

**Minister for Planning and Infrastructure**

ABN 38 755 709 681

and

**Jacfin Pty Ltd**

ABN 44 000 967 902

## **Horsley Park – Stage 1 Development**

### **Planning Agreement**

Environmental Planning and Assessment Act 1979

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## TABLE OF CONTENTS

<b>1</b>	<b>DEFINITIONS AND INTERPRETATION</b>	<b>4</b>
	1.1 Definitions	4
	1.2 Interpretation	8
<b>2</b>	<b>OPERATION AND APPLICATION OF THIS DEED</b>	<b>10</b>
	2.1 Operation	10
	2.2 Planning agreement under the Act	10
	2.3 Application	10
<b>3</b>	<b>APPLICATION OF SECTIONS 94, 94A AND 94EF OF THE ACT</b>	<b>10</b>
<b>4</b>	<b>DEVELOPMENT CONTRIBUTIONS</b>	<b>10</b>
	4.1 Landowner to provide Development Contributions	10
	4.2 Acknowledgement	10
	4.3 Determination of Special Infrastructure Contribution	11
<b>5</b>	<b>INTEREST</b>	<b>12</b>
	5.1 Interest for late payment	12
<b>6</b>	<b>ENFORCEMENT</b>	<b>12</b>
	6.1 Landowner to provide security	12
<b>7</b>	<b>REGISTRATION ON TITLE</b>	<b>13</b>
	7.1 Land ownership	13
	7.2 Registration of Deed	13
	7.3 Release and discharge of Deed	13
<b>8</b>	<b>DISPUTE RESOLUTION</b>	<b>14</b>
	8.1 Not commence	14
	8.2 Written notice of dispute	14
	8.3 Attempt to resolve	14
	8.4 Mediation	14
	8.5 Court proceedings	14
	8.6 Use of information	14
	8.7 No prejudice	15
<b>9</b>	<b>GST</b>	<b>15</b>
	9.1 Definitions	15
	9.2 Intention of the parties	15
	9.3 Reimbursement	15
	9.4 Consideration GST exclusive	15
	9.5 Additional Amounts for GST	15
	9.6 Non monetary consideration	16
	9.7 Assumptions	16
	9.8 No merger	16

<b>10</b>	<b>ASSIGNMENT</b>	<b>16</b>
10.1	Consent	16
10.2	Dealings with Land	16
<b>11</b>	<b>CAPACITY</b>	<b>17</b>
11.1	General warranties	17
11.2	Power of attorney	17
<b>12</b>	<b>GENERAL PROVISIONS</b>	<b>17</b>
12.1	Entire deed	17
12.2	Variation	17
12.3	Waiver	18
12.4	Further assurances	18
12.5	Time for doing acts	18
12.6	Governing law and jurisdiction	18
12.7	Severance	19
12.8	Preservation of existing rights	19
12.9	No merger	19
12.10	Counterparts	19
12.11	Relationship of parties	19
12.12	Good faith	19
12.13	No fetter	19
12.14	Explanatory Note	20
12.15	Expenses and stamp duty	20
12.16	Notices	20
<b>SCHEDULE 1</b>		<b>22</b>
<b>SCHEDULE 2</b>		<b>24</b>
<b>SCHEDULE 3</b>		<b>25</b>
<b>SCHEDULE 4</b>		<b>26</b>
<b>SCHEDULE 5</b>		<b>35</b>
<b>EXECUTED AS A DEED</b>		<b>39</b>

THIS deed is dated 21 MARCH

2014  
2013

**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**)

**JACFIN PTY LTD** (ABN 44 000 967 902) c/- Pricewaterhouse Coopers, 201 Sussex Street, Sydney, New South Wales, 2000 (**Landowner**)

**INTRODUCTION:**

- A** The Landowner owns the Land and the Parent Lot.
- B** The Landowner has lodged the Concept Plan Application and the Project Application with the Minister.
- C** The Landowner is prepared to make the Development Contributions to the Minister for the provision of infrastructure for public purposes in connection with the Stage 1 Development in accordance with this deed.
- D** This deed constitutes the planning agreement referred to and required under condition 13 of the Project Approval.
- E** The Landowner has offered to enter into this deed with the Minister to secure the Development Contributions.

**IT IS AGREED:**

**1 DEFINITIONS AND INTERPRETATION**

**1.1 Definitions**

In this deed, unless the context clearly indicates otherwise:

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

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

**Actual Contributions Report** has the meaning given to it in clause 10 of Schedule 4.

**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 on demand.

**Base CPI** means the CPI number for the quarter ending 31 March in the year this deed is executed.

**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.

**Concept Plan Application** means application MP10\_0129.

**Construction Certificate** has the same meaning as in the Act.

**Contributions Estimate Notice** has the meaning given to it in clause 8 of Schedule 4.

**CPI** number 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 parties agree, acting reasonably, will apply.

**CPI Adjustment Date** means 1 July in the year this deed is executed and each anniversary of 1 July thereafter.

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

**Development** means the development the subject of the Project Approval.

**Development Contributions** means the contributions to be provided by the Landowner in accordance with clause 4 and Schedule 4.

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

**Excess Contributions Credit** as the meaning given to it in clause 11 of Schedule 4.

**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 Amount** has the meaning given to it in clause 9.5.

**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.

**Land Actual** means the value of the land subject to the Land Contribution at the time of transfer from the Landowner as agreed between the parties, or otherwise determined, in accordance with clause 10 of Schedule 4.

**Land Contribution** means the land to be provided by the Landowner as described in Schedule 4 and identified on the plan attached to this deed and marked Annexure A as 'Proposed Road (Regional Road)' comprising approximately 0.62 hectares.

**Land Estimate** means the estimate for the value of the land to be subject to the Land Contribution as agreed between the parties in accordance with clause 8 of Schedule 4.

**Local Road 1** has the meaning given to it in the Project Approval. The alignment of Local Road 1 is depicted generally on the plan attached to this deed and marked Annexure A and identified as 'Proposed Road (Local Road)'.

**Monetary Contribution** means the monetary amount to be paid by the Landowner as described in clause 4.3 and Schedule 4.

**Monetary Contribution Security** has the meaning given to it in clause 2 of Schedule 5.

**Monetary Contribution Security Amount** means \$20,000.

**Parent Lot** means Lot A DP 392643.

**Planning Agreement** means this deed.

**Practical Completion:**

- (a) has the meaning given to it in a Road Works Agreement in relation to the Works-in-Kind Contribution; or
- (b) where the expression is not defined in a Road Works Agreement in relation to the Works-in-Kind Contribution, means the time when the works for the Works-in-Kind Contribution have been completed and are ready for their

intended public use and occupation, except for minor omissions and minor defects which:

- (i) do not impede use of Regional Road 1 by the public for the continuous safe passage of vehicular traffic and pedestrians; and
- (ii) will not prejudice the convenient and safe use of Regional Road 1 during any rectification; and
- (iii) an authorised representative of RMS (or other relevant Roads Authority) determines that the Landowner has reasonable grounds for not rectifying prior to public use and occupation.

