed commences operation from the date it is signed by all Parties.

4 Representations and warranties

4.1 Representations and warranties

The Parties represent and warrant that they have power to enter into this Deed and comply with their obligations under this Deed and that entry into this Deed will not result in the breach of any Law.

4.2 Additional representations and warranties

- (a) In this clause 4.2, Huntlee Pty Ltd is defined as "**Huntlee**".
- (b) Huntlee in its capacity as bare trustee of the Relevant Partnership represents and warrants to the other Parties that as at the date of this Deed:
- (i) (**Trustee**): it has the power to enter into this Deed in its capacity as bare trustee of the Relevant Partnership;

- (ii) **(Trustee has authority)**: it has the power to perform its obligations under this Deed as Land Owner in its capacity as bare trustee of the Relevant Partnership;
- (iii) **(Partnership validly created)**: the Relevant Partnership has been validity created and is in existence at the date Huntlee signs this Deed;
- (iv) **(Trustee validly appointed)**: Huntlee has been validly appointed as bare trustee of the Relevant Partnership and is presently the sole trustee of the Relevant Partnership;
- (v) **(Partnership Deed)**: the Relevant Partnership is solely constituted by the Relevant Partnership Deed, a true copy of which was provided to the Minister's solicitors before Huntlee signed the Planning Agreement;
- (vi) **(Reliance)**: any act or omission of Huntlee can be relied upon by the Minister as if that act or omission had been done by the partners of the Relevant Partnership;
- (vii) **(Commercial benefit)**: it is to the commercial benefit of the Relevant Partnership that Huntlee, as Land Owner, enters into the Planning Agreement in its capacity, inter alia, as bare trustee of the Relevant Partnership; and
- (viii) **(Rights of indemnity and exoneration against Partnership assets)**: Except in the case of its own fraud, wilful violation of law, breach of trust or breach of duty, Huntlee as bare trustee of the Relevant Partnership has valid rights of indemnity and exoneration pursuant to the terms of the Relevant Partnership Deed.

5 Registration

- (a) As contemplated by section 93H of the Act, the Land Owner must, subject to **clause 5(d)**, within 30 Business Days after a counterpart of this Deed signed by the Minister is returned to the Land Owner, lodge this Deed (and, if it is not already registered, the Planning Agreement) for registration under the Real Property Act in the relevant folios of the Register for all of the Land (except Lots 2 to 4 in DP729973).
- (b) In relation to Lots 2 to 4 in DP729973, the Land Owner must, subject to **clause 5(d)**, within 120 Business Days after a counterpart of this Deed signed by the Minister is returned to the Land Owner, lodge this Deed (and, if it is not already registered, the Planning Agreement) for registration under the Real Property Act in the folios of the Register for Lots 2 to 4 in DP729973.
- (c) The Land Owner must provide the Minister with a copy of the relevant folio of the Register and a copy of the registered dealings which provide

evidence that **clauses 5(a)** and **5(b)** have been satisfied, within 10 Business Days after the date of registration.

- (d) Despite **clauses 5(a)** and **5(b)** above, the Parties agree that the Land Owner is not required to lodge this Deed (and, if it is not already registered, the Planning Agreement) for registration under the Real Property Act in the relevant folios of the Register for the land, which at the time of registration of this Deed, the Planning Agreement has been released pursuant to clause 1(b) of Schedule 6 of the Planning Agreement.

6 Amendment of Planning Agreement

- (a) On and from commencement of this Deed under **clause 3**:
- (i) the plans at 'Annexure C' to the Planning Agreement are deleted and replaced with the plan at Appendix 1 to this Deed;
- (ii) the definition of 'Land' in clause 1.1 of the Planning Agreement is deleted and replaced with the following:
- "Land** means the land described in Schedule 2, as generally depicted in the plan at Annexure C"; and
- (iii) Schedule 2 to the Planning Agreement is amended to:
- (A) insert the following rows to the table:

| | | |
|------------|---------|-----------------|
| 2 | 729973 | Huntlee Pty Ltd |
| 3 | 729973 | Huntlee Pty Ltd |
| 4 | 729973 | Huntlee Pty Ltd |
| 5 (part) | 729973 | Huntlee Pty Ltd |
| 444 (part) | 1197589 | Huntlee Pty Ltd |

- (B) insert the following text under the table:

*"*Note: If a title reference in this table relates to a cancelled or superseded folio, the title reference is to be taken as a reference to the land formerly comprised in that folio, as comprised in any folio or folios which succeeded that folio."*

7 Affirmation of Planning Agreement

The Planning Agreement will be read and construed subject to this Deed and in all other respects, the provisions of the Planning Agreement are to be satisfied and confirmed and subject to the variations contained in this Deed, the Planning Agreement will continue in full force and effect.

