

Minister for Planning and Infrastructure
ABN 38 755 709 681

and

CSR Building Products Limited ACN 008 631 356 (formerly known
as Monier PGH Holdings Limited)

Planning Agreement

Environmental Planning and Assessment Act 1979

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THIS deed is dated

7 MARCH 2014

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PARTIES:

MINISTER FOR PLANNING AND INFRASTRUCTURE (ABN 38 755 709 681) of Level 33, Governor Macquarie Tower, 1 Farrer Place, Sydney, New South Wales, 2000 (**Minister**)

CSR BUILDING PRODUCTS LIMITED (ACN 008 631 356) formerly known as Monier PGH Holdings Limited of Trinita 3, Level 5, 39 Delhi Road, North Ryde, New South Wales, 2113 (**Developer**)

INTRODUCTION:

- A** The Developer owns the Land.
- B** The Developer proposes to carry out the Development on the Land.
- C** Two Development Consents were issued in respect of the Land. The 2005 Consent was issued by the Consent Authority on 17 February 2005. The 1998 Consent was issued by the Land and Environment Court on 16 October 1998.
- D** The 2005 Consent authorises the Development. The 2005 Consent has physically commenced, however actual filling of the quarry with VENM has not yet commenced.
- E** Conditions 21 and 36 of the 2005 Consent require the Developer to undertake upgrades to the intersection of Richmond and Townson Roads (the Road Works).
- F** The NSW Government now does not require the Developer to undertake the Road Works. The Road Works will be undertaken by the Roads and Maritime Services (RMS) as part of a general upgrade to Richmond Road which is being funded by Special Infrastructure Contributions.
- G** The Developer has agreed with the Minister to provide the Contribution Amount in lieu of providing the Road Works.
- H** The Developer has made an application to the Consent Authority to modify the 2005 Consent under section 96(1A) of the Act to modify Conditions 21 and 36 of the 2005 Consent to reflect the changes to the Development Contribution to be provided by the Developer.
- I** The Developer has offered to enter into this deed with the Minister to secure the Development Contribution for the provision of infrastructure for public purposes in connection with the Development.

IT IS AGREED:

1 DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this deed, unless the context clearly indicates otherwise:

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

Address for Service means the address of each party appearing in Schedule 2 or any new address notified by any party to all other parties as its new Address for Service.

Authority means any Federal, State or local government or semi-governmental, statutory, judicial or public person, instrumentality or department.

Bank Guarantee means an irrevocable and unconditional undertaking:

- (a) by an Australian bank 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 amount as is required under this deed) on demand. The Bank Guarantee is to be provided by the Developer to the Minister upon execution of this deed as per Schedule 5 of this deed.

Base CPI means the CPI number for the quarter ending 31 March 2013.

Business Day means any day that is not a Saturday, Sunday, gazetted public holiday or bank holiday in Sydney, and concludes at 5 pm on that day.

Consent Authority means Blacktown City Council.

Contribution Amount means the amount of the monetary contribution to be paid by the Developer as described in Schedule 4.

CPI means the Sydney Consumer Price Index (All Groups) published by the Commonwealth Statistician, or if that index no longer exists, any similar index which the Minister determines in its sole discretion.

CPI Adjustment Date means 1 July 2013 and each anniversary of 1 July 2013 thereafter.

Current CPI means the CPI number for the quarter ending immediately before 31 March in the relevant adjustment year.

Development means the filling of the existing quarry on the Land with Virgin Extracted Natural Material (VENM).

Development Application has the same meaning as in the Act.

Development Consent has the same meaning as in the Act.

Development Contribution means the contributions to be provided by the Developer in accordance with Schedule 4.

Director-General means the Director-General of the Department of Planning and Infrastructure from time to time.

Explanatory Note means the note exhibited with a copy of this deed when this deed is made available for inspection by the public pursuant to the Act, as required by the Regulation.

General Register of Deeds means the land register maintained under the *Conveyancing Act 1919* (NSW) and so titled.

GST means any form of goods and services tax payable under the GST Legislation.

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

Land means the land described in Schedule 3 of this deed.

