

**Director-General of the Department of Planning and  
Infrastructure for and on behalf of the Crown in right of the  
State of New South Wales**

ABN 38 755 709 681

**Capital Eden Grange Pty Limited**

ACN 153 411 208

**as trustee for Capital Eden Grange Trust**

ABN 13 645 536 620

**Special Infrastructure Contributions  
Works-in-Kind Agreement**

**Part of McCulloch Street (approximately 220m)  
between Brighton Street and Cranbourne  
Street, Riverstone**

*S. Maddadi*

31/10/2013.

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**EXECUTED AS A DEED**

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THIS Deed is dated 31<sup>st</sup> October

2013

**PARTIES:**

*S. Maddadi*

**DIRECTOR-GENERAL OF THE DEPARTMENT OF PLANNING AND INFRASTRUCTURE FOR AND ON BEHALF OF THE CROWN IN RIGHT OF THE STATE OF NEW SOUTH WALES** (ABN 38 755 709 681) of 23-33 Bridge Street, Sydney, New South Wales, 2000 (Director-General); and

**CAPITAL EDEN GRANGE PTY LIMITED** (ACN 153 411 208) as trustee for **CAPITAL EDEN GRANGE TRUST** (ABN 13 645 536 620) of Suite 705/12 Century Circuit, Baulkham Hills, New South Wales, 2153 (the Developer).

**INTRODUCTION:**

- A** The Developer proposes to carry out Development within the Western Sydney Growth Areas Special Contributions Area.
- B** The Ministerial Determination provides for the making of a SIC for development on certain land within the WSGA Special Contributions Area.
- C** The *Environmental Planning and Assessment (Special Infrastructure Contribution – Western Sydney Growth Areas) Direction 2011* requires councils for the local government areas that lie within the WSGA Special Contributions Area to impose a condition (in the terms set out in the Direction) for the making of a SIC on the grant of development consent for any development for which a SIC is required to be made under the Ministerial Determination.
- D** The Ministerial Determination provides that a SIC may be made as a monetary contribution or a contribution of a kind specified in a SIC works-in-kind agreement.
- E** The Development Consent granted to the Developer for development on land within the WSGA Special Contributions Area requires the making of a SIC.
- F** The Developer proposes to construct and provide certain items of infrastructure to partially discharge its liability to make a SIC imposed under the Development Consent.
- G** The Parties have agreed to enter into this Deed to give effect to the above proposal.
- H** For the avoidance of doubt, the parties intend this Deed to constitute the entire agreement and understanding between them in relation to the subject matter of this Deed and have agreed that any prior arrangements between them relating to the subject matter of this Deed are rescinded and have no further force or effect.

**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);

**Actual Cost**, in relation to the Road Work, means the Final Certified Contract Cost at completion of the Construction Contract, together with any other costs incurred and paid by the developer to third parties for the following:

- (i) design of the Road Work, project management, investigations, studies or reports specifically required for the Road Work;
- (ii) any licence, approval, authority, permit or permission specifically required to be obtained for or in relation to the carrying out of the Road Work;

**Address for Service** means the address of each party appearing in Schedule 4 or any new address notified by any party to all other parties as its new Address for Service;

**Authorised Progress Claim Certificate** means a certificate signed by the superintendent for the Road Work confirming that the Developer has paid the amount specified in that Certificate to the third party contractor for work performed under the Construction Contract;

**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;

**Construction Contract** means the contract between the Developer and a third party, referred to in clause 3.4, for the carrying out of the Road Work by that third party;

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

**Department** means the NSW Department of Planning and Infrastructure;

**Development** means the development the subject of the Development Consent granted to the Developer within the WSGA Special Contributions Area;

**Development Consent** means the development consent granted under Part 4 of the Act to the Developer by Blacktown City Council No.11-1721 on 22 May 2012, including that consent as it may be subsequently modified under the Act;

**Director-General** means the Director-General of the Department or nominated officer;

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**Estimated Cost** in relation to the Road Work, means the estimated cost of the Road Work set out in column 1 of the Table, and, from 1 July 2014 that cost as indexed in accordance with clause 3.2(a);

**Final Certified Contract Cost**, in relation to the Construction Contract, has the same meaning as in the Construction Contract;

**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);

**Milestone** means works or other activities specified in Column 3 of the Table relating to the carrying out of the Road Work;