8 Expenses

- (a) The Land Owner must pay its own, and the Minister's reasonable legal costs and disbursements in connection with the negotiation, preparation, execution and carrying into effect of this Deed. The Land Owner must pay for all costs and expenses associated with the giving of public notice of this Deed and the Explanatory Note in accordance with the Regulation.
- (b) The Land Owner must pay any taxes assessed on or in respect of this deed and any instrument or transaction required or contemplated by or necessary to give effect to this deed (including stamp duty and registration fees, if applicable).
- (c) The Land Owner must provide the Minister with bank cheques in respect of the Minister's costs pursuant to **clause 8(a)** above:
 - (i) where the Minister has provided the Land Owner with written notice of the sum of such costs prior to execution, on the date of execution of this deed; or
 - (ii) where the Minister has not provided the Land Owner with prior written notice of the sum of such costs prior to execution, within 10 Business Days of demand by the Minister for payment.

9 Explanatory Note

- (a) Appendix 2 contains the Explanatory Note relating to this Deed required by clause 25E of the Regulation.
- (b) Pursuant to clause 25E(7) of the Regulation, the Parties agree that the Explanatory Note is not to be used to assist in construing this Deed.

10 Notices

10.1 Form

Any notice, consent, information, application or request that must 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:

- (a) delivered or posted to that Party at its address set out below;
- (b) sent to that Party at its email address set out below; or
- (c) faxed to that Party at its fax number set out below.

Minister

Attention: The Secretary
Address: 320 Pitt Street
Sydney NSW 2000

Email address: PlanningAgreements@planning.nsw.gov.au

Land Owner

Attention: Danny Murphy

Address: c/- LWP Property Group (NSW) Pty Ltd

34 Main Street

Ellenbrook Town Centre

Ellenbrook WA 6069

Fax Number: (08) 9296 9100

10.2 Change of address

If a Party gives another Party 3 Business Days' notice of a change of its address, email address or fax number, any notice, consent, information, application or request is only given or made by that other Party if it is delivered, posted, sent or faxed to the latest address, email address or fax number.

10.3 Receipt

Any notice, consent, information, application or request is to be treated as given or made at the following time:

- (a) if it is delivered, when it is left at the relevant address;
- (b) if it is sent by registered post, two Business Days after it is posted;
- (c) if it is sent by email and the sender does not receive a delivery failure notice, as soon as the email is sent; or
- (d) if it is 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.

10.4 Receipt – next Business Day

If any notices, consent, information, application or request is delivered, or an error free transmission report or delivery failure notice in relation to it is received, on a day that is not a Business Day or after 5pm on any Business Day in the place of the Party to whom it is sent, it is treated as having been given or made at the beginning of the next Business Day.

11 GST

Clause 12 of the Planning Agreement is incorporated as though it was fully set out in this Deed.

12 General

12.1 Amendment

No amendment of this Deed will be of any force or effect unless it is in writing and signed by the Parties as a deed.

12.2 Waiver and exercise of rights

- (a) 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.
- (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.

12.3 Further acts

Each Party must promptly execute all documents and do all things that another Party from time to time reasonably requires to affect, perfect or complete this Deed and all transactions incidental to it.

12.4 Governing law and jurisdiction

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

12.5 Assignment and dealings

None of the Parties to this Deed may assign or otherwise deal with its rights under this Deed or allow any interest in them to arise or be varied in each case unless stated otherwise in this Deed.

12.6 No fetter

Nothing in this Deed shall be construed as requiring an Authority to do anything that would cause it to be in breach of any of its obligations at Law, and without limitation:

- (a) nothing in this Deed is to be construed as limiting or fettering in any way the exercise of any statutory discretion or duty; and
- (b) nothing in this Deed imposes any obligation on a Consent Authority to:
 - (i) grant Development Consent;
 - (ii) exercise any functions or power under the Act in relation to a change, or a proposed change, in an environmental planning instrument.

12.7 Severability

- (a) If any part 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 the latter way.
- (b) If any part of the Deed is illegal, unenforceable or invalid, that part is to be treated as removed from this Deed, but the rest of the Deed is not affected.