Planning Application means:

- (a) a Development Application; or
- (b) any other application required under the Act,

in respect of the Land.

Real Property Act means the *Real Property Act 1900* (NSW).

Register means the Torrens title register maintained under the Real Property Act.

Regulation means the *Environmental Planning and Assessment Regulation 2000* (NSW).

Special Infrastructure Contribution Discharge Amount means the amount described in clause 4.2(a) of this Deed.

Special Infrastructure Contribution means a contribution determined in accordance with section 94EE of the Act with respect to the Land.

Tax means a tax, duty (including stamp duty and any other transaction duty), levy, impost, charge, fee (including a registration fee) together with all interest, penalties, fines and costs concerning them.

2005 Consent means the Development Consent No. 04-2048 issued by the Consent Authority on 17 February 2005.

1998 Consent means Development Consent Appeal No. 10330 of 1998 issued by the Land and Environment Court.

Western Sydney Growth Area Special Infrastructure Contributions Area (WSGA SIC Area) means the land described in Schedule 5A to the Act as the land shown edged in heavy black on the map marked "Western Sydney Growth Area – Special Contributions Area".

1.2 Interpretation

In this deed unless the context clearly indicates otherwise:

- (a) a reference to **this deed** or another document means this deed or that other document and any document which varies, supplements, replaces, assigns or novates this deed or that other document;
- (b) a reference to **legislation** or a **legislative provision** includes any statutory modification, or substitution of that legislation or legislative provision and any subordinate legislation issued under that legislation or legislative provision;
- (c) a reference to a **body** or **authority** which ceases to exist is a reference to either a body or authority that the parties agree to substitute for the named body or authority or, failing agreement, to a body or authority having substantially the same objects as the named body or authority;
- (d) a reference to the **introduction**, a **clause**, **schedule** or **annexure** is a reference to the introduction, a clause, a schedule or an annexure to or of this deed;
- (e) **clause headings**, the **introduction** and the **table of contents** are inserted for convenience only and do not form part of this deed;
- (f) the **schedules** form part of this deed;
- (g) a reference to a **person** includes a natural person, corporation, statutory corporation, partnership, the Crown or any other organisation or legal entity;
- (h) a reference to a **natural person** includes their personal representatives, successors and permitted assigns;

- (i) a reference to a **corporation** includes its successors and permitted assigns;
- (j) a reference to a right or obligation of a party is a reference to a right or obligation of that party under this deed;
- (k) an **obligation** or **warranty** on the part of 2 or more persons binds them jointly and severally and an obligation or warranty in favour of 2 or more persons benefits them jointly and severally;
- (l) a requirement to do any thing includes a requirement to cause that thing to be done and a requirement not to do any thing includes a requirement to prevent that thing being done;
- (m) **including** and **includes** are not words of limitation;
- (n) a word that is derived from a defined word has a corresponding meaning;
- (o) **monetary amounts** are expressed in Australian dollars;
- (p) the singular includes the plural and vice-versa;
- (q) words importing one gender include all other genders;
- (r) a reference to a thing includes each part of that thing; and
- (s) neither this deed nor any part of it is to be construed against a party on the basis that the party or its lawyers were responsible for its drafting.

2 OPERATION AND APPLICATION OF THIS DEED

2.1 Operation

This deed will commence from the date this deed is signed by all the parties.

2.2 Planning agreement under the Act

This deed constitutes a planning agreement within the meaning of section 93F of the Act.

2.3 Application

This deed applies to:

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

3 Application of sections 94, 94A and 94EF of the Act

The application of sections 94, 94A and 94EF of the Act are excluded to the extent stated in Schedule 1.

4 DEVELOPMENT CONTRIBUTION

4.1 Developer to provide Development Contribution

The Developer undertakes to provide to the Minister or the Minister's nominee, the Development Contribution in accordance with the provisions of Schedule 4 to this deed.