**Project Application** means application MP10\_0130.

**Project Approval** means the approval granted in relation to the Project Application.

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

**Regional Road 1** has the meaning given to it in the Project Approval and includes temporary construction access arrangements prior to the construction of Regional Road 1. The alignment of Regional Road 1 is depicted generally on the plan attached to this deed and marked Annexure B and identified as 'Proposed Regional Road 1'.

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

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

**Required Obligations** has the meaning given to it in clause 10.2.

**RMS** means Roads and Maritime Services being the Authority constituted under section 46 of the *Transport Administration Act 1988* (NSW).

**Roads Authority** has the same meaning as in the *Roads Act 1993* (NSW).

**Road Works Agreement** means a works authorisation deed or other legally binding agreement between the Landowner and the RMS (or other relevant Roads Authority) which governs the carrying out and completion of the Works-in Kind Contribution.

**Stage 1 Development** means the Development and the subdivision of the Parent Lot to create the Land.

**SIC Amount** has the meaning given to it in clause 4.3.

**SIC Credit** has the meaning given to it in clause 4.3.

**SIC Determination** has the meaning given to it in clause 4.3.

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

**Subdivision Certificate** has the same meaning as in the Act.

**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.

**Top up Contribution** has the meaning given to it in clause 12 of Schedule 4.

**Transferee** has the meaning given to it in clause 10.2.

**Western Sydney Employment Area** means the land to which *State Environmental Planning Policy (Western Sydney Employment Area) 2009* applies as identified on the Land Application Map.

**Works-in-Kind Actual** means the actual costs incurred by the Landowner to provide the Works-in-Kind Contribution as agreed between the parties, or otherwise determined, in accordance with clause 10 of Schedule 4. In accordance with clauses 6(c) and 8 of Schedule 4, the Works-in-Kind Actual will not exceed the Works-in-Kind Maximum.

**Works-in-Kind Contribution** means the works in kind to be provided by the Landowner as described in Schedule 4.

**Works-in-Kind Contribution Security** has the meaning given to it in clause 2 of Schedule 5.

**Works-in-Kind Estimate** means the cost estimate for providing the Works-in-Kind Contribution, including reasonable contingencies, as agreed between the parties in accordance with clauses 7 and 8 of Schedule 4.

**Works-in-Kind Maximum** means the maximum value for the Works-in-Kind Contribution as agreed between the parties in accordance with clauses 6(c), 7 and 8 of Schedule 4 as revised from time to time in accordance with clause 9 of Schedule 4.

## 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 later of the following:

- (a) date this deed is signed by all the parties; or
- (b) the date approval is granted under the Act to both the Concept Plan Application and the Project Application.

### **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 Stage 1 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 CONTRIBUTIONS**

### **4.1 Landowner to provide Development Contributions**

The Landowner agrees to provide, or procure the provision of, the Development Contributions to the Minister, or the Minister's nominee, in accordance with the provisions of Schedule 4 to this deed.

### **4.2 Acknowledgement**

The Landowner acknowledges and agrees that the Minister:

- (a) has no obligation to use or expend the Development Contributions for a particular purpose; and

- (b) has no obligation to repay the Development Contributions (noting that the provision of any credit to the Landowner under clause 4.3 or Schedule 4 is not a repayment); and
- (c) in circumstances where Development Contributions are transferred to another Authority, has not made any representation or warranty that the Development Contributions will or must be used for a particular purpose by any Authority to which the Minister transfers the Development Contributions.

#### 4.3 Determination of Special Infrastructure Contribution

- (a) Despite anything else in this deed, this clause 4.3 applies if:
  - (i) the Minister determines that all or part of the Parent Lot is part of a special contributions area under the Act (**SIC Determination**); and
  - (ii) had the SIC Determination been made prior to the grant of the Project Approval, an amount for Special Infrastructure Contributions would have been payable by the Landowner in association with the Stage 1 Development (**SIC Amount**).
- (b) Where the amount of the Monetary Contribution the Landowner is required to provide under this deed is less than the SIC Amount:
  - (i) the Landowner must provide to the Minister the Monetary Contribution; and
  - (ii) no further provision will be required from the Landowner relating to any portion of the Land in respect of which the Monetary Contribution has been provided pursuant to this deed.
- (c) Where the SIC Amount is less than the amount of the Monetary Contribution the Landowner is required to provide under this deed and the Landowner has not provided the Monetary Contribution under this deed prior to the SIC Determination:
  - (i) the Landowner must provide to the Minister the SIC Amount; and
  - (ii) no further provision will be required from the Landowner relating to any portion of the Land in respect of which the SIC Amount has been provided pursuant to this deed.
- (d) Where the SIC Amount is less than the amount of the Monetary Contribution the Landowner is required to provide under this deed and the Landowner has provided the Monetary Contribution under this deed prior to the SIC Determination:

- (i) no further provision will be required from the Landowner relating to any portion of the Land in respect of which the Monetary Contribution has been provided pursuant to this deed; and
- (ii) the Landowner will be entitled to a credit to be offset against its obligations to pay development contributions for future development of land which the Landowner owns within the Western Sydney Employment Area; and
- (iii) the value of the credit referred to in subclause (d)(ii) above will:
  - (A) equal the difference between the amount of the Monetary Contribution provided pursuant to this deed and the SIC Amount (**SIC Credit**); and
  - (B) on each CPI Adjustment Date until the date when a subsequent planning agreement that draws upon the credit is executed, be adjusted by multiplying the SIC Credit by the amount equal to the Current CPI divided by the CPI number for the quarter ending 31 March in the year the Landowner first became entitled to the credit.

## **5 INTEREST**

### **5.1 Interest for late payment**

- (a) If the Landowner fails to pay the Monetary Contribution payable to the Minister under this deed on the due date for payment, the Landowner must also pay to the Minister interest at a rate of 2% above the 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 Landowner to provide security**

The Landowner has agreed to provide security to the Minister for the provision of the Development Contributions by the Landowner by:

- (a) registering this deed on the title to the Land in accordance with clause 7; and
- (b) providing Bank Guarantees to the Minister in accordance with the terms and procedures set out in Schedule 5.

## **7 REGISTRATION ON TITLE**

### **7.1 Land ownership**

The Landowner 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 7.2(b)(i) to assist, cooperate and to otherwise do all things necessary for the Landowner to comply with its obligations under clause 7.2.

