

Dated 22.12.16

Deed of Variation to Planning Agreement

Parties

Minister for Planning
(ABN 38 755 709681)

Goodman Property Services (Aust) Pty Ltd
(ACN 088 981 793)

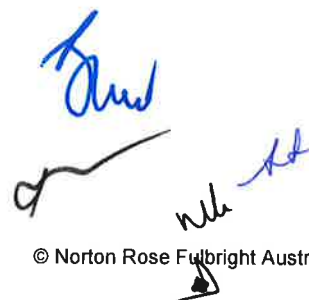
BGAI 6 Pty Ltd
(ACN 128 775 799)

BGMG 8 Pty Ltd
(ACN 161 602 768)

BGAI 2 Pty Ltd
(ACN 120 605 718)

The Austral Brick Co Pty Ltd
(ACN 000 005 550)

Felicity Rourke
Norton Rose Fulbright Australia
Grosvenor Place, 225 George Street
Sydney NSW 2000
Telephone: +61 (0)2 9330 8665
nortonrosefulbright.com
Our ref: 2836270



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This Deed dated **22 DECEMBER 2016**

Parties **MINISTER FOR PLANNING** (ABN 38 755 709681)
of Level 15, 52 Martin Place, Sydney NSW 2000
(**Planning Minister**)

GOODMAN PROPERTY SERVICES (AUST) PTY LTD (ACN 088 981 793)
of Level 17, 60 Castlereagh Street, Sydney NSW 2000
(**GPS**);

BGAI 6 PTY LTD (ACN 128 775 799)
of Level 17, 60 Castlereagh Street, Sydney NSW 2000
(**Oakdale Central Landowner**);

BGMG 8 PTY LTD (ACN 161 602 768)
of Level 17, 60 Castlereagh Street, Sydney NSW 2000
(**Oakdale South Landowner**); and

BGAI 2 PTY LTD (ACN 120 605 718)
of Level 17, 60 Castlereagh Street, Sydney NSW 2000
(**Erskine Park Landowner**)

(collectively the **Developers**)

THE AUSTRAL BRICK CO PTY LTD (ACN 000 005 550) of 738-780 Wallgrove
Road, Horsley Park NSW 2175
(**Austral**)

Introduction

- A** On 12 March 2015, the Planning Minister and the Developers entered into the Planning Agreement relating to the Oakdale Central and Oakdale South Industrial Estates. At the time of executing the Planning Agreement, GPS had not submitted a development application for the Oakdale South Development.
- B** In September 2015, GPS lodged the SSD Application which is presently being assessed by the Department.
- C** An additional land parcel known as Lot 87 is included in the land to which the SSD Application relates but is not land to which the Planning Agreement relates.
- D** As a consequence of the development proposed in the SSD Application, GPS has proposed amendments to the Planning Agreement in an offer to the Planning Minister.
- E** Lot 87 is owned by Austral. Austral has entered into an agreement with the Oakdale South Landowner granting the Oakdale South Landowner the right to develop Lot 87 and requiring Austral to transfer Lot 87 to the Oakdale South Landowner.
- F** Austral will by means of this deed become a party to the Planning Agreement in its capacity as landowner of Lot 87.
- G** The parties wish to vary the Planning Agreement as set out in this deed.

It is agreed

1 Definitions and interpretation

1.1 Definitions

In this deed:

- (1) **Lot 87** means Lot 87 in DP 752041;
- (2) **Planning Agreement** means the voluntary planning agreement entered into between the Minister and the Developers dated 12 March 2015; and
- (3) **SSD Application means** SSD Application No 6917, which seeks development consent for the staged development of the Oakdale South Development.

1.2 Interpretation

- (1) In this deed, unless the contrary intention appears:
 - (a) Expressions and phrases used but not defined in this deed will have the same meanings as they have in the Planning Agreement;
 - (b) Clause 1 of the Planning Agreement will apply to the interpretation and construction of this deed.

2 Variation of Planning Agreement

2.1 Variation

The Planning Agreement is varied as set out in this clause 2.