4.2 Special Infrastructure Contribution Discharge Amount

- (a) The Director-General agrees to accept the value of the Contribution Amount when it is paid in full to the Minister under the terms of this deed, as a discharge or partial discharge of any future obligation of the Developer or a related entity to make any special infrastructure contribution for under a development consent from which the Developer or a related entity is entitled to benefit on land within the WSGA SIC Area. This is to be referred to as the Special Infrastructure Contribution Discharge Amount.
- (b) On each CPI Adjustment Date, the Special Infrastructure Contribution Discharge Amount will be adjusted by multiplying the Special Infrastructure Contribution Discharge Amount by an amount equal to the Current CPI divided by the Base CPI.

4.3 Acknowledgement

The Developer acknowledges and agrees that the Minister:

- (a) has no obligation to use or expend the Development Contribution for a particular purpose and has no obligation to repay the Development Contribution; and
- (b) in circumstances where the Development Contribution is transferred to any Authority, has not made any representation or warranty that the Development Contribution will or must be used for a particular purpose by that Authority.

5 INTEREST

5.1 Interest for late payment

- (a) If the Developer fails to pay a Contribution Amount due to the Minister on the due date for payment, the Developer must also pay to the Minister

interest at a rate of 2% above the corporate loan reference rate charged by the Commonwealth Bank of Australia from time to time.

- (b) Interest will be payable on the daily balance of amounts due from the due date for payment of those amounts until all outstanding amounts (including interest on those amounts) have been paid to the Minister.

6 ENFORCEMENT

6.1 Developer to provide security

The Developer has agreed to provide security to the Minister for the performance of the Developer's obligations under this deed by providing the Bank Guarantee to the Minister in accordance with the terms and procedures set out in Schedule 5.

7 REGISTRATION

7.1 Registration of deed

Within 10 Business Days of receiving a copy of this deed executed by the Minister, the Developer at its own expense will take all practical steps and otherwise do anything to procure:

- (a) the consent of each person who:
 - (i) has an estate or interest in the Land registered under the Real Property Act; or
 - (ii) is seized or possessed or an estate or interest in the Land; and
- (b) the execution of any documents; and
- (c) the production of the relevant certificates of title; and
- (d) the lodgement and registration of this deed, by the Registrar-General in the relevant folio of the Register, or in the General Register of Deeds if this deed relates to land not under the Real Property Act.

7.2 Evidence of registration

The Developer will provide the Minister with a copy of the relevant folio of the Register and a copy of the registered dealing within 10 Business Days of registration of this deed.

7.3 Release and discharge of deed

The Minister agrees to do all things reasonably required by the Developer to release and discharge this deed with respect to any part of the Land upon the Developer either:

- (a) satisfying all of its obligations under this deed in respect of that part of the Land; or
- (b) surrendering both the 2005 Consent and the 1998 Consent in accordance with the Act and Regulation and the Developer has not commenced any land-filling activity on the Land

7.4 Developer's interest in Land

The Developer represents and warrants that it is:

- (a) the owner of the Land; and
- (b) legally and beneficially entitled to obtain all consents and approvals and to compel any person referred to in or contemplated by clause 7.1(a) to assist, cooperate and to otherwise do all things necessary for the Developer to comply with its obligations under clause 7.

8 Dispute Resolution

8.1 Not commence

A party must not commence any court proceedings relating to a dispute unless it complies with this clause 8.

8.2 Written notice of dispute

A party claiming that a dispute has arisen under or in relation to this deed must give written notice to the other party specifying the nature of the dispute.

8.3 Attempt to resolve

On receipt of notice under clause 8.2, the parties must endeavour in good faith to resolve the dispute expeditiously using informal dispute resolution techniques such as mediation, expert evaluation or other techniques agreed by them.

8.4 Mediation

If the parties do not agree within 21 Business Days of receipt of notice under clause 8.2 (or any further period agreed in writing by them) as to:

- (a) the dispute resolution technique and procedures to be adopted;

- (b) the timetable for all steps in those procedures; or
- (c) the selection and compensation of the independent person required for such technique,

the parties must mediate the dispute in accordance with the Mediation Rules of the Law Society of NSW. The parties must request the president of the Law Society of NSW or the president's nominee to select the mediator and determine the mediator's remuneration.