### **7.2 Registration of Deed**

- (a) As contemplated by section 93H of the Act, the Landowner agrees to lodge this deed for registration under the Real Property Act in the relevant folio of the Register within 10 Business Days of the date that this deed is returned to the Landowner by the Minister.
- (b) The Landowner, at its own expense, will take all practical steps to procure:
  - (i) the consent of each person who:
    - (A) has an estate or interest in the Land registered under the Real Property Act; or
    - (B) is seized or possessed or an estate or interest in the Land; and
  - (ii) the execution of any documents; and
  - (iii) the production of the relevant certificates of title; and
  - (iv) 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.
- (c) The Landowner 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**

Once the Landowner has satisfied all of its obligations under this deed, the Minister agrees to do all things reasonably required by the Landowner in order to have the Registrar-General remove this deed from the relevant folio of the Register or the General Register of Deeds (as the case may be).

## **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) as 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 (or any further period agreed in writing by the parties) 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 Use of 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. However, where a GST Amount is payable by the Minister as Recipient of the supply, the Landowner will ensure that:

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

#### **9.6 Non monetary consideration**

Clause 9.5 applies to non-monetary consideration.

#### **9.7 Assumptions**

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

#### **9.8 No merger**

This clause 9 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 party, which the other party must not withhold if it is 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 party, which the other party must not unreasonably condition or withhold.

#### **10.2 Dealings with Land**

- (a) The Landowner must not sell, transfer or dispose of the whole or any part of the Land unless, before it sells, transfers or disposes of any such part of the Land to another person (**Transferee**):
  - (i) the Landowner satisfies the Minister acting reasonably that the proposed Transferee is financially capable of complying with the Landowner's obligations under this deed as the Minister acting reasonably shall nominate must be adopted by the Transferee (**Required Obligations**);



- (ii) the Transferee signs a deed to the Minister containing provisions under which the Transferee agrees to comply with the Required Obligations as if it were the Landowner (including obligations which arose before the transfer or assignment);
  - (iii) any default by the Landowner has been remedied by the Landowner, unless that default has been waived by the Minister; and
  - (iv) the Landowner and the Transferee pay the Minister's reasonable costs in relation to that assignment.
- (b) If the Landowner sells, transfers or disposes of the whole or any part of the Land and fully satisfies the requirements of clause 10.2(a), the Landowner will be released from its obligations under this deed with respect to that Land subject to the sale, transfer or disposal.

## **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 GENERAL PROVISIONS**

### **12.1 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.

### **12.2 Variation**

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

- (b) The parties acknowledge that in circumstances where the Landowner is entitled to a credit in accordance with clause 4.3 or Schedule 4 and the State adopts administrative arrangements that permit a refund of credit amounts, the parties will enter into negotiations to effect a variation of this deed to reflect the adopted administrative arrangements.
- (c) The parties acknowledge that in circumstances where there is any inconsistency between the conditions of the Project Approval and any provision of this deed, the parties will enter into negotiations to effect a variation of this deed to conform the rights and obligations under the deed to the Project Approval conditions (to the extent of the inconsistency).

### **12.3 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.

### **12.4 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.

### **12.5 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.

### **12.6 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.

**12.7 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.

**12.8 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.

**12.9 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.

**12.10 Counterparts**

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

**12.11 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.

**12.12 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.

**12.13 No fetter**

Nothing in this deed shall be construed as requiring either the Minister 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 Minister in exercising any of the Minister's statutory functions, powers, authorities or duties.

#### 12.14 Explanatory Note

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

#### 12.15 Expenses and stamp duty

- (a) The Landowner 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 Landowner 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 Landowner 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 Landowner must provide the Minister with bank cheques in respect of the Minister's costs pursuant to clauses 12.15(a) and (b) above:
  - (i) where the Minister has provided the Landowner 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 Landowner with prior written notice of the sum of such costs prior to execution, within 30 Business Days of demand by the Minister for payment.

#### 12.16 Notices

- (a) Any notice, demand, consent, approval, report, 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; or
  - (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.

<b>REQUIREMENT UNDER THE ACT</b>	<b>THIS DEED</b>
<b>Planning instrument and/or project application</b> – (section 93F(2))  The Landowner has: (a) sought a change to an environmental planning instrument. (b) made a Project 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) No
<b>Description of land to which this deed applies</b> – (section 93F(3)(a))	See Schedule 3
<b>Description of change to the environmental planning instrument to which this deed applies</b> – (section 93F(3)(b))	N/A
<b>The scope, timing and manner of delivery of contribution required by this deed</b> – (section 93F(3)(c))	See clause 4 and Schedule 4
<b>Applicability of sections 94 and 94A of the Act</b> – (section 93F(3)(d))	The application of sections 94 and 94A of the Act is not excluded in respect of the Stage 1 Development.
<b>Applicability of section 94EF of the Act</b> – (section 93F(3)(d))	The application of section 94EF of the Act is excluded in respect of the Stage 1 Development.
<b>Consideration of benefits under this deed if section 94 applies</b> – (section 93F(5))	Yes
<b>Mechanism for Dispute Resolution</b> – (section 93F(3)(f))	See clause 8
<b>Enforcement of this deed</b> – (section 93F(3)(g))	See clause 6
<b>No obligation to grant consent or exercise functions</b> – (section 93F(10))	See clause 12.13

Table 2 – Other matters

REQUIREMENT UNDER THE ACT OR REGULATION	THIS DEED
<b>Registration of the Planning Agreement –</b> (section 93H of the Act)	Yes (see clauses 6 and 7)
<b>Whether the Planning Agreement specifies that certain requirements of the agreement must be complied with before a construction certificate is issued –</b> (clause 25E(2)(g) of the Regulation)	Yes (see clause 5 of Schedule 4 and clause 2 of Schedule 5)
<b>Whether the Planning Agreement specifies that certain requirements of the agreement must be complied with before an occupation certificate is issued –</b> (clause 25E(2)(g) of the Regulation)	No
<b>Whether the Planning Agreement specifies that certain requirements of the agreement must be complied with before a subdivision certificate is issued –</b> (clause 25E(2)(g) of the Regulation)	Yes (see clause 5 of Schedule 4 and clause 2 of Schedule 5)

## **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

#### **Landowner**

**Contact:** Mr Paul Brassil

**Address:** Jacfin Pty Ltd  
c/- Pricewaterhouse Coopers  
201 Sussex Street  
SYDNEY NSW 2000

**Facsimile No:** (02) 8286 2964



**SCHEDULE 3**

**Land (clause 1.1)**

Those parts of the Parent Lot comprising 9.57 hectares and identified on the plan attached to this deed and marked Annexure A as:

- (a) Proposed Lot 100, comprising 7.98 hectares; and
- (b) Proposed Road Lot, comprising 1.59 hectares, more particularly:
  - (i) Proposed Road (Local Road), comprising 0.97 hectares; and
  - (ii) Proposed Road (Regional Road), comprising 0.62 hectares.