2.2 Introduction

The text at para. B. in the Introduction to the Planning Agreement is replaced with the following:

"The Oakdale South Landowner owns the Oakdale South Land (except Lot 87, which will be transferred to the Oakdale South Landowner by Austral)."

2.3 Clause 1.1 Definitions

A reference in the Planning Agreement to:

- (1) 'Oakdale South Lot 1A' is replaced with 'Oakdale South Lot 1';
- (2) 'Oakdale South Lot 1B' is replaced with 'Oakdale South Lot 2';
- (3) 'Oakdale South Lot 2' is replaced with 'Oakdale South Lot 3';
- (4) 'Oakdale South Lot 3' is replaced with 'Oakdale South Lot 4';
- (5) 'Oakdale South Lot 4A' is replaced with 'Oakdale South Lot 5'; and
- (6) 'Oakdale South Lot 4B' is replaced with 'Oakdale South Lot 6'.

2.4 **Schedule 2 - Address for Service**

Schedule 2 of the Planning Agreement is varied to add the following:

Austral

Company: Austral Brick Co Pty Ltd

Contact: Susan Leppinus, Company Secretary

Address: 730 - 780 Wallgrove Road
HORSLEY PARK NSW 2175

Facsimile No: (02) 9831 3771

2.5 **Schedule 3 – Land**

The table entitled "Land (clause 1.1)" at Schedule 3 of the Planning Agreement is deleted, and replaced with the table at Schedule I to this deed.

2.6 **Austral as a party to Planning Agreement**

- (1) Austral is added as a party to the Planning Agreement.
- (2) The Parties acknowledge and agree that:
 - (a) Austral will transfer Lot 87 to the Oakdale South Landowner within 90 days of the date of this deed, time being of the essence;
 - (b) Clause 10.2 of the Planning Agreement does not apply to the Dealing referred to in clause 2.6(2)(a) of this deed; and
 - (c) Once the Dealing referred to in clause 2.6(2)(a) of this deed has been completed and evidence of the registration under the Real Property Act of the transfer of Lot 87 to the Oakdale South Landowner has been provided to the Planning Minister's satisfaction, the Planning Agreement is further varied to:
 - (i) remove Austral as a party;
 - (ii) replace the words "The Austral Brick Co Pty Ltd" at Schedule I to this deed with "BGMG8 Pty Ltd"; and
 - (iii) reverse the variations at clause 2.2 and 2.4 of this deed.
 - (d) If the Dealing referred to in clause 2.6(2)(a) of this deed has not been completed within 90 days of the date of this deed, clauses 2.6(2)(b) and 2.6(2)(c) of this deed shall have no application.

2.7 **Annexure A – Oakdale Central and Oakdale South lots**

On and from the date of this deed, the plan entitled "Subdivision Plan – OAK SK119(B)" at Annexure A to the Planning Agreement:

- (1) has effect only insofar as it identifies the original lot references referred to in the Planning Agreement; but

- (2) otherwise is of no effect, and is replaced with the plan at Schedule II to this deed.

2.8 Monetary Contributions

- (1) The two tables at Clause 1(a) and Clause 1(b) of Schedule 4 of the Planning Agreement are deleted, and replaced with the two tables at Schedule III to this deed, respectively.
- (2) The text below the heading "Oakdale South" in the table entitled "Monetary Contribution Component estimates and offsets" which appears on the second page of Annexure B of the Planning Agreement is deleted, and replaced with the table at Schedule IV to this deed.

2.9 Altered Design of the Estate Road

- (1) The plan entitled "Oakdale Central + South – Monetary Contribution (Estimate) – OAK SK117(D)" at Annexure C to the Planning Agreement is deleted, and replaced with the plan at Schedule V to this deed.