8.5 Court proceedings

If the dispute is not resolved within 60 Business Days after notice is given under clause 8.2 then any party which has complied with the provisions of this clause 8 may in writing terminate any dispute resolution process undertaken under this clause and may then commence court proceedings in relation to the dispute.

8.6 Not use information

The parties acknowledge the purpose of any exchange of information or documents or the making of any offer of settlement under this clause 8 is to attempt to settle the dispute. No party may use any information or documents obtained through any dispute resolution process undertaken under this clause 8 for any purpose other than in an attempt to settle the dispute.

8.7 No prejudice

This clause 8 does not prejudice the right of a party to institute court proceedings for urgent injunctive or declaratory relief in relation to any matter arising out of or relating to this deed.

9 GST

9.1 Definitions

Words used in this clause that are defined in the GST Legislation have the meaning given in that legislation.

9.2 Intention of the parties

The parties intend that:

- (a) Divisions 81 and 82 of the GST Legislation apply to the supplies made under and in respect of this deed; and
- (b) no additional amounts will be payable on account of GST and no tax invoices will be exchanged between the parties.

9.3 Reimbursement

Any payment or reimbursement required to be made under this deed that is calculated by reference to a cost, expense, or other amount paid or incurred will be limited to the total cost, expense or amount less the amount of any input tax credit to which any entity is entitled for the acquisition to which the cost, expense or amount relates.

9.4 Consideration GST exclusive

Unless otherwise expressly stated, all prices or other sums payable or consideration to be provided under this deed are GST Exclusive. Any consideration that is specified to be inclusive of GST must not be taken into account in calculating the GST payable in relation to a supply for the purposes of this clause 9.

9.5 Additional Amounts for GST

To the extent an amount of GST is payable on a supply made by a party under or in connection with this deed (the **GST Amount**), the Recipient will pay to the Supplier the GST Amount and the Supplier will issue the Recipient with a tax invoice. However, where a GST Amount is payable by the Minister as Recipient of the supply, the Developer will ensure that:

- (a) the Developer makes payment of the GST Amount on behalf of the Minister, including any gross up that may be required; and
- (b) the Developer provides a Tax Invoice to the Minister.

9.6 Non monetary consideration

Clause 9.5 applies to non-monetary consideration.

9.7 Assumptions

The Developer acknowledges and agrees that in calculating any amounts payable under clause 9.5 the Developer will assume the Minister is not entitled to any input tax credit.

9.8 No merger

This clause will not merge on completion or termination of this deed.

10 ASSIGNMENT

10.1 Consent

This deed is personal to each party and no party may assign the rights or benefits of this deed to any person except:

- (a) to a related body corporate, after obtaining the consent of the other parties, which the other parties must not withhold if reasonably satisfied that the related body corporate has sufficient assets, resources and expertise to perform all of the assigning party's obligations under this deed; or
- (b) to any other person, with the prior consent of the other parties, which the other parties may give, give conditionally or withhold in its absolute discretion.

11 CAPACITY

11.1 General warranties

Each party warrants to each other party that:

- (a) this deed creates legal, valid and binding obligations, enforceable against the relevant party in accordance with its terms; and
- (b) unless otherwise stated, it has not entered into this deed in the capacity of trustee of any trust.

11.2 Power of attorney

If an attorney executes this deed on behalf of any party, the attorney declares that it has no notice of the revocation of that power of attorney.

12 REPORTING REQUIREMENT

- (a) On each anniversary of the date of this deed or as otherwise agreed with the Director-General, but only until the payment of all of the Development Contribution by the Developer to the Minister, the Developer must deliver to the Director-General a report which must include those matters set out in clauses (b) and (c), as applicable.
- (b) If the Developer has not provided a Contribution Amount in the 12 month period immediately preceding the relevant anniversary of this deed, the Report must include:
 - (i) a description of the status of the Development;

- (ii) a forecast in relation to the anticipated progression and completion of the Development; and
 - (iii) an estimated date for when the Developer expects to commence the land filling activity on the Land or lodge the first Planning Application.
- (c) Upon the Director-General's request, the Developer must deliver to the Director-General all documents and other information which, in the reasonable opinion of the Director-General are necessary for the Director-General to assess the status of the Development.