**Milestone Notice** means a written notice from the Developer to the Director-General notifying the Director-General that the Developer has achieved the Milestone specified in the notice;

**Minister** means the Minister for Planning and Infrastructure;

**Ministerial Determination** means the *Environmental Planning and Assessment (Special Infrastructure Contribution – Western Sydney Growth Areas) Determination 2011*, made under section 94EE of the Act and dated 14 January 2011;

**Nominated Officer** means an officer of the Department for the time being holding a position nominated by the Director-General for the purpose of this Deed;

**Plans** means the plans in Schedule 2;

**Road** has the same meaning as in the *Roads Act 1993*;

**Roads Authority** has the same meaning as in the *Roads Act 1993*;

**Road Work** means those works described in Schedule 3;

**SIC Discharge Amount** means an amount specified in Column 2 of the Table for a Milestone specified in Column 3 of the Table, and, from 1 July 2014, means that amount, if it is the amount for Milestone 1, 2 or 3, indexed in accordance with clause 3.5(b);

**SIC Discharge Balance** means the amount shown on the SIC Discharge Certificate as the final or unapplied SIC Discharge Balance, being either “zero” amount or the amount that remains available for the discharge of SIC obligations for development that is not listed on the certificate for the time being;

**SIC Discharge Certificate** means a certificate referred to in clause 3.4(c)(ii) as amended from time to time under clause 3.5(c);

**Special Infrastructure Contribution (SIC)** means a development contribution determined under section 94EE of the Act for the WSGA Special Contributions Area or any part of that Area;

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

**Table** means the Table in Schedule 1 relating to the Road Work;

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

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- (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 OF THIS DEED**

### **2.1 Operation**

The parties agree that this Deed will commence from the date this Deed is signed by all the parties.

## **3 AGREEMENT BETWEEN THE PARTIES**

### **3.1 The Road Work**

The parties acknowledge that:

- (a) the Development Consent granted to the Developer for development on land within the WSGA Special Contributions Area requires the making of a SIC;
- (b) the Developer has elected to carry out the Road Work in accordance with clause 3 of this Deed, to partially discharge its SIC obligation imposed under the Development Consent;
- (c) the Road Work forms part of the 'Riverstone Central' (SIC item NR7.1) road works in the North West Growth Centre and the attributable cost shown for that item in Appendix 1 to the Ministerial Determination is \$36,086,000;



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- (d) the maximum liability to make the SIC for the Development that may be discharged by the carrying out of the Road Work is the Estimated Cost of the Road Work,
- (e) the Director-General will, on the terms set out in this Deed, accept the Road Work in discharge of part of the liability of the Developer to make the SIC imposed for the Development; and
- (f) this Deed constitutes a SIC works-in-kind agreement within the meaning of the Ministerial Determination.

**3.2 Estimated Cost and Actual Cost of Road Work**

- (a) The parties agree that on 1 July 2014, and on 1 July in each subsequent year, the Estimated Cost of the Road Work is to be adjusted by multiplying that Cost by the following fraction:

**latest Sydney CPI number / 102.7**

where:

**latest Sydney CPI number** is the Sydney CPI number for the March quarter in the year in which the adjustment is made (the March quarter being the quarter commencing on and including 1 January and ending on and including 31 March in that same year).

Note. The figure **102.7** is the Sydney CPI number for the March quarter in 2013.

- (b) The parties agree that the amount of the liability to make the SIC for the Development that the Developer may discharge by carrying out the Road Work is the Actual Cost of the Road Work.
- (c) However, if the Actual Cost of the Road Work is more than the Estimated Cost of the Road Work, the amount of the liability to make the SIC for the Development that the Developer discharges by carrying out the Road Work is the Estimated Cost of the Road Work.
- (d) The parties agree that the Director-General may make any determination required to be made for the purpose of calculating the Actual Cost of the Road Work, following consultation with the Developer and having proper regard to all matters put before the Director-General by the Developer.

**3.3 Amount of SIC if paid as monetary contribution**

- (a) The Development Consent imposes a condition requiring the making of a SIC that, if made as monetary contribution, would total approximately \$782,313 (if paid in full before 1 July 2014).
- (b) However, the actual amount of the SIC if made as a monetary contribution for any part of the Development (such as a subdivision into a number of lots

authorised by the Development Consent) is the amount that would be payable in accordance with the Ministerial Determination as at the date on which the SIC Discharge Certificate is issued or amended to include an entry in relation to that part of the Development.

