



HOLDING REDLICH

Planning Agreement

Environmental Planning and Assessment Act 1979

Minister for Planning (ABN 38 755 709 681)

Winten (No. 21) Pty Limited (ACN 096 449 393)

Minmi Land Pty Ltd (ACN 129 266 477)

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This deed is dated

Parties:

Minister for Planning (ABN 38 755 709 681)
of Level 15, 52 Martin Place, Sydney NSW 2000
(Minister)

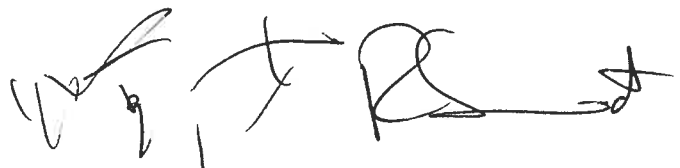
AND

Winten (No. 21) Pty Limited (ACN 096 449 393)
of Level 10, 61 Lavender Bay, Milsons Point NSW 2061
(Developer)

Minmi Land Pty Ltd (ACN 129 266 477)
of 123 Albert Street, Brisbane QLD 4000
(Landowner)

Introduction:

- A** The Landowner owns part of the Land.
- B** The Developer owns part of the Land and has rights over the balance of the Land. The Developer proposes to carry out the Development on the Land.
- C** The Developer has lodged three Development Applications with the relevant Consent Authorities for residential subdivision associated with the Concept Plan. The Developer proposes to lodge additional Development Applications for future stages associated with the Concept Plan.
- D** Clause 6.1 of the Lake Macquarie LEP and clause 8.1 of the Newcastle LEP provides that the Consent Authority must not grant Development Consent to the Development unless the Secretary has certified in writing to the Consent Authority that satisfactory arrangements have been made to contribute to the provision of designated State infrastructure referred to in clause 6.1 of the Lake Macquarie LEP and clause 8.1 of the Newcastle LEP.
- E** The Developer has offered to enter into this deed with the Minister to secure the Development Contribution in order to enable the Secretary to provide the certification required by the Lake Macquarie LEP and the Newcastle LEP for all stages of the Development under the Concept Plan.
- F** The Developer has included in the Developer's Offer:
 - (a) the payment of a monetary contribution;
 - (b) separate contributions that it has made to contribute towards public State and regional infrastructure, being the dedication of the Regional Conservation Land in accordance with the Coal & Allied VPA for environmental offset purposes for the Proposed Development; and
 - (c) the dedication of the Education Land. In the event that the whole or part of the Education Land is not required by the Minister, the Developer will make a monetary contribution to the value of the whole or the part of the Education Land not required by the Minister.

A handwritten signature in black ink, appearing to be 'W. J. R.', is written over the bottom right portion of the text.

It is agreed:

1. Definitions and interpretation

1.1 Definitions

In this **deed**, unless the context clearly indicates otherwise:

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

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

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

Bank Guarantee means an irrevocable and unconditional undertaking:

(a) by an Australian bank which is an eligible financial institution for the purposes of Treasury Circular NSW TC14/01 dated 24 January 2014 as amended, supplemented or substituted from time to time; and

(b) on terms acceptable to the Minister, in the Minister's absolute discretion,

to pay the face value of that undertaking (being such amount as is required under this deed) on demand.

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

CLM Act means the *Contaminated Land Management Act 1997 (NSW)*.

Coal & Allied VPA means the planning agreement between the Minister, Minister administering the *National Parks and Wildlife Act 1974*, Minmi Land Pty Ltd and Coal & Allied Operations Pty Ltd dated 3 October 2012.

Commencement Date means the date this deed commences in accordance with clause 2.1 of this deed.

Concept Plan means Concept Plan (MP10_0090 *Minmi, Link Road North & South Residential Development*) for urban development (up to 3,300 dwellings and 2 centres for mixed use development) at Minmi, Newcastle Link Road and dedication of 1,561 hectares of conservation lands at Stockrington and associated infrastructure as at the date of this deed as modified from time to time.

Consent Authority has the same meaning as in the Act.

Construction Certificate has the same meaning as in the Act.

Contamination has the same meaning as in the CLM Act.

Contribution Amount means the amount of a monetary contribution to be paid by the Developer.

Developer means the Developer and the Landowner, unless otherwise specified in this deed.

Developer's Offer means the Developer's irrevocable offer to enter into a planning agreement with the Minister made on behalf of the Developer dated 23 August 2017 and 6 September 2017.

Development means the development of the Land for the purposes of urban development generally in accordance with the Concept Plan including DA2015/10360 and DA 2015/10393, lodged with Newcastle City Council and DA 1936/2016, lodged with Lake Macquarie City Council and any development approved under Part 4 of the Act pursuant to the Concept Plan.

Development Application has the same meaning as in the Act.

Development Consent has the same meaning as in the Act.

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

Education Land means:

- (a) the New School Site; and
- (b) the Extension School Site.

Education Contribution means the:

- (a) transfer of the Education Land to the Minister (or their nominee); and/or
- (b) payment of a monetary contribution to the Minister (or their nominee) towards educational purposes,

in accordance with Schedule 4 of this deed.

Educational Establishment has the same meaning as in the *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017*.

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.

Extension School Cash Contribution means a monetary contribution to the value of \$1,365,000.