## SCHEDULE 4

### Development Contributions (clause 4)

#### 1 Development Contributions

The Landowner undertakes to provide the following Development Contributions in the manner set out in the table below:

Type	Amount / Value	Manner of Delivery	Timing
Monetary Contribution	\$1,436,400, calculated pursuant to clause 2 of this Schedule 4	Cash or bank cheque or electronic funds transfer	Pursuant to clause 5 of this Schedule 4.
Works-in-Kind Contribution	Equal to the Works-in-Kind Actual (in accordance with clauses 6(c), 7 and 8 of this Schedule 4, and not to exceed the Works-in-Kind Maximum)	Practical Completion of Regional Road 1	The date for Practical Completion agreed to by the Minister in accordance with clauses 8 and 9 of this Schedule 4
Land Contribution	Equal to the Land Actual	Dedication to a relevant Roads Authority of title to that part of Regional Road 1 that is on the Parent Lot at no cost to the Minister or the relevant Roads Authority	Prior to Practical Completion of the Works-in-Kind Contribution and in accordance with clause 9 of this Schedule 4

#### 2 Monetary Contribution

The parties acknowledge and agree that

- (a) the net developable area of the Land is 7.98 hectares, comprising the part of the Parent Lot identified as proposed Lot 100 on the plan attached to this deed and marked Annexure A (and excluding the Proposed Road Lot, comprising 1.59 hectares);
- (b) the Monetary Contribution is a cash contribution towards the provision of regional infrastructure within the Western Sydney Employment Area; and

- (c) the Monetary Contribution:
  - (i) has been calculated on the basis of \$180,000 per hectare of the net developable area of the Land;
  - (ii) is subject to indexation in accordance with clause 3 of this Schedule 4; and
  - (iii) is subject to any relevant reduction in accordance with clause 4 of this Schedule 4.

### 3 **Indexation of the Monetary Contribution**

On each CPI Adjustment Date until provision of the Monetary Contribution in accordance with clause 5 of this Schedule 4, the Monetary Contribution will be adjusted by multiplying the Monetary Contribution by a factor equal to the Current CPI divided by the Base CPI.

### 4 **Reduction of the Monetary Contribution**

- (a) Where:
  - (i) the parties have agreed in accordance with clauses 6, 7 and 8 of this Schedule 4 on a Works-in-Kind Estimate and Land Estimate before the Landowner is required to provide the Monetary Contribution in accordance with clause 5 of this Schedule 4; and
  - (ii) the Landowner has provided the Minister with the Works-in-Kind Contribution Security in accordance with clause 2(b) of Schedule 5,

the Monetary Contribution will be reduced on the date the Landowner is required to provide the Monetary Contribution in accordance with clause 5 of this Schedule 4 in part or in full by the sum of any:

- (iii) Works-in-Kind Estimate; and
  - (iv) Land Estimate.
- (b) To avoid any doubt, where the Monetary Contribution is reduced in part only, the Landowner is required to provide the remaining part of the Monetary Contribution in accordance with clause 5 of this Schedule 4.

### 5 **Provision of the Monetary Contribution**

- (a) The Landowner must provide to the Minister or the Minister's nominee the Monetary Contribution prior to the issue of a:

- (i) Subdivision Certificate; or
  - (ii) Construction Certificate,

for the Development, whichever occurs first.
- (b) The parties agree that the requirement to provide a Monetary Contribution under this clause is a restriction on the issue of a, to the extent relevant:
  - (i) Subdivision Certificate, within the meaning of section 109J of the Act; or
  - (ii) Construction Certificate, within the meaning of section 109F of the Act.
- (c) To avoid any doubt, where the Monetary Contribution is reduced in full in accordance with clause 4 of this Schedule 4:
  - (i) there is no restriction on the issue of any relevant Subdivision Certificate or Construction Certificate under this clause 5; and
  - (ii) subject to clause 12 of this Schedule 4, the Landowner is not required to provide a Monetary Contribution under this clause 5.

## 6 **Works-in-Kind Contribution and Land Contribution**

The parties acknowledge and agree that:

- (a) the Works-in-Kind Contribution and Land Contribution are contributions towards the provision of regional infrastructure within the Western Sydney Employment Area;
- (b) in addition to the Works-in-Kind Contribution and Land Contribution required to be provided under this deed, the Landowner is required under the Project Approval to construct and dedicate land for Local Road 1 which will connect to local and regional infrastructure and other land within the Western Sydney Employment Area; and
- (c) the Works-in-Kind Contribution Amount will equal the Works-in-Kind Actual up to and including, but not to exceed, the Works-in-Kind Maximum.

## 7 **Provision of Works-in-Kind Contribution and Land Contribution**

- (a) The parties acknowledge and agree that:
  - (i) the process for determining the values of the Works-in-Kind Contribution and Land Contribution will follow a three step process, set out below in clauses 8, 9 and 10 of this Schedule 4, which, in summary only, follows these steps:

- (A) **(Step 1 – Estimates)** reaching agreement on suitable estimates of the value of the Works-in-Kind Contribution and the Land Contribution;
  - (B) **(Step 2 – Delivery)** undertaking the necessary works to achieve Practical Completion of the Works-in-Kind Contribution and dedicating the Land Contribution; and
  - (C) **(Step 3 – Reconciliation)** reaching agreement, or otherwise having determined as outlined below, a reconciliation of actual expenses incurred by the Landowner, and the value of the land dedicated at the date of transfer, with the estimates agreed in Step 1 above; and
- (ii) time is of essence for negotiations under clauses 8 and 10 of this Schedule 4.