### **3.4 Attainment of Milestones relating to the Road Work**

- (a) If the Developer considers that it has achieved a Milestone, the Developer must forward the following to the Director-General:
  - (i) a Milestone Notice;
  - (ii) an Authorised Progress Claim Certificate;
  - (iii) a statement by the third party contractor under the Construction Contract confirming that the Developer has paid the amount specified in the Authorised Progress Claim Certificate and that the third party contractor has paid all subcontractors; and
  - (iv) such other supporting documentation as is necessary for the Director-General to determine whether that Milestone has been achieved.

The Developer must promptly provide any additional information requested by the Director-General.

- (b) The Director-General must, within 45 days of receiving the Milestone Notice and all the certificates and information required under clause 3.4(a), determine whether the Milestone specified in the Milestone Notice has been achieved.
- (c) If the Director-General, in his or her absolute discretion, is satisfied that the Milestone has been achieved, the Director-General will:
  - (i) accept that portion of the Road Work undertaken that is directly referable to the Milestone in lieu of the Developer paying a monetary contribution equal to the SIC Discharge Amount for that Milestone, and
  - (ii) in respect of each Milestone achieved, issue a SIC Discharge Certificate (or an updated SIC Discharge Certificate) to the Developer that sets out the SIC Discharge Amount that has been credited for that Milestone.
- (d) If the Director-General, in his or her absolute discretion, is not satisfied that the Milestone has been achieved, the Director-General will notify the Developer and provide an explanation as to why he or she considered that the Milestone had not been achieved and, if applicable, provide details of:

- (i) any additional work or tasks that must be undertaken; and/or
- (ii) any information or documents that must be provided,

by the Developer, in order to achieve the Milestone. The Developer may, after taking into account the Director-General's explanation and undertaking the work or providing the information or documents required, re-submit a Milestone Notice together with any necessary documentation.

### 3.5 Application of SIC Discharge Amounts

- (a) The SIC Discharge Amount represents the value allocated to each portion of the Road Work that the Director-General agrees to accept in partial discharge of the Developer's obligation to make the SIC for the Development.
- (b) The parties agree that on 1 July 2014, and on 1 July in each subsequent year, each SIC Discharge Amount is to be adjusted by multiplying that amount by the following fraction:

**latest Sydney CPI number / 102.7**

where:

**latest Sydney CPI number** is the Sydney CPI number for the March quarter in the year in which the adjustment is made (the March quarter being the quarter commencing on and including 1 January and ending on and including 31 March in that same year).

Note. The figure **102.7** is the Sydney CPI number for the March quarter in 2013.

- (c) The Developer may request that the Director-General amend the SIC Discharge Certificate in lieu of making the relevant monetary payment(s) (or in addition to making monetary payment(s)) to indicate that a proportion of the SIC has been made, in relation to the Development, or part of the Development, by drawing upon the SIC Discharge Balance. If the SIC Discharge Balance exceeds "zero", the Director-General is to amend the SIC Discharge Certificate accordingly, so as to include an entry for the Development, or part, and to specify the new SIC Discharge Balance.
- (d) For the purposes of amending the SIC Discharge Certificate under clause 3.5(c), the amount of the SIC for the Development, or part of the Development, is the amount of the SIC that would otherwise be payable as a monetary contribution for the Development, or part, under the Ministerial Determination if paid on the date that the SIC Discharge Certificate is amended.

**3.6 Reconciliation clause**

- (a) The parties agree that in the event that the Actual Cost of the Road Work is less than the sum of the SIC Discharge Amounts credited for Milestones 1, 2 and 3 as shown on the SIC Discharge Certificate:
  - (i) the Director-General may amend and re-issue the SIC Discharge Certificate to reflect the Actual Cost of the Road Work; and
  - (ii) if such an amendment results in a negative SIC Discharge Balance, the Developer must pay the amount necessary to bring the SIC Discharge Balance to a "zero" amount, within the period of time notified in writing by the Director-General and in the manner so notified.
- (b) If the SIC Discharge Certificate is amended as referred to in clause 3.6(a), the Director-General is not required, under clause 3.4, to issue an updated SIC Discharge Certificate for the achievement of Milestones 4 and 5.