12.8 Entire agreement

This Deed contains everything to which the Parties have agreed in relation to the matters it deals with. No Party can rely on an earlier document, or anything said or done by another Party, or by an Authorised Officer, agent or employee of that Party, before this Deed was executed, except as permitted by Law.

12.9 Joint and individual liability and benefits

Except as otherwise set out in this Deed, any agreement, covenant, representation or warranty under this Deed made 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.

12.10 Approvals and Consent

Except as otherwise set out in this Deed, and subject to any statutory obligations, the Minister may give or withhold an approval or consent to be given under this Deed in his absolute discretion and subject to the conditions determined by the Minister. The Minister is not obliged to give his reasons for giving or withholding consent or for giving consent subject to conditions.

12.11 Deed not confidential

The Parties agree that the terms of this Deed are not confidential and this Deed may be treated as a public document and exhibited or reported without restriction by any Party.

12.12 Construction

In the interpretation of this Deed, the following provisions apply unless the context otherwise requires:

- (a) Headings are inserted for convenience only and do not affect the interpretation of this Deed.
- (b) 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.
- (c) A reference in this Deed to dollars or \$ means Australian dollars and all amounts payable under this Deed are payable in Australian dollars.
- (d) A reference in this Deed to any law, legislation or legislative provision includes any statutory modification, amendment, replacement or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision.
- (e) A reference in this Deed to any agreement, deed or document is to that agreement, deed or document as amended, novated, supplemented or replaced.
- (f) A reference to a clause, part, schedule or attachment is a reference to a clause, part, schedule or attachment of or to this Deed.

- (g) An expression importing a natural person includes any company, trust, partnership, joint venture, association, body corporate or governmental agency.
- (h) 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.
- (i) 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.
- (j) References to the word 'include' or 'including' are to be construed without limitation.

12.13 Deed

This document is a deed. Factors which might suggest otherwise are to be disregarded.

Execution

Executed as a deed.


SIGNED by BRENDAN NELSON as delegate
for the Minister for Planning
administering the
Environmental Planning and Assessment Act, 1979

Signed for and on behalf of the Minister)
for Planning by its authorised delegate in)
the presence of:

Witness


PATRICK DOYLE

Name of Witness (print)


Authorised Delegate

Name of Authorised Delegate
(print)

Executed by Huntlee Pty Ltd (ACN 143)
744 745) in its capacity as trustee of the)
Relevant Partnership in accordance with)
section 127 of the Corporations Act 2001)
(Cth):

Company Secretary/Director


ALAN FRANCIS NEVILLE

Name of Company Secretary/Director
(print)

Director


DANNY WILLIAM MURPHY

Name of Director (print)