#### 8 **Step 1 – Contributions Estimates**

- (a) Prior to commencing works for the Works-in-Kind Contribution, the Landowner must:
- (i) obtain all necessary approvals to carry out the works for the Works-in-Kind Contribution, including entering into any relevant Road Works Agreement; and
  - (ii) give written notice to the Minister (**Contributions Estimate Notice**) seeking agreement to:
    - (A) the specification details, location, nature, extent and timing of the works for the Works-in-Kind Contribution;
    - (B) the exact location and bounds of the land to be subject to the Land Contribution;
    - (C) a cost estimate for providing the Works-in-Kind Contribution, including reasonable contingencies;
    - (D) a maximum value for the Works-in-Kind Contribution Amount; and
    - (E) an estimate of the value of the land to be provided for the Land Contribution,
- and with details of:
- (F) the approvals obtained to carry out the works for the Works-in-Kind Contribution;

- (G) the date for the Practical Completion of the Works-in-Kind Contribution required by the RMS (or other relevant Roads Authority); and
  - (H) whether the RMS (or other relevant Roads Authority) requires security for carrying out the works for the Works-in-Kind Contribution under any Road Works Agreement.
- (b) Following the Minister's consideration of the Contributions Estimate Notice, the parties must negotiate in good faith to agree on the matters outlined in the Contributions Estimate Notice, including, but not limited to:
- (i) the date for Practical Completion of the Works-in-Kind Contribution;
  - (ii) the values of the Works-in-Kind Estimate and the Land Estimate that will be adopted by the parties for the purposes of making any reduction to the Monetary Contribution in accordance with clause 4 of this Schedule 4; and
  - (iii) the value of the Works-in-Kind Maximum that will be adopted by the parties for the purposes of limiting the Works-in-Kind Actual in accordance with clause 6(c) of this Schedule 4.

**9 Step 2 – Delivery – Works-in-Kind Contribution and Land Contribution**

- (a) The Landowner must:
- (i) enter into a Road Works Agreement with RMS (or other relevant Roads Authority) upon terms and conditions which each of the RMS (or other relevant Roads Authority) and the Landowner have agreed in respect of the carrying out and completion of the Works-in-Kind Contribution; and
  - (ii) achieve Practical Completion of the Works-in-Kind Contribution within the timing specified in the Road Works Agreement.
- (b) The Landowner must notify the Minister promptly following entry into a Road Works Agreement and provide the Minister with a copy of that agreement.
- (c) The Landowner must give the Minister written notice forty (40) days prior to the date of Practical Completion of Regional Road 1.
- (d) Following receipt of the notice in clause 9(c) of this Schedule 4, the Minister must give notice to the Landowner nominating to which Authority the land for the Land Contribution is to be transferred.

- (e) The Landowner must (at its cost) prepare and register a plan of subdivision to create a separate lot or lots for the Land Contribution.
- (f) The Landowner agrees to:
  - (iii) procure the transfer of the Land Contribution to the Minister (or, if directed, to the Minister's nominee) for \$1; and
  - (iv) deliver to the Minister (or, if the Minister directs, to the Minister's nominee):
    - (A) a form of transfer in respect of the land comprising the Land Contribution executed by the Landowner and in registrable form; and
    - (B) the certificates of title for the Land Contribution,

and must take any other necessary action (including paying stamp duty associated with the transfer or contract for sale) to give effect to the transfer of the title of the Land Contribution to the Minister (or, where appropriate, the Minister's nominee) free of all encumbrances and affectations (including any charge or liability for rates, taxes and charges).
- (g) Upon transfer, the Land Contribution will be free from any encumbrances other than service easements or other encumbrances as agreed with the Minister.
- (h) The Landowner indemnifies and agrees to keep indemnified the Minister (or his nominee) against all claims made against the Minister (or his nominee) as a result of any contamination that is required to be cleaned up by an Authority over the whole or any part of the Land Contribution but only in relation to contamination that existed on or before the date that the Land Contribution is transferred to the Minister (or his nominee).
- (i) The Landowner must promptly comply, or procure compliance with, any requisitions raised by the Registrar-General in relation to the transfer of the Land Contribution.
- (j) The Landowner will pay all rates and taxes owing in respect of the Land Contribution up to and including the date that the Landowner delivers the form of transfer and certificates of title for the Land Contribution pursuant to clause 9(f) of this Schedule 4, after which time the Minister will be responsible for all rates and taxes in relation to the Land Contribution.
- (k) If the Landowner does not procure the transfer of the Land Contribution in accordance with clause 9 of this Schedule 4, the Landowner consents to the Minister (or his nominee) compulsorily acquiring the Land Contribution in accordance with the Acquisition Act for the amount of \$1.

- (l) The Landowner and the Minister agree that:
  - (i) clause 9(k) of this Schedule 4 is an agreement between the Landowner and the Minister for the purpose of section 30 of the Acquisition Act; and
  - (ii) in clause 9(k) of this Schedule 4, the Landowner and the Minister have agreed on all relevant matters concerning the compulsory acquisition and the compensation to be paid for the acquisition.
- (m) If the Minister must pay compensation under Part 3 of the Acquisition Act to any person, other than the Landowner, in accordance with the compulsory acquisition arrangements under clause 9(k) of this Schedule 4, the Landowner must reimburse the amount of that compensation to the Minister on request.
- (n) Where, prior to the date of Practical Completion of Regional Road 1, the Landowner becomes aware of any latent condition of the land subject of the works for the Works-in-Kind Contribution that will have a materially adverse impact on the Works-in-Kind Maximum, the parties agree to discuss, with the RMS or other Roads Authority (where appropriate), in good faith the need to adopt a revised amount for the Works-in-Kind Maximum.

#### 10 **Step 3 – Contributions Reconciliation**

- (a) After the Practical Completion of Regional Road 1 has been achieved and the Land Contribution has been transferred, the Landowner must submit a report to the Minister (***Actual Contributions Report***) with:
  - (i) a copy of the title and survey plan of the land subject to the Land Contribution;
  - (ii) accounts for the actual costs incurred by the Landowner in providing the Works-in-Kind Contribution;
  - (iii) a reconciliation of the actual costs incurred by the Landowner in providing the Works-in-Kind Contribution in comparison to the Works-in-Kind Estimate and Works-in-Kind Maximum;
  - (iv) a reconciliation of the actual value of the land subject to the Land Contribution at the date of transfer in comparison to the Land Estimate;
  - (v) the value of any Excess Contributions Credit, calculated in accordance with clause 11 of this Schedule 4 below; and
  - (vi) the value of any Top up Contribution, calculated in accordance with clause 12 of this Schedule 4 below.



- (b) Following the Minister's consideration of the Actual Contributions Report, the parties must negotiate in good faith to agree on the matters outlined in the Actual Contributions Report, including the values of:
  - (i) the Works-in-Kind Actual;
  - (ii) the Land Actual;
  - (iii) where applicable, the Excess Contributions Credit; and
  - (iv) where applicable, the Top up Contribution.
- (c) If the parties cannot agree on the Works-in-Kinds Actual, being the value of the actual costs incurred by the Landowner in providing the Works-in-Kind Contribution:
  - (i) the parties must agree on and jointly appoint an independent, suitably qualified person to calculate the actual costs; and
  - (ii) the actual costs will be determined by that person.
- (d) If the parties cannot agree on the Land Actual, being the value of the land subject to the Land Contribution at the date of transfer:
  - (i) the parties must agree on and jointly appoint an independent, suitably qualified person to calculate the value; and
  - (ii) the value will be determined by that person in accordance with section 56(1) of the Acquisition Act as if the land had been acquired by compulsory acquisition at the date of transfer.