**3.7 Developer not to apply for subdivision certificate for development unless relevant certificate issued for that development**

The Developer may not apply for a subdivision certificate in relation to any part of the Development for which the SIC is required to be made unless the Developer:

- (a) has obtained from the Director-General a certificate to the effect that the SIC for that part of the Development of the value or amount shown on the certificate has been made; or
- (b) has entered into a deferred payment arrangement as referred to in the Ministerial Determination in relation to that SIC; or
- (c) has obtained from the Director-General written advice that the Developer has provided a bank guarantee for the amount of the SIC that would otherwise be payable for that part of the Development.

**4 SECURITY RELATING TO CERTAIN MILESTONES**

**4.1 Security relating to certain Milestones**

- (a) If the Developer is unable to obtain, because of a failure to achieve a Milestone, a certificate referred to in clause 3.4(c) for any part of the Development in respect of which the Developer wishes to seek a subdivision certificate, the Developer may provide a Bank Guarantee, in terms agreed to by the Director-General, for the amount of the SIC that would otherwise be payable for that part of the Development.

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- (b) If the Developer provides to the Director-General:
  - (i) a written request that the Bank Guarantee be returned together with such supporting documentation as is necessary for the Director-General to determine whether the Developer has achieved the relevant Milestone; and
  - (ii) such other information as is reasonably requested by the Director-General in order for the Director-General to assess the Developer's request for the Bank Guarantee to be returned,then if the Director-General is satisfied that that Milestone has actually been achieved, the Bank Guarantee is to be released and returned to the Developer within 90 days of any such request.
- (c) In the event that the Developer fails to achieve the relevant Milestone to the satisfaction of the Director-General within two years from the date on which the relevant Bank Guarantee is provided, the Bank Guarantee may be called upon and the proceeds of such claim retained to facilitate the achievement of that Milestone.

**5 TRUSTEE DEVELOPER**

- (a) Capital Eden Grange Pty Limited enters into this deed in its capacity as the trustee for the Capital Eden Grange Trust.
- (b) Capital Eden Grange Pty Limited warrants that:
  - (i) it is the sole trustee of the Capital Eden Grange Trust and no action has been taken to remove or replace it;
  - (ii) it is authorised under the trust deed of the Capital Eden Grange Trust to enter into this deed;
  - (iii) it is not in breach of the trust deed of the Capital Eden Grange Trust; and
  - (iv) it has the power under the deed constituting the Capital Eden Grange Trust to execute and perform its obligations under this deed and all necessary action has been taken to authorise the execution and performance of this deed under the trust deed constituting the Capital Eden Grange Trust.
- (c) If the trustee of the Capital Eden Grange Trust is replaced in accordance with the trust deed of the Capital Eden Grange Trust, then:
  - (i) the Minister and the replacement trustee will enter into a new deed on the same terms as this deed; and

- (ii) the Minister and the outgoing trustee will release each other from the requirement to observe and perform any future obligation under this deed; and
- (iii) the outgoing trustee will pay the reasonable costs and expenses of the Minister in relation to the replacement of a trustee under this clause and the costs and expenses of registering ant new deed on the title to the Land.

## **6 DISPUTE RESOLUTION**

### **6.1 Not commence**

A party must not commence any court proceedings relating to a dispute unless it complies with this clause 6.

### **6.2 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.

### **6.3 Attempt to resolve**

On receipt of notice under clause 6.2, 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.

### **6.4 Mediation**

If the parties do not agree within 21 days of receipt of notice under clause 6.2 (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.

### **6.5 Court proceedings**

If the dispute is not resolved within 60 days after notice is given under clause 6.2 then any party that has complied with the provisions of this clause 6 may in writing terminate any dispute resolution process undertaken under this clause and may then commence court proceedings in relation to the dispute.

**6.6 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 6 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 6 for any purpose other than in an attempt to settle the dispute.

**6.7 No prejudice**

This clause 6 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.

**7 GST**

**7.1 Definitions**

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

**7.2 Intention of the parties**

The parties intend that:

- (a) Divisions 81 and 82 of the GST Legislation apply to any supply 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.

**7.3 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.

**7.4 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 7.

**7.5 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 Director-General or 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 Director-General or the Minister, including any gross up that may be required; and
- (b) the Developer provides a Tax Invoice to the Director-General or the Minister.