13 GENERAL PROVISIONS

13.1 Entire deed

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

13.2 Variation

This deed must not be varied except by a later written document executed by all parties.

13.3 Waiver

A right created by this deed cannot be waived except in writing signed by the party entitled to that right. Delay by a party in exercising a right does not constitute a waiver of that right, nor will a waiver (either wholly or in part) by a party of a right operate as a subsequent waiver of the same right or of any other right of that party.

13.4 Further assurances

Each party must promptly execute all documents and do every thing necessary or desirable to give full effect to the arrangements contained in this deed.

13.5 Time for doing acts

- (a) If:
 - (i) the time for doing any act or thing required to be done; or
 - (ii) a notice period specified in this deed,

expires on a day other than a Business Day, the time for doing that act or thing or the expiration of that notice period is extended until the following Business Day.

- (b) If any act or thing required to be done is done after 5 pm on the specified day, it is taken to have been done on the following Business Day.

13.6 Governing law and jurisdiction

- (a) The laws applicable in New South Wales govern this deed.
- (b) The parties submit to the non-exclusive jurisdiction of the courts of New South Wales and any courts competent to hear appeals from those courts.

13.7 Severance

If any clause or part of any clause is in any way unenforceable, invalid or illegal, it is to be read down so as to be enforceable, valid and legal. If this is not possible, the clause (or where possible, the offending part) is to be severed from this deed without affecting the enforceability, validity or legality of the remaining clauses (or parts of those clauses) which will continue in full force and effect.

13.8 Preservation of existing rights

The expiration or termination of this deed does not affect any right that has accrued to a party before the expiration or termination date.

13.9 No merger

Any right or obligation of any party that is expressed to operate or have effect on or after the completion, expiration or termination of this deed for any reason, will not merge on the occurrence of that event but will remain in full force and effect.

13.10 Counterparts

This deed may be executed in any number of counterparts. All counterparts taken together constitute one instrument.

13.11 Relationship of parties

Unless otherwise stated:

- (a) nothing in this deed creates a joint venture, partnership, or the relationship of principal and agent, or employee and employer between the parties; and
- (b) no party has the authority to bind any other party by any representation, declaration or admission, or to make any contract or commitment on behalf of any other party or to pledge any other party's credit.

13.12 Good faith

Each party must act in good faith towards all other parties and use its best endeavours to comply with the spirit and intention of this deed.

13.13 No fetter

Nothing in this deed shall be construed as requiring either the Ministers to do anything that would cause the Minister to breach any of the Minister's obligations at law and without limitation, nothing in this deed shall be construed as limiting or fettering in any way the discretion of the Ministers in exercising any of the Minister's statutory functions, powers, authorities or duties.

13.14 Explanatory note

The Explanatory Note must not be used to assist in construing this deed.

13.15 Expenses and stamp duty

- (a) The Developer 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.
- (b) The Developer 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.
- (c) The Developer must pay all 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).
- (d) The Developer must provide the Minister with company cheques or proof of the electronic transfer of funds in respect of the Minister's costs pursuant to clauses 13.15(a) and (b).
 - (i) where the Minister has provided the Developer 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 Developer with prior written notice of the sum of such costs prior to execution, within 30 Business Days of demand by the Minister for payment.

13.16 Notices

- (a) Any notice, demand, consent, approval, request or other communication (**Notice**) to be given under this deed must be in writing and must be given to the recipient at its Address for Service by being:
 - (i) hand delivered; or
 - (ii) sent by facsimile transmission; or
 - (iii) sent by prepaid ordinary mail within Australia.
- (b) A Notice is given if:
 - (i) hand delivered, on the date of delivery;
 - (ii) sent by facsimile transmission during any Business Day, on the date that the sending party's facsimile machine records that the facsimile has been successfully transmitted; or
 - (iii) sent by prepaid ordinary mail within Australia, on the date that is 2 Business Days after the date of posting.