#### 11 **Credit for Excess Contributions**

Where the sum of:

- (a) the Works-in-Kind Actual, as agreed by the parties or determined in accordance with clause 10 of this Schedule 4;
- (b) the Land Actual, as agreed by the parties or determined in accordance with clause 10 of this Schedule 4; and
- (c) the Monetary Contribution provided by the Landowner in accordance with this Schedule 4:

exceeds:

- (d) a total value of \$1,436,400 (including any CPI adjustment to the date of the agreement or determination under clause 10 of this Schedule 4):

then:

- (e) the Landowner will be entitled to a credit in the amount of the difference between the sum of items (a) to (c) inclusive above, less the value of item (d) above (**Excess Contributions Credit**);
- (f) the Landowner will be entitled to utilise the Excess Contributions Credit to offset against its obligations to pay development contributions for future development of land which the Landowner owns within the Western Sydney Employment Area; and
- (g) on each CPI Adjustment Date until the date when a subsequent planning agreement that draws upon the Excess Contributions Credit is executed (or otherwise takes effect), the Excess Contributions Credit will be adjusted by multiplying the amount by a factor equal to the Current CPI divided by the CPI number for the quarter ending 31 March in the year the Works-in-Kinds Contributions are completed.

## 12 Top up Contribution by Landowner

Where the sum of:

- (a) the Works-in-Kind Actual, as agreed by the parties or determined in accordance with clause 10 of this Schedule 4 ;
- (b) the Land Actual, as agreed by the parties or determined in accordance with clause 10 of this Schedule 4; and
- (c) the Monetary Contribution provided by the Landowner in accordance with this Schedule 4:

is less than:

- (d) a total value of \$1,436,400 (including any CPI adjustment to the date of the agreement or determination under clause 10 of this Schedule 4):

then:

- (e) the Landowner must make a further monetary contribution in the amount of the difference between the value of item (d) above, less the sum of items (a) to (c) inclusive above (**Top up Contribution**);
- (f) the Top up Contribution is to be made by the Landowner within 20 Business Days of the date of the agreement or determination under clause 10 of this Schedule 4.

## SCHEDULE 5

### Security (clause 6.1(b))

#### 1 Bank Guarantees

Each Bank Guarantee provided by the Landowner pursuant in this Schedule 5 must:

- (a) name the "Minister for Planning and Infrastructure and Department of Planning and Infrastructure ABN 38 755 709 681" as the relevant beneficiaries; and
- (b) not have an expiry date.

#### 2 Landowner to provide Bank Guarantees

- (a) Upon execution of this deed, the Landowner will provide to the Minister a Bank Guarantee for, or Bank Guarantees totalling, a face value equivalent to the Monetary Contribution Security Amount as security for the provision of the Monetary Contribution (***Monetary Contribution Security***).
- (b) Prior to the Monetary Contribution being reduced in accordance with clause 4 of Schedule 4, the Landowner will provide to the Minister a Bank Guarantee for, or Bank Guarantees totalling, a face value equivalent to the Works-in-Kind Estimate as security for the provision of the Works-in-Kind Contribution (***Works-in-Kind Contribution Security***).
- (c) The Landowner must provide to the Minister or the Minister's nominee the Works-in-Kind Contribution Security prior to the issue of a:
  - (i) Subdivision Certificate; or
  - (ii) Construction Certificate,
 for the Development, whichever occurs first.
- (d) The parties agree that the requirement to provide the Works-in-Kind Contribution Security under this clause is a restriction on the issue of a, to the extent relevant:
  - (i) Subdivision Certificate, within the meaning of section 109J of the Act; or
  - (ii) Construction Certificate, within the meaning of section 109F of the Act.

- (e) The Minister will be entitled to retain the Monetary Contribution Security until:
  - (i) the date that the Landowner has provided the Monetary Contribution in accordance with clause 5 of Schedule 4; or
  - (ii) where the sum of the Works-in-Kind Estimate and Land Estimate equals or exceeds the Monetary Contribution Security Amount, the date that the Landowner provides the Works-in-Kind Contribution Security.
- (f) The Minister will be entitled to retain the Works-in-Kind Contribution Security until:
  - (i) the date of Practical Completion; or
  - (ii) if the Landowner is required to provide security to the RMS (or another relevant Roads Authority) under a separate Road Works Agreement in relation to the Works-in-Kind Contribution, the date that the Landowner provides the Minister with evidence that the security required under that other agreement has been provided to the RMS (or another relevant Roads Authority).

### 3 **Claims under the Bank Guarantees**

- (a) The Minister may call upon the Monetary Contribution Security where the Landowner has failed to:
  - (i) provide the Monetary Contribution on or before the date for payment under this deed; or
  - (ii) provide one or more Bank Guarantees to ensure that at all times the value of the security held by the Minister is for a face value equivalent to the Monetary Contribution Security Amount,

and retain and apply such monies towards the costs and expenses incurred by the Minister in rectifying such failures by the Landowner.
- (b) The Minister may call upon the Works-in-Kind Contribution Security where the Landowner has failed to:
  - (i) provide the Works-in-Kind Contribution on or before the date agreed with the Minister or RMS or other Roads Authority (as the case may be); or
  - (ii) provide one or more Bank Guarantees to ensure that at all times the value of the security held by the Minister is for a face value equivalent to the Works-in-Kind Estimate,

and retain and apply such monies towards the costs and expenses incurred by the Minister in rectifying such failures by the Landowner.

- (c) Prior to calling upon any Bank Guarantee provided by the Landowner under this Schedule 5, the Minister must give the Landowner not less than 10 Business Days' written notice.

- (d) If:

- (i) the Minister calls upon a Bank Guarantee in accordance with this clause; and
- (ii) applies all or part of such monies towards the costs and expenses incurred by the Minister in rectifying a default by the Landowner,

then the Landowner must provide to the Minister replacement Bank Guarantees to ensure that the Minister is in possession of Bank Guarantees for a face value equivalent to the Monetary Contribution Security Amount or the Works-in-Kind Estimate, as the case may be, at all times until the releases of the relevant Banks Guarantees in accordance with clause 4 of this Schedule 5.