#### **7.6 Non monetary consideration**

Clause 7.5 applies to non-monetary consideration.

#### **7.7 Assumptions**

The Developer acknowledges and agrees that in calculating any amounts payable under clause 7.5 the Developer will assume the Director-General or the Minister is not entitled to any input tax credit.

#### **7.8 No merger**

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

### **8 ASSIGNMENT**

#### **8.1 Consent**

This Deed is personal to each party and no party may assign the rights or benefits of this Deed to any person except after having obtained the written consent of the other party to the Deed which consent must not be unreasonably withheld. The other party is to give its written consent if it is satisfied that the person to whom it is proposed to assign such rights or benefits (such as a related body corporate) has sufficient assets, resources and expertise to perform all of the assigning party's obligations under this Deed. Each party will be deemed to have given its consent unless an objection is notified to the first party within 14 days of a request for consent being requested by that first party.

### **9 WARRANTIES OF CAPACITY**

#### **9.1 General warranties**

Each party warrants to each other party that this Deed creates legal, valid and binding obligations, enforceable against the relevant party in accordance with its terms.

#### **9.2 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.



## **10 GENERAL PROVISIONS**

### **10.1 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.

### **10.2 Variation**

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

### **10.3 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.

### **10.4 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.

### **10.5 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.

### **10.6 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.

### **10.7 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.

**10.8 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.

**10.9 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.

**10.10 Costs**

The Developer is to pay the Director-General's reasonable costs of preparing, negotiating, and executing this Deed.

**10.11 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.

**10.12 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.

**10.13 No fetter**

Nothing in this Deed shall be construed as requiring the Director-General to do anything that would cause the Director-General to breach any of the Director-General'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 Director-General in exercising any of the Director-General's statutory functions, powers, authorities or duties.

**10.14 Expenses and stamp duty**

The Developer must pay all stamp duty assessed on or in respect of this Deed and any instrument or transaction required by or necessary to give effect to this Deed.

SPECIAL INFRASTRUCTURE CONTRIBUTIONS WORKS-IN-KIND AGREEMENT  
Part of McCulloch Street between Brighton Street and Cranbourne Street, Riverstone

**10.15 Notices**

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:

- (a) hand delivered; or
- (b) sent by facsimile transmission.

A notice is given if:

- (a) hand delivered, on the date of delivery; or
- (b) sent by facsimile transmission, on the date that the sending party's facsimile machine records as the date on which the facsimile has been successfully transmitted or, if that date is not a Business Day, on the date of the Business Day that next follows that date.

SPECIAL INFRASTRUCTURE CONTRIBUTIONS WORKS-IN-KIND AGREEMENT  
Part of McCulloch Street between Brighton Street and Cranbourne Street, Riverstone

**EXECUTED** as a Deed

**Signed sealed and delivered** by the  
Director-General of the **Department of  
Planning and Infrastructure** for and on  
behalf of the **Crown in right of the State of  
New South Wales**, in the presence of:

  
Signature of Witness

  
Signature of the Director-General

31/10/2013

Louise Higgins  
Name of Witness in full

Sam Haddad

**Signed sealed and delivered by Capital  
Eden Grange Pty Limited** (ACN 153 411  
208) in accordance with section 127 of the  
Corporations Act: )  
)  
)

  
Signature of Director  
Gregory David Taylor  
Director

Name of Director

  
Signature of Director/Secretary

Vicki Lee Eolier  
Name of Director/Secretary

SPECIAL INFRASTRUCTURE CONTRIBUTIONS WORKS-IN-KIND AGREEMENT  
Part of McCulloch Street between Brighton Street and Cranbourne Street, Riverstone

**SCHEDULE 1**

**SIC Discharge Amounts – Table (clause 3.4)**

**Notes relating to Schedule 1**

**Column 1** specifies, in dollars, the maximum amount of the Road Work (being the Estimated Cost) as at 1 July 2013 which will be indexed in accordance with clause 3.2(a).