3 Registration of this deed

3.1 Registration

- (1) As contemplated by section 93H of the Planning Act, the Developers agree to lodge this deed for registration under the Real Property Act in the relevant folios of the Register for all of the Oakdale Land within 10 Business Days after the date on which a counterpart of this deed which the Planning Minister has executed is returned to the Developer.
- (2) As contemplated by section 93H of the Planning Act, Austral agrees to lodge both this deed and the Planning Agreement for registration under the Real Property Act in the relevant folio for Lot 87 within 10 Business Days after the date on which a counterpart of this deed which the Planning Minister has executed is returned to Austral.
- (3) The Developers will provide the Planning Minister with a copy of the relevant folio of the Register and a copy of the registered dealing which provide evidence that clause 3.1(1) and clause 3.1(2) have been satisfied, within 10 Business Days after the date of registration.

4 General

- 4.1 This deed and the Planning Agreement constitute the entire agreement between the parties regarding the matters set out in it and supersede any prior representations, understandings or arrangements between the parties, whether orally or in writing.

5 Expenses

- 5.1 The Developers must pay their own, Austral's and the Planning Minister's reasonable legal costs and disbursements in connection with the negotiation, preparation, execution and carrying into effect of this deed.
- 5.2 The Developers 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 Planning Regulation.

- 5.3 The Developers 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).
- 5.4 The Developers must provide the Planning Minister with bank cheques in respect of the Planning Minister's costs pursuant to clauses 5.1 and 5.2 above:
- (1) where the Planning Minister has provided the Developer with written notice of the sum of such costs prior to execution, on the date of execution of this deed; or
 - (2) where the Planning Minister has not provided the Developer with prior written notice of the sum of such costs prior to execution, within 10 Business Days of demand by the Planning Minister for payment.

6 Variations not to affect accrued rights and obligations

- 6.1 The variations to the Planning Agreement do not affect the validity or enforceability of the Planning Agreement as varied.
- 6.2 Nothing in this deed:
- (1) prejudices or adversely affects any right, power, authority, discretion or remedy arising under the Planning Agreement before the date of this deed; or
 - (2) discharges, releases or otherwise affects any liability or obligation arising under the Planning Agreement before the date of this deed.

7 Trustees

Clause 11.3 and Schedule 7 of the Planning Agreement are incorporated as though fully set out in this Deed.

8 Confirmation

Each party is bound by the Planning Agreement as varied by this Deed.

Schedule I

Land (clause 1.1)

Land		Lot	Deposited Plan	Registered proprietor
Oakdale Land	Oakdale Central Land	21	1173181	BGAI 6 Pty Ltd
	Oakdale South Land	12	1178389	BGMG 8 Pty Ltd
		87	752041	The Austral Brick Co Pty Ltd
Erskine Park Land		1	1124329	BGAI2 Pty Ltd
		2	1124329	BGAI2 Pty Ltd
		3	1124329	BGAI2 Pty Ltd
		4	1124329	BGAI2 Pty Ltd
		5	1124329	BGAI2 Pty Ltd
		6	1124329	Ministerial Corporation

Schedule II



design

Oakdale Industrial Estate

Horley Park

Oakdale CENTRAL + SOUTH - Monetary Contribution (Estimate)

1:10000 A3

13 Apr 16 MC

OAK SK117 (F)

Schedule III

1. (a)