#### 4 **Release of the Bank Guarantees**

- (a) Where:

- (i) the Landowner has provided the Monetary Contribution in accordance with clause 5 of Schedule 4 and the whole of the monies secured by the Monetary Contribution Security have not been expended and the monies accounted for in accordance with clause 3 of this Schedule 5; or
- (ii) the sum of the Works-in-Kind Estimate and Land Estimate equals or exceeds the Monetary Contribution Security Amount and the Landowner provides the Works-in-Kind Contribution Security in accordance with clause 2(b) of this Schedule 5,

then the Minister will promptly return the Monetary Contribution Security (less any costs, charges, duties and taxes payable), or the remainder of the monies secured by the Monetary Contribution Security (as the case may be), to the Landowner.

- (b) Where:

- (i) Practical Completion of Regional Road 1 is achieved and the whole of the monies secured by the Monetary Contribution Security have not been expended and the monies accounted for in accordance with clause 3 of this Schedule 5; or

- (ii) the Landowner has provided evidence to the Minister that the Landowner has provided security to the RMS (or another relevant Roads Authority) under a Road Works Agreement,

then the Minister will promptly return the Works-in-Kind Contribution Security (less any costs, charges, duties and taxes payable), or the remainder of the monies secured by the Works-in-Kind Contribution Security (as the case may be), to the Landowner.

**EXECUTED AS A DEED**

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



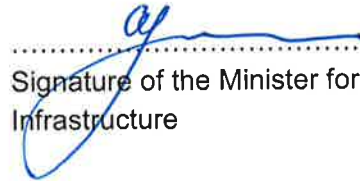
Signature of Witness

*Sarah Ward.*

Name of Witness in full

ADDRESS:

23 - 33 BRIDGE ST  
SYDNEY 2000



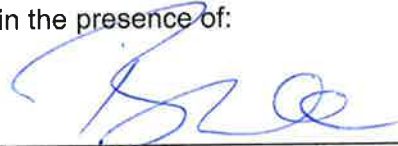
Signature of the Minister for Planning and Infrastructure

*As delegate*

Minister for Planning and Infrastructure

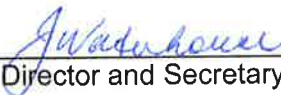
**ANDREW JACKSON**

**Executed** in accordance with section 127 of the *Corporations Act 2001* by **Jacfin Pty Ltd** ABN 44 000 967 902 in the presence of:



Witness Signature

WILLIAM McCREDIE  
Print Name

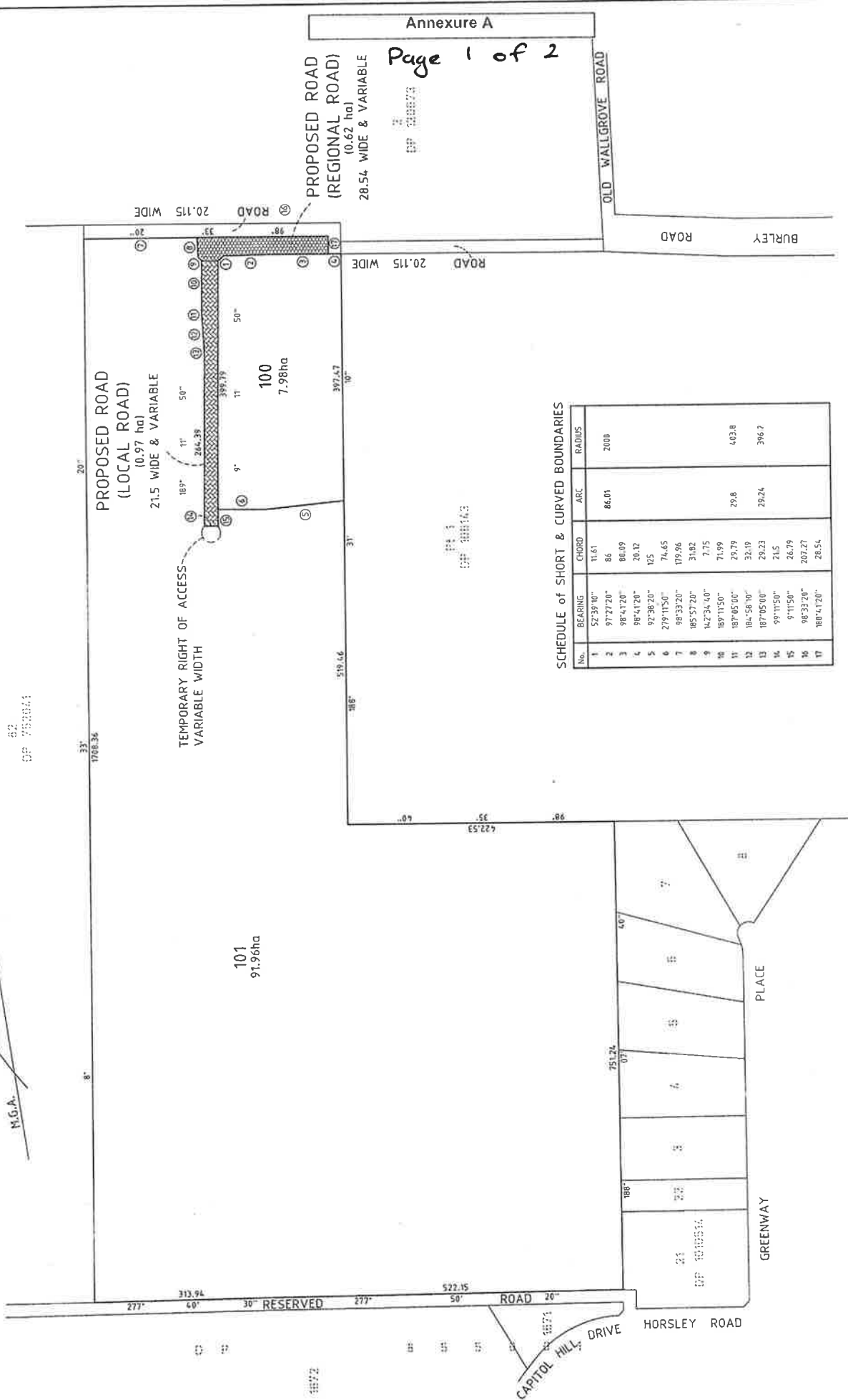


Sole Director and Secretary Signature

JACQUELYN WATERHOUSE  
Print Name



8.2  
DP 750043



Annexure A

Page 1 of 2

DP 750043

SCHEDULE OF SHORT & CURVED BOUNDARIES

No.	BEARING	CHORD	ARC	RADIUS
1	52°39'10"	11.61		2000
2	97°27'20"	86	86.01	
3	95°4'20"	80.09		
4	98°4'120"	20.12		
5	92°36'20"	125		
6	279°11'50"	74.65		
7	98°33'20"	179.56		
8	185°57'20"	31.82		
9	142°34'40"	7.75		
10	189°11'50"	71.99		
11	187°05'00"	29.79	29.8	403.8
12	184°58'10"	32.19		
13	187°05'00"	29.23	29.24	396.7
14	99°11'50"	21.5		
15	91°15'00"	26.29		
16	98°33'20"	207.27		
17	180°4'120"	28.54		

DRAFT ONLY!