**Column 2** specifies, in dollars the SIC Discharge Amount to which the Developer will be entitled on completion of a Milestone as at 1 July 2013. For Milestones 1-3 this is 20% of the Estimated Cost of the Road Work. The SIC Discharge Amounts to which the Developer will be entitled on completion of Milestone 4 will be 80% of the Actual Cost of the Road Work less the sum of the SIC Discharge Amounts for Milestones 1-3. The SIC Discharge Amount to which the Developer will be entitled on the completion of Milestone 5 will be 100% of the Actual Cost less the sum of the SIC Discharge Amounts for Milestones 1-4. The Estimated Cost of the Road Works and the SIC Discharge Amounts for Milestones 1-3 will be indexed in accordance with clauses 3.2(a) and 3.5(b).

**Column 3** describes a *Milestone*, as defined in clause 1.1

Column 1	Column 2	Column 3	
Estimated Cost	SIC Discharge Amount per Milestone	Milestones	
		No.	Description
\$700,000	\$140,000	1	Expenditure of 25% of the value of the Construction Contract.
	\$140,000	2	Expenditure of 50% of the value of the Construction Contract.
	\$140,000	3	Expenditure of 75% of the value of the Construction Contract.
	80% of the Actual Cost less the sum of the SIC Discharge Amounts for Milestones 1 to 3 (inclusive)	4	Expenditure of 100% of the value of the Construction Contract and the handover of the Road Work, including the acceptance of the Road Work by the relevant Roads Authority.
	100% of the Actual Cost less the sum of the SIC Discharge amounts for Milestones 1 to 4 (inclusive)	5	The earlier of: <ul style="list-style-type: none"> <li>satisfactory completion of any defects liability period for the Road Work; or</li> <li>provision of evidence of satisfactory arrangements made with the Roads Authority to address the defect liability.</li> </ul>

**SPECIAL INFRASTRUCTURE CONTRIBUTIONS WORKS-IN-KIND AGREEMENT**  
Part of McCulloch Street between Brighton Street and Cranbourne Street, Riverstone

**SCHEDULE 2**

**Plans (clause 1.1)**

ENGINEERING DESIGN  
FOR THE SUBDIVISION OF  
LOTS 1 & 2 IN DP 545928  
AT BRIGHTON STREET, RIVERSTONE  
L.G.A. BLACKTOWN



PLAN INDEX	
	FACE SHEET, LOCALITY AND PLAN INDEX
1	CONSENT PLAN
2	CONCEPT PLAN - SHOWINGS
3	ROAD NETWORK
4	ROAD CROSS SECTIONS - BRIGHTON STREET & OMAHURIBOURNE STREET
5	ROAD LONGITUDINAL SECTIONS - MACQUILLAN STREET & ROAD 1
6	ROAD LONGITUDINAL SECTIONS - MACQUILLAN STREET & ROAD 2
7	ROAD LONGITUDINAL SECTIONS - ROAD 1 & ROAD 2
8	ROAD CROSS SECTIONS - BRIGHTON STREET
9	ROAD CROSS SECTIONS - BRIGHTON STREET
10	ROAD CROSS SECTIONS - OMAHURIBOURNE STREET
11	ROAD CROSS SECTIONS - OMAHURIBOURNE STREET
12	ROAD CROSS SECTIONS - MACQUILLAN STREET
13	ROAD CROSS SECTIONS - ROAD 1
14	ROAD CROSS SECTIONS - ROAD 2
15	ROAD CROSS SECTIONS - ROAD 1 & ROAD 2
16	ROAD CROSS SECTIONS - ROAD 1
17	ROAD CROSS SECTIONS - ROAD 2
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98	ROAD CROSS SECTIONS - ROAD 2
99	ROAD CROSS SECTIONS - ROAD 1 & ROAD 2
100	ROAD CROSS SECTIONS - ROAD 1

McCULLOCH										STREET																			
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										69	47	48	49	68											67	66	65	64	63
ROAD										2																			
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BRIGHTON										CRANBOURNE																			
																				</									

## GENERAL NOTES

- [illegible]

**DIAL BEFORE  
YOU DIG**  
800-4-A-DIG

**North Western Surveys**  
Surveyors, Engineers & Water Servicing Coordinators  
1111 Hurreford Road P.O. Box 1046 Blackdown N.S.W. 2148  
Phone 9831-2040 Fax 9832-7116 Email: [info@nwsurveys.com.au](mailto:info@nwsurveys.com.au)

CAPITAL RESIDENTIAL  
DEVELOPMENTS PTY LTD

ENGINEERING DESIGN  
FOR THE SUBDIVISION OF LOTS 1 & 2 IN OP 540024  
AT BRIGHTON STREET ROVERSTONE  
1 GA BLACKTOWN

DATE	REVISION	PROJECT DESCRIPTION
10/1/2010	1	...