SCHEDULE 1

Table 1 – Requirements under section 93F of the Act (clause 2.2)

The parties acknowledge and agree that the table set out below provides for certain terms, conditions and procedures for the purpose of the deed complying with the Act.

REQUIREMENT UNDER THE ACT	THIS DEED
Planning instrument and/or development application – (section 93F(2)) The Developer has: (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.	(a) No (b) Yes (c) N/A
Description of land to which this deed applies – (section 93F(3)(a))	See Schedule 3
Description of change to the environmental planning instrument to which this deed applies – (section 93F(3)(b))	N/A
The scope, timing and manner of delivery of contribution required by this deed – (section 93F(3)(c))	See Schedule 4
Applicability of sections 94 and 94A of the Act – (section 93F(3)(d))	The application of sections 94 and 94A of the Act is not excluded in respect of the Development.
Applicability of section 94EF of the Act – (section 93F(3)(d))	The application of section 94EF of the Act is excluded in respect of the Development.
Consideration of benefits under this deed if section 94 applies – (section 93F(5))	No
Mechanism for Dispute Resolution – (section 93F(3)(f))	See clause 8
Enforcement of this deed – (section 93F(3)(g))	See clause 6
No obligation to grant consent or exercise functions – (section 93F(10))	See clause 13.13

Table 2 – Other matters

REQUIREMENT UNDER THE ACT OR REGULATION	THIS DEED
Registration of the Planning Agreement – (section 93H of the Act)	Yes (see clause 7)
Whether the Planning Agreement specifies that certain requirements of the agreement must be complied with before a construction certificate is issued – (clause 25E(2)(g) of the Regulation)	Yes (see clause 2 of Schedule 4)
Whether the Planning Agreement specifies that certain requirements of the agreement must be complied with before an occupation certificate is issued – (clause 25E(2)(g) of the Regulation)	No
Whether the Planning Agreement specifies that certain requirements of the agreement must be complied with before a subdivision certificate is issued – (clause 25E(2)(g) of the Regulation)	No

SCHEDULE 2

Address for Service (clause 1.1)

Minister

Contact: The Director-General,

Address: Department of Planning and Infrastructure
23-33 Bridge Street
SYDNEY NSW 2000

Facsimile No: (02) 9228 6191

Developer

Contact: CSR Building Products Limited, Attn Wayne Pasalich, Senior
Development Manager

Address: Group Property
Triniti 3
39 Delhi Road
NORTH RYDE NSW 2113

Facsimile No: (02) 8362 9024

SCHEDULE 3**Land (clause 1.1)****1 Lots proposed for development**

Lot	Deposited Plan	Folio Identifier
3	232574	3/232574

SCHEDULE 4

Development Contribution (clause 4)

1 Development Contribution

The Developer undertakes to make the following Development Contribution:

- (a) The Developer undertakes to provide the Development Contribution in the manner set out in the table below:

Development Contribution	Timing
Contribution Amount - Cash contribution of \$2,131,795	The Contribution Amount must be paid prior to the commencement of the land-filling activity on the Land or within 24 months of the issue of any Construction Certificate or any approval under section 138 of the <i>Roads Act 1993</i> for the Land, required by the Development, whichever is earlier date.

- (b) The Minister and Developer acknowledge and agree that the Contribution Amount is the Development Contribution under this deed.

2 Calculation of the value of the Contribution Amount

- (a) On each CPI Adjustment Date, the Contribution Amount will be adjusted by multiplying the Contribution Amount by an amount equal to the Current CPI divided by the Base CPI.

3 Payment of Contribution Amount

- (a) The Developer must pay to the Minister or the Minister's nominee the Contribution Amount prior to the commencement of the land-filling activity on the Land or within 24 months of the issue of any Construction Certificate or any approval under section 138 of the *Roads Act 1993* required by the Development for the Land, whichever is the earlier date.

4 Surrender of Development Consents

- (a) In the event the Developer does not provide the Contribution Amount in accordance with clause 1(a) of this Schedule 4, the Developer agrees to

immediately surrender both the 2005 Consent and the 1998 Consent in accordance with the procedure set down in the Act and Regulation.