Surveyor : ANTHONY MICHAEL ATKINS  
Date of Survey :  
Surveyor's Ref : 23-3825-B

SUBDIVISION OF  
LOT A IN DP 392643

LGA: PENRITH  
Locality : KEMPS CREEK  
Subdivision No:  
Lengths are in metres Reduction Ratio 1:4000

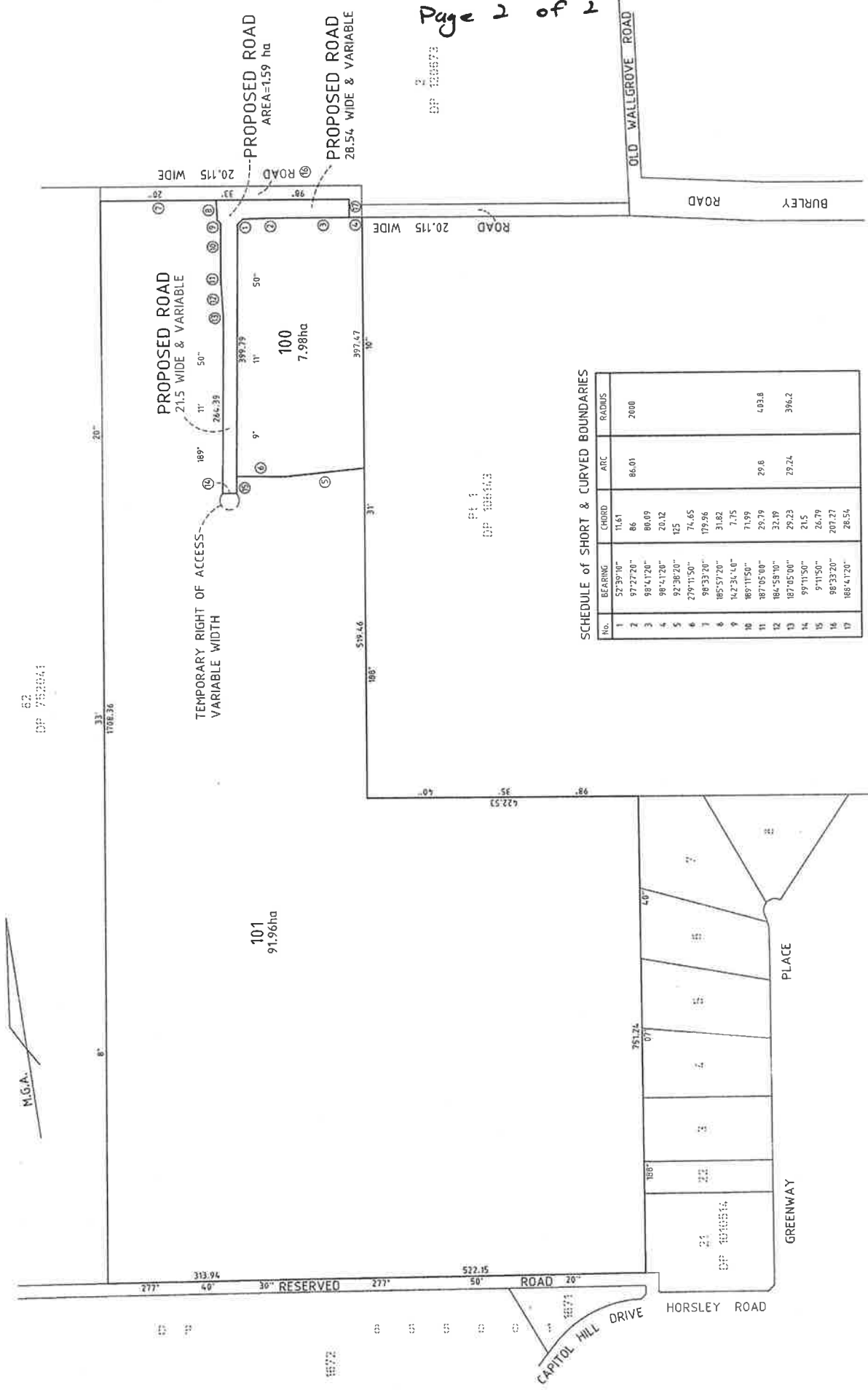
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Annexure A  
Page 2 of 2



SCHEDULE OF SHORT & CURVED BOUNDARIES

No.	BEARING	CHORD	ARC	RADIUS
1	52°39'10"	11.61		
2	97°27'20"	86	86.01	2000
3	98°4'120"	80.09		
4	98°4'120"	20.12		
5	92°30'20"	125		
6	279°11'50"	74.65		
7	98°33'20"	179.96		
8	185°57'20"	31.82		
9	142°34'18"	7.75		
10	189°11'50"	71.99		
11	187°05'00"	29.79	29.8	403.8
12	184°55'10"	31.19		
13	187°05'00"	29.23	29.24	396.2
14	99°11'50"	21.5		
15	9°11'50"	26.79		
16	98°33'20"	207.27		
17	188°4'120"	28.54		

DRAFT ONLY!

Surveyor: ANTHONY MICHAEL ATKINS  
Date of Survey:  
Surveyor's Ref: 23-3825-C

SUBDIVISION OF  
LOT 1 A IN DP 392643

LGA: PENRITH  
Locality: KEMPS CREEK  
Subdivision No:  
Lengths are in metres. Reduction Ratio 1:4000

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No.	BEARING	CHORD	ARC	RADIUS
1	52°39'40"	11.61		
2	97°27'20"	86	86.01	2000
3	98°47'20"	60.09		
4	98°47'20"	20.12		
5	92°38'20"	125		
6	275°11'50"	74.65		
7	98°33'20"	175.96		
8	185°57'20"	31.82		
9	44°23'440"	7.75		
10	189°11'50"	71.99		
11	187°05'00"	28.79	28.8	403.8
12	184°58'40"	32.19		
13	187°05'00"	29.23		
14	99°11'50"	21.5	29.24	396.2
15	91°15'00"	26.79		
16	98°33'20"	207.27		
17	188°47'20"	28.54		

DRAFT ONLY!

Surveyor : ANTHONY MICHAEL ATKINS  
Date of Survey :  
Surveyor's Ref : 23-3825-D

SUBDIVISION OF  
LOT A IN DP 392643

Registered

2

LGA: PENRITH  
Locality : KEMPS CREEK  
Subdivision No:  
Lengths are in metres. Reduction Ratio 1:4,000