Item	Monetary Contribution and Land Component	Amount / Value (subject to clause 2)	Indexation	Manner of Delivery	Timing
1.	The Monetary Contribution Component payable in relation to Oakdale Central Lot 1B (Oakdale Central Lot 1B Contribution).	\$1,058,400	Yes (see clause 3 of this Schedule 4)	Cash, bank cheque or electronic funds transfer.	Pursuant to clause 5 of this Schedule 4.
2.	The Monetary Contribution Component payable in relation to the Erskine Park Land (Erskine Park Contribution).	\$3,414,056	Yes (see clause 3 of this Schedule 4)	Cash, bank cheque or electronic funds transfer.	Pursuant to clause 5 of this Schedule 4.
3.	The Monetary Contribution Component payable in relation to Oakdale Central Lot 1C (Oakdale Central Lot 1C Contribution).	To be calculated pursuant to clause 2 of this Schedule 4.	Yes (see clause 3 of this Schedule 4)	Cash, bank cheque or electronic funds transfer.	Pursuant to clause 5 of this Schedule 4.
4.	The Monetary Contribution Component payable in relation to Oakdale Central Lot 2B (Oakdale Central Lot 2B Contribution).	To be calculated pursuant to clause 2 of this Schedule 4.	Yes (see clause 3 of this Schedule 4)	Cash, bank cheque or electronic funds transfer.	Pursuant to clause 5 of this Schedule 4.
5.	The Monetary Contribution Component payable in relation to Oakdale Central Lot 3 (Oakdale Central Lot 3 Contribution).	To be calculated pursuant to clause 2 of this Schedule 4.	Yes (see clause 3 of this Schedule 4)	Cash, bank cheque or electronic funds transfer.	Pursuant to clause 5 of this Schedule 4.
6.	The Monetary Contribution Component payable in relation to Oakdale Central Lot 4 (Oakdale Central Lot 4 Contribution).	To be calculated pursuant to clause 2 of this Schedule 4.	Yes (see clause 3 of this Schedule 4)	Cash, bank cheque or electronic funds transfer.	Pursuant to clause 5 of this Schedule 4.
7.	The Monetary Contribution	To be calculated	Yes (see clause 3 of	Cash, bank cheque or	Pursuant to clause 5 of

Item	Monetary Contribution and Land Component	Amount / Value (subject to clause 2)	Indexation	Manner of Delivery	Timing
	Component payable in relation to Oakdale South Lot 1 (Oakdale South Lot 1 Contribution).	pursuant to clause 2 of this Schedule 4.	this Schedule 4)	electronic funds transfer.	this Schedule 4.
8.	The Monetary Contribution Component payable in relation to Oakdale South Lot 2 (Oakdale South Lot 2 Contribution).	To be calculated pursuant to clause 2 of this Schedule 4.	Yes (see clause 3 of this Schedule 4)	Cash, bank cheque or electronic funds transfer.	Pursuant to clause 5 of this Schedule 4.
9.	The Monetary Contribution Component payable in relation to Oakdale South Lot 3 (Oakdale South Lot 3 Contribution).	To be calculated pursuant to clause 2 of this Schedule 4.	Yes (see clause 3 of this Schedule 4)	Cash, bank cheque or electronic funds transfer.	Pursuant to clause 5 of this Schedule 4.
10.	The Monetary Contribution Component payable in relation to Oakdale South Lot 4 (Oakdale South Lot 4 Contribution).	To be calculated pursuant to clause 2 of this Schedule 4.	Yes (see clause 3 of this Schedule 4)	Cash, bank cheque or electronic funds transfer.	Pursuant to clause 5 of this Schedule 4.
11.	The Monetary Contribution Component payable in relation to Oakdale South Lot 5 (Oakdale South Lot 5 Contribution).	To be calculated pursuant to clause 2 of this Schedule 4.	Yes (see clause 3 of this Schedule 4)	Cash, bank cheque or electronic funds transfer.	Pursuant to clause 5 of this Schedule 4.
12.	The Monetary Contribution Component payable in relation to Oakdale South Lot 6 (Oakdale South Lot 6 Contribution).	To be calculated pursuant to clause 2 of this Schedule 4.	Yes (see clause 3 of this Schedule 4)	Cash, bank cheque or electronic funds transfer.	Pursuant to clause 5 of this Schedule 4.

1. (b)