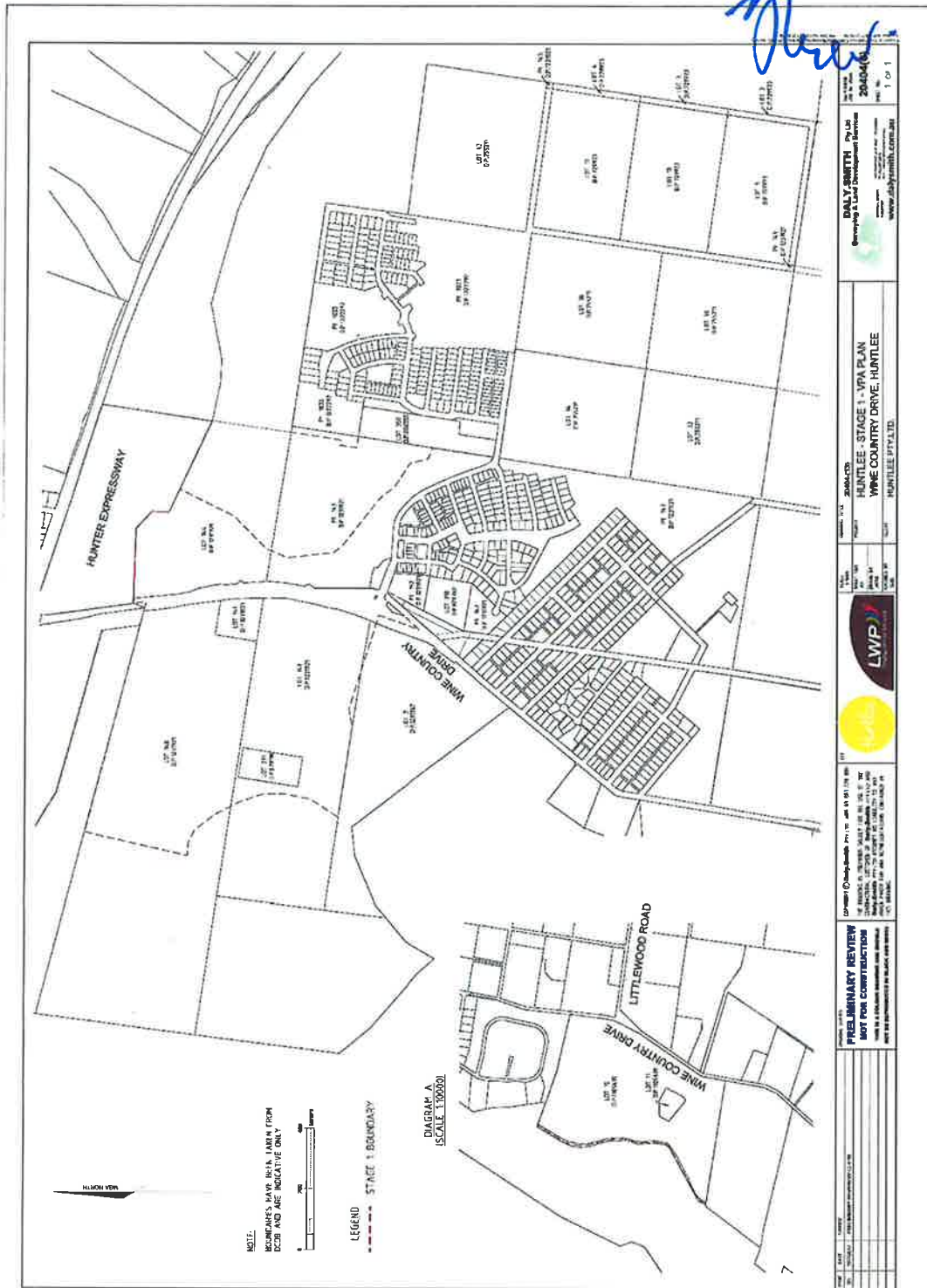
Appendix 1

Annexure C (clause 6)

Plan of Stage 1 Development



Corrs Chambers Westgarth



page xiii

Deed of Variation to Planning Agreement
Huntlee New Town

M. G.

Appendix 2

Explanatory Note (Clause 9)

Environmental Planning and Assessment Regulation 2000

(Clause 25E)

Explanatory Note

1 Introduction

The purpose of this explanatory note is to provide a plain English summary of the Deed of Variation (**Variation Deed**) to the planning agreement between Huntlee Pty Ltd (**Land Owner**) and the Minister for Planning (**Minister**), executed by the Minister on 4 September 2013 (**Planning Agreement**).

This explanatory note has been prepared jointly by the parties as required by clause 25E of the Environmental Planning and Assessment Regulation 2000 (**Regulation**).

2 Parties to the Variation Deed

The parties to the Variation Deed are the Land Owner and the Minister.

The Land Owner made an offer to enter into the Planning Agreement in connection with a transitional Part 3A project application (**Stage 1 Application**) for subdivision and associated infrastructure works for Stage 1 of the Huntlee development.

The Land Owner has also proposed to enter into the Variation Deed to vary the Planning Agreement so that the Planning Agreement applies to the land to which Mod 5 relates.

3 Description of the Subject Land

The Variation Deed applies to the same land to which the Planning Agreement applies, plus:

- (a) the additional land to which Mod 5 applies, being part of Lot 143 in DP1231921 and Lot 1033 in DP1222292 (being land formerly comprising part of Lot 444 in DP1197589 and Lot 5 in DP729973) as depicted in the plan at Appendix 1 to the Variation Deed; and

- (b) Lots 2 to 4 in DP729973, being land to which the Stage 1 Application as approved on 24 April 2013 applies, but was originally omitted in the Planning Agreement
(collectively, **Additional Land**).

4 Description of the Project Approval and Mod 5

On 24 April 2013, the Planning Assessment Commission, as delegate of the Minister, determined to approve the Stage 1 Application (**Project Approval**).

The Project Approval permitted, subject to conditions, the subdivision of the Land for 1,473 residential allotments, 14 super lots and 1 allotment for a primary school and associated infrastructure including landscaping, bulk earthworks, public open space, recreation areas, roads, drainage and utility services.