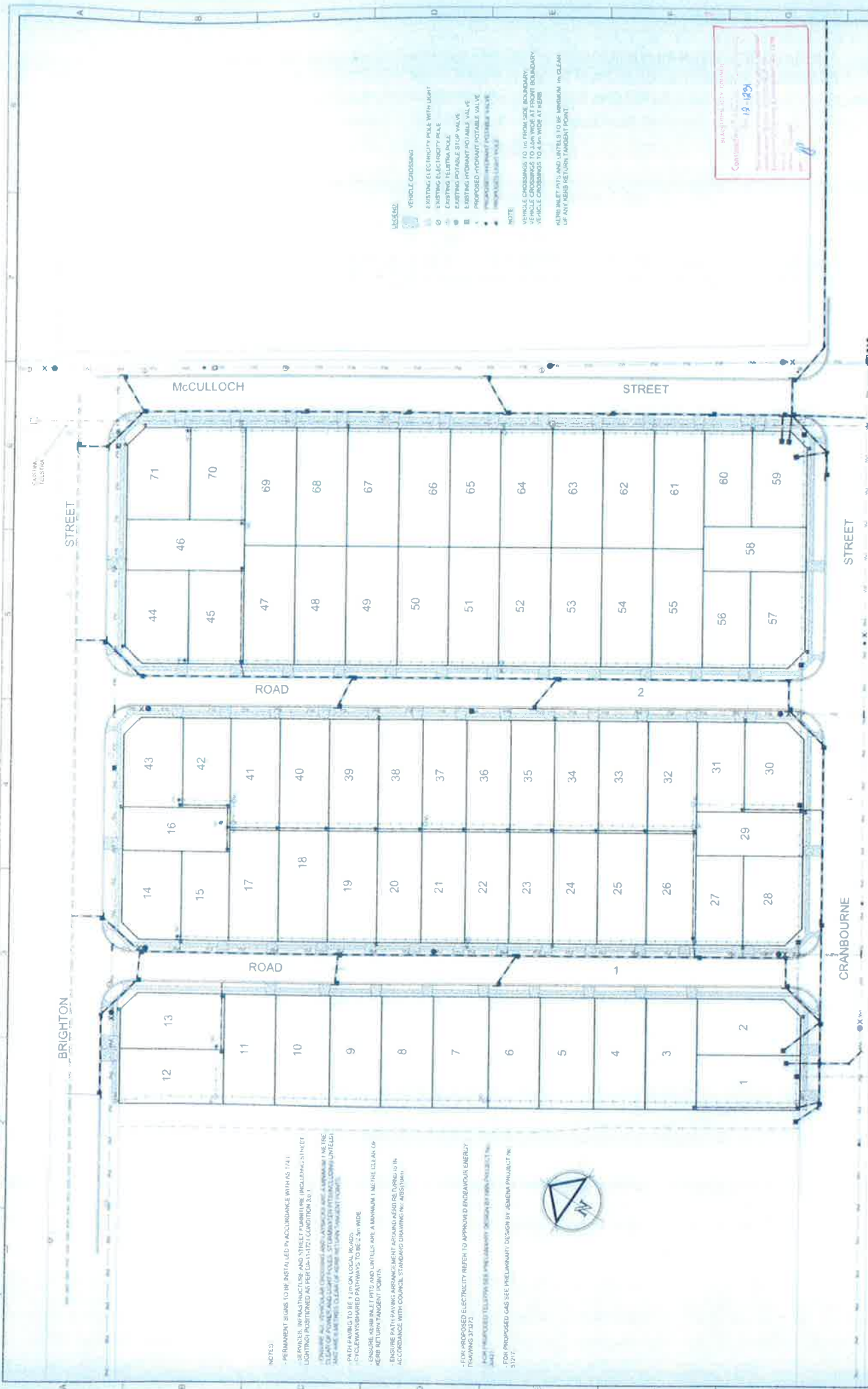
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NOTES