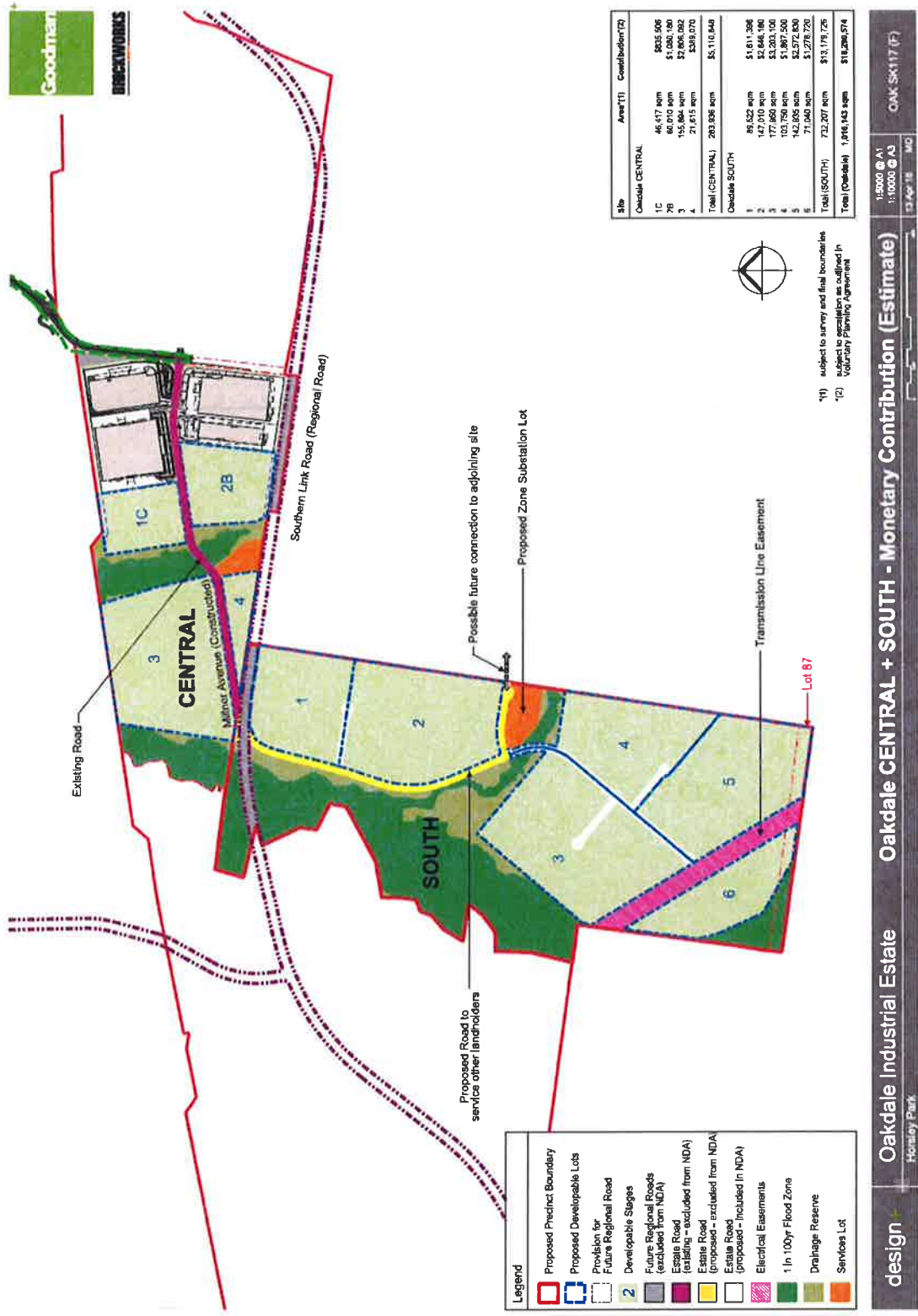
Land Component	Indicative NDA (as at date of this deed)	Indicative contribution amount (based on indicative NDA)
Oakdale Central Land		

Land Component	Indicative NDA (as at date of this deed)	Indicative contribution amount (based on indicative NDA)
Oakdale Central Lot 1C	4.6417 hectares	\$835,506 calculated pursuant to clause 2 of this Schedule 4.
Oakdale Central Lot 2B	6.001 hectares	\$1,080,180 calculated pursuant to clause 2 of this Schedule 4.
Oakdale Central Lot 3	15.5894 hectares	\$2,806,092 calculated pursuant to clause 2 of this Schedule 4.
Oakdale Central Lot 4	2.161 hectares	\$389,070 calculated pursuant to clause 2 of this Schedule 4.
Oakdale South Land		
Oakdale South Lot 1	8.9522 hectares	\$1,611,396 calculated pursuant to clause 2 of this Schedule 4
Oakdale South Lot 2	14.7010 hectares	\$2,646,180 calculated pursuant to clause 2 of this Schedule 4
Oakdale South Lot 3	17.7950 hectares	\$3,203,100 calculated pursuant to clause 2 of this Schedule 4
Oakdale South Lot 4	10.3750 hectares	\$1,867,500 calculated pursuant to clause 2 of this Schedule 4
Oakdale South Lot 5	14.2935 hectares	\$2,572,830 calculated pursuant to clause 2 of this Schedule 4
Oakdale South Lot 6	7.1040 hectares	\$1,278,720 calculated pursuant to clause 2 of this Schedule 4