On 4 September 2013, the Land Owner entered into the Planning Agreement with the Minister, for the provision by the Land Owner of contributions towards designated State infrastructure, as contemplated by condition E6 of the Project Approval.

On 5 July 2016, approval was granted to Mod 5 to the Project Approval (**Mod 5**) to, among other things, extend the boundary of the land to which the Project Approval applies.

Condition 7 of Mod 5 amended Condition E6 to the Project Approval to require the Planning Agreement to be amended so that it applies to all of the land to which Mod 5 applies.

The Variation Deed amends the Planning Agreement as contemplated by Condition 7 of Mod 5 (Condition E6 of the Project Approval).

5 Summary of Objectives, Nature and Effect of the Variation Deed

5.1 Objectives of the Variation Deed

The objective of the Variation Deed is to amend the Planning Agreement so that it applies to the same land to which Mod 5 applies.

The Planning Agreement, as varied by the Variation Deed, provides that the Land Owner will make various contributions towards designated State infrastructure as set out in Schedule 3 to the Planning Agreement.

The objective of the Planning Agreement, as varied by the Variation Deed, is to facilitate the delivery of the Development Contributions.

5.2 Nature of the Variation Deed

The Variation Deed is a Deed of Variation to the Planning Agreement under clause 25C(3) of the Regulation.

5.3 Effect of the Variation Deed

The effect of the Variation Deed is to amend the Planning Agreement so that it applies to the Additional Land.

The Planning Agreement, as varied by the Variation Deed, requires Development Contributions to be made by the Land Owner in relation to each Net Developable Hectare comprised in a proposed Plan of Subdivision for the Land (including the Additional Land).

6 Assessment of Merits of the Variation Deed

6.1 How the Variation Deed is for a Planning Purpose and Promotes the Public Interest

In accordance with section 93F(2) of the Act, the Planning Agreement, as varied by the Variation Deed, has the following public purpose:

- (a) the provision of public amenities or public services; and
- (b) the provision of transport infrastructure relating to the land.

The Minister and the Land Owner have assessed the Planning Agreement, as varied by the Variation Deed, and both hold the view that the provisions of the Planning Agreement, as varied by the Variation Deed, provide a reasonable means of achieving the public purpose set out above.

This is because the Development Contributions will assist the Government in providing infrastructure needed to accommodate future housing and growth in the region as anticipated by the Lower Hunter Regional Strategy.

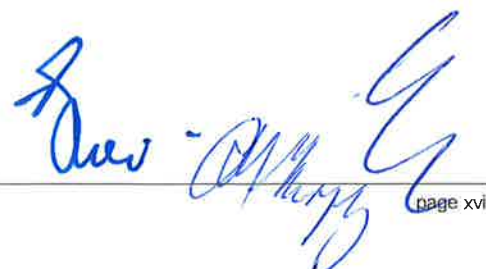
The Planning Agreement, as varied by the Variation Deed, promotes the public interest by committing the Land Owner to make contributions towards State infrastructure.

6.2 How the Variation Deed promotes the Objects of the Act

The Planning Agreement, as varied by the Variation Deed, promotes the following objects of the Act:

- (a) the proper management and development of towns and villages for the purpose of promoting the social and economic welfare of the community.
- (b) the promotion and co-ordination of the orderly and economic use and development of land; and
- (c) the provision of land for public purposes.

The Planning Agreement, as varied by the Variation Deed, promotes the objects of the Act set out above by requiring the Land Owner to make a contribution towards State transport infrastructure and education facilities.



6.3 Whether the Variation Deed specifies that certain requirements of the agreement must be complied with before a construction certificate, occupation certificate or subdivision certificate is issued

The Planning Agreement, as varied by the Variation Deed, requires the Land Owner to provide the Regional Road Contributions (calculated on a Net Developable Area basis) prior to the issue of a subdivision certificate for that part of the land subject of that subdivision certificate. Further, the transfer of the Education Contribution Land must be transferred or dedicated prior to the issue of a Subdivision Certificate in respect of that part of the Land comprising the 800th dwelling that is to be developed as part of Stage 1. The Road Improvement Works are to be completed in stages and for each stage, prior to the Subdivision Certificate issued for the relevant number of dwellings as identified in Annexure F to the Planning Agreement.

6.4 Interpretation of the Variation Deed

This Explanatory Note is not to be used to assist in construing the Variation Deed.