Extension School Site means a site of no more than 1.3 hectares to form an extension to the existing Minmi Public School generally as shown on the Indicative Concept Plan and to be agreed between the Developer and the Minister in accordance with clauses 4.2 and 4.3 of Schedule 4 to this deed.

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

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

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

Indicative Concept Plan means Figure A 1.3 of the Concept Plan and attached to this deed at Annexure A.

Land means the land described in Schedule 3.

Landowner means Minmi Land Pty Ltd.

Lake Macquarie LEP means *Lake Macquarie Local Environmental Plan 2014*.

Link Road North Precinct means the precinct identified on the plan attached to this deed at Annexure B.

Mediation Program means the Mediation Program of the Law Society of New South Wales as published on its website and as varied from time to time.

Minister means the Minister for Planning and includes the Secretary and the Secretary's nominee.

Minmi East Precinct means the precinct identified on the plan attached to this deed at Annexure B.

Monetary Contribution means the monetary contribution towards designated State public infrastructure to be made by the Developer.

Newcastle LEP means *Newcastle Local Environmental Plan 2012*.

New School Site means a site of no more than 4 hectares for a primary school generally as shown on the Indicative Concept Plan and to be agreed between the Developer and the Minister in accordance with clauses 4.1 and 4.3 of Schedule 4 to this deed.

New School Site Cash Contribution means a monetary contribution to the value of \$3,200,000.

Planning Application means:

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

which seeks approval for the subdivision of the Land for an Urban Lot.

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

Reconciled Education Cash Contribution means that contribution described in clause 4.7 of Schedule 4.

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

Regional Conservation Land means the Environmental Offset Land (as that term is defined under the Coal & Allied VPA) dedicated to the Minister administering the *National Parks and Wildlife Act 1979* pursuant to the Coal & Allied VPA.

Regional Conservation Land Contribution means the dedication of the Regional Conservation Land in accordance with the Coal & Allied VPA.

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

Residential Accommodation has the same meaning as in the *Standard Instrument (Local Environmental Plans) Order 2006* as at the date of this deed.

Residue Lot means a lot that is created for one or more of the following purposes:

- (a) to be dedicated or otherwise transferred to an Authority;
- (b) that is required by an Authority to be held by the Developer for a public purpose; or
- (c) for any public utility undertaking within the meaning of the *Standard Instrument (Local Environmental Plans) Order 2006* as at the date of this deed,

but which does not include a Super Lot.

Satisfactory Arrangements Certificate means a certificate issued by the Secretary that satisfactory arrangements have been made to contribute to the provision of designated State

public infrastructure in accordance with clause 6.1 of the Lake Macquarie LEP and clause 8.1 of the Newcastle LEP.

Secretary means the Secretary of the Department of Planning and Environment.

Security means a Bank Guarantee for the amount and on the terms specified in Schedule 5.

Site Audit Statement means a site audit statement as defined under the CLM Act which:

- (a) states that the land to which the statement relates is suitable for use as an Educational Establishment; and
- (b) does not specify any conditions or restrictions on the use of the land as an Educational Establishment, unless otherwise agreed by the Minister, acting reasonably.

Subdivision Certificate has the same meaning as in the Act.

Super Lot means a lot that forms part of the Land which, following the registration of a Plan of Subdivision, is intended for further subdivision (including community title subdivision but excluding strata subdivision) for Residential Accommodation, but does not include a Residue Lot.

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.

Urban Lot means a lot that forms part of the Land to be created by the registration of a Plan of Subdivision and is intended to be developed for Residential Accommodation but excluding any Residue Lots and Super Lots.

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**, a **schedule** or an **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** and **annexures** 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 commences on the date that this deed is signed by all the parties.

2.2 Planning agreement under the Act

This deed constitutes a planning agreement within the meaning of section 93F of the Act and the parties agree on the matters set out in Schedule 1.

2.3 Application

This deed applies to:

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

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

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

4. Development Contribution

4.1 Developer to provide Development Contribution

- (a) The Developer undertakes to provide, or procure the provision of the Development Contribution to the Minister or the Minister's nominee in accordance with the provisions of Schedule 4 to this deed.
- (b) The Minister acknowledges and agrees that the Regional Conservation Land Contribution has been provided as at the Commencement Date.

4.2 Acknowledgement

The Developer acknowledges and agrees that, subject to section 93E of the Act, the Minister:

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

5. Interest

5.1 Interest for late payment

- (a) If the Developer fails to pay a Contribution Amount (as indexed in accordance with Schedule 4) due to the Minister on the due date for payment, the Developer must also pay to the Minister interest at a rate of 2% above the loan reference rate charged by the Commonwealth Bank of Australia from time to time.
- (b) Interest is 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 Compulsory Acquisition

In addition to clause 6.2 below, the parties agree that clause 5 of Schedule ⁴~~5~~ is the provision of security for the Education Land Contribution.

6.2 Developer to provide Security

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

6.3 Enforcement of this deed

The Minister acknowledges and agrees that if the Landowner transfers ^{all}~~any part~~ of the Land it owns to the Developer (~~Transferred Land~~):

- (a) the Landowner will be released and discharged from the obligations arising under this deed ~~insofar as they relate to the Transferred Land~~; and

I am authorised to make this alteration

Signature Claydon Harding Smith Name Claydon Harding Smith Date: 8 November 2017

- (b) the Minister will not seek to enforce the terms of this deed against the Landowner in the event of a breach by the Developer of any obligation arising under this deed ~~insofar as it relates to the Transferred Land.~~