Schedule IV

Site	Land area (m2)	Contribution
Site 1	89,522	\$1,611,396
Site 2	147,010	\$2,646,180
Site 3	177,950	\$3,203,100
Site 4	103,750	\$1,867,500
Site 5	142,935	\$2,572,830
Site 6	71,040	\$1,278,720
Total (South)	732,207	\$13,179,726
TOTAL	1,016,143	\$21,704,630

Schedule V



Executed as a deed.

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

Signature of Witness

JOHN BORG

Name of Witness in full

Signature as delegate of the Minister for
Planning

BRENDAN NELSON

Full name of delegate

Signed, sealed and delivered for and on behalf
of **BGAI 6 Pty Ltd** (ABN 19 128 775 799) by its
attorneys under a power of attorney dated 18/11/13
registered in NSW with SL 4659 in
the presence of: No 705

Signature of witness

Andriana Birkic

Full name of witness

Signature of witness

Signature of witness

Michelle Ban

Full name of witness

Signature of attorney who declares that the
attorney has not received any notice of the
revocation of the power of attorney

MEGAN M KUBLINS

Full name of attorney

Signature of attorney who declares that the
attorney has not received any notice of the
revocation of the power of attorney

Signature of attorney who declares that the
attorney has not received any notice of the
revocation of the power of attorney

SAMANTHA EVANS

Full name of attorney

Signed, sealed and delivered for and on behalf of **BGMG 8 Pty Ltd** (ABN 65 161 602 768) by its attorneys under a power of attorney dated 19/2/13 registered in NSW with BK 4644 in the presence of: No 963

Signature of witness

Andriana Birkic

Full name of witness

Signature of witness

Michelle Ban

Full name of witness

Signed, sealed and delivered for and on behalf of **BGA1 2 Pty Ltd** (ABN 49 120 605 718) by its attorneys under a power of attorney dated 18/11/13 registered in NSW with BK 4659 in the presence of: No 701

Signature of witness

Andriana Birkic

Full name of witness

Signature of witness

Michelle Ban

Full name of witness

Signature of attorney who declares that the attorney has not received any notice of the revocation of the power of attorney

MEGAN M KUBLINS

Full name of attorney

Signature of attorney who declares that the attorney has not received any notice of the revocation of the power of attorney

SAMANTHA EVANS

Full name of attorney

Signature of attorney who declares that the attorney has not received any notice of the revocation of the power of attorney

MEGAN M KUBLINS

Full name of attorney

Signature of attorney who declares that the attorney has not received any notice of the revocation of the power of attorney

SAMANTHA EVANS

Full name of attorney

Signed, sealed and delivered for and on behalf of **Goodman Property Services (Aust) Pty Limited** (ABN 40 088 981 793) by its attorneys under a power of attorney dated 18/12/06 registered in NSW with BK 4507 No 75 in the presence of:

Signature of witness

Michelle Ban

Full name of witness

Signature of witness

Full name of witness



Signature of attorney who declares that the attorney has not received any notice of the revocation of the power of attorney

SAMANTHA EVANS

Full name of attorney

Signature of attorney who declares that the attorney has not received any notice of the revocation of the power of attorney

Full name of attorney

Executed by **The Austral Brick Co Pty Ltd** ACN 000 005 550 in accordance with section 127 of the *Corporations Act 2001*:


Director/company secretary

SUSAN LEPPIN
Name of director/company secretary
(BLOCK LETTERS)


Director

Grant Banbury
Name of director
(BLOCK LETTERS)