SCHEDULE 5

Security terms (clause 6)

1 **Developer to provide Bank Guarantees**

- (a) In order to secure the payment of the Contribution Amount, the Developer has agreed to provide security in the form of a Bank Guarantee.
- (b) The Bank Guarantee must:
 - (i) name the "Minister for Planning and Infrastructure and Department of Planning and Infrastructure ABN 38 755 709 681" as the relevant beneficiaries; and
 - (ii) not have an expiry date.

2 **Bank Guarantee**

- (a) Upon execution of this deed, the Developer will provide security to the Minister in the form of the Bank Guarantee for a face value equivalent to \$2,131,795.34.
- (b) From the date of execution of this deed until the date that the Developer has provided the Development Contribution in full, the Minister will be entitled to retain the Bank Guarantee.
- (c) The parties agree that the requirement to provide the Bank Guarantee under this clause is a restriction on the issue of the relevant Construction Certificate within the meaning of clause 146A of the Regulation.

3 **Claims under the Bank Guarantee**

- (a) The Minister may call upon the Bank Guarantee where the Developer has failed to pay the Contribution Amount within the timeframe provided in Schedule 4 for payment of the Contribution Amount under this deed.
- (b) The Minister may retain and apply such monies towards the costs and expenses incurred by the Minister in rectifying any default by the Developer under this deed.
- (c) Prior to calling upon the Bank Guarantee the Minister must give the Developer not less than 10 Business Days written notice.
- (d) If:
 - (i) the Minister calls upon the Bank Guarantee; and

(ii) applies all or part of such monies towards the costs and expenses incurred by the Minister in rectifying any default by the Developer under this deed; and

(iii) has notified the Developer of the call upon the Bank Guarantee in accordance with clause 3(c) of this Schedule 5,

then the Developer must provide to the Minister a replacement Bank Guarantee to ensure that at all times until the date that the Developer has provided the Development Contribution in full, the Minister is in possession of a Bank Guarantee for a face value equivalent to \$2,131,795.34.

4 Release of Bank Guarantee

If:

- (a) the Developer has satisfied all of its obligations under this deed secured by the Bank Guarantee; and
- (b) the whole of the monies secured by the Bank Guarantee have not been expended and the monies accounted for in accordance with clause 3 of this Schedule 5

OR

- (c) Both the 2005 Consent and 1998 Consent are surrendered in accordance with the Act and Regulation and the Developer has not commenced the land-filling activity on the Land,

then the Minister will immediately 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.

EXECUTED as a deed

Signed sealed and delivered for and on behalf of the **Minister for Planning and Infrastructure** in the presence of:



Signature of Witness

Sarah Paqueline Ward

Name of Witness in full



Signature of the Minister for Planning and Infrastructure

As delegate
Minister for Planning and Infrastructure

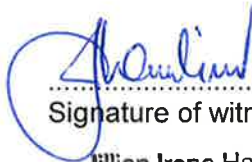
I certify that I am an eligible witness and that the person(s) signing opposite signed this dealing in my presence.

Certified correct for the purposes of the Real Property Act 1900 by the person(s) named below who signed this instrument pursuant to the power of attorney specified.

✓ *Darko Goranic*

✓ *Debbie Schroeder*

Signature of attorney



Signature of witness

Jillian Irene Hardiman
JP NSW Number: 199208

Name of witness

Darko Goranic

Attorney's name

DEBBIE JEAN SCHROEDER

Signing on behalf of **CSR Building Products Limited** ACN 008 631 356 (formerly known as Monier PGH Holdings Limited)

Address of witness

*Trinity 3,
39 Delmi Road, North Ryde NSW 2113*

Power of attorney Book 4612 No: 571

CSR BUILDING PRODUCTS LIMITED
by its Attorneys who state that at the date of their execution hereof they have had no notice of the revocation of the Power of Attorney dated 20 May 2011 and Registered No. Book 4612 No. 571 under the authority of which they have executed this instrument.