- PERMANENT SIGNS TO BE INSTALLED IN ACCORDANCE WITH AS 1941
- SERVICES, INFRASTRUCTURE AND STREET FURNITURE INCLUDING STREET LIGHTING TO BE POSITIONED AS PER CLAS 11-121 CONDITION 2.6.1
- FUTURE ADJACENT LOT OWNERS TO BE ADVISED OF ANY EASEMENTS OR RIGHTS OF WAY AFFECTING THEIR LOT
- EASEMENTS TO BE CLEAR OF KERB RETURN TANGENT POINTS
- PATH PAVING TO BE 1.2m ON LOCAL ROADS
- ENSURE KERB INLET PITS AND UNTELS ARE A MINIMUM 1 METRE CLEAR OF KERB RETURN TANGENT POINTS
- ENSURE PATH PAVING ARRANGEMENT AROUND KERB RETURN IS IN ACCORDANCE WITH COUNCIL STANDARD DRAWING NO. ABS104H

FOR PROPOSED ELECTRICITY REFER TO APPROVED ENGINEER'S EMERGENCY DRAWING 21273

FOR PROPOSED TELEPHONE REFER TO APPROVED ENGINEER'S EMERGENCY DRAWING 21274

FOR PROPOSED GAS SEE PRELIMINARY DESIGN BY JAMES PROJECT NO. 21275

VEHICLE CROSSING

- EXISTING ELECTRICITY POLE WITH LIGHT
- EXISTING TELEPHONE POLE
- EXISTING POTABLE STOP VALVE
- EXISTING HYDRANT POTABLE VALVE
- PROPOSED HYDRANT POTABLE VALVE
- PROPOSED HYDRANT POTABLE VALVE

NOTE

VEHICLE CROSSINGS TO BE FROM SIDE BOUNDARY

VEHICLE CROSSINGS TO 4.5m WIDE AT FRONT BOUNDARY

VEHICLE CROSSINGS TO 4.5m WIDE AT KERB

ADJACENT PITS AND UNTELS TO BE 1.00m IN CLEAR OF KERB RETURN TANGENT POINT



FOR INFORMATION ONLY		INFRASTRUCTURE AND SERVICES PLAN		4	
FOR THE SUBDIVISION OF LOT 14542/28		AT BRIGHTON STREET RIVERSTONE		14542	
L.G.A. BLACKTOWN		10		14542	
TONY COTTER		23/01/2015		14542	
CAPITAL RESIDENTIAL DEVELOPMENTS PTY LTD		North Western Surveys		Surveyors, Engineers & Motor Servicing Coordination	
171 Healden Road, VU Ipswich, Queensland 4701		171 Healden Road, VU Ipswich, Queensland 4701		Phone: 0810 1200 Fax: 0810 1201 Email: info@northwesternsurveys.com.au	
Scale 1:500		Scale 1:500		Scale 1:500	
Date 19/12/21		Date 19/12/21		Date 19/12/21	
Drawn by J. Williams		Drawn by J. Williams		Drawn by J. Williams	
Checked by J. Williams		Checked by J. Williams		Checked by J. Williams	
Approved by J. Williams		Approved by J. Williams		Approved by J. Williams	

**SPECIAL INFRASTRUCTURE CONTRIBUTIONS WORKS-IN-KIND AGREEMENT**  
**Part of McCulloch Street between Brighton Street and Cranbourne Street, Riverstone**

**SCHEDULE 3**

**The Road Work (clause 1.1)**

The construction of that part of McCulloch Street (approximately 220m length) comprising an 11m wide undivided carriageway and 1 x 2.5m wide shared pedestrian and cycle path between Brighton Street and Cranbourne Street, Riverstone in accordance with the Development Consent and the Construction Certificate No. 12-1231 issued by Blacktown City Council on 19 December 2012 as shown on the Plans in Schedule 2.

**SCHEDULE 4**

**Address for Service (clause 10.15)**

**Director-General**

**Contact:** Director-General, Department of Planning and Infrastructure  
Attention: Executive Director, Strategy and Infrastructure Planning

**Address:** 23-33 Bridge Street  
Sydney, New South Wales, 2000

**Facsimile No:** (02) 9228 6455

**Developer**

**Contact:** Capital Eden Grange Pty Limited  
Attention: Stephen Ball

**Address:** GPO Box 6585  
Baulkham Hills Business Centre, New South Wales, 2153

**Facsimile No:** (02) 8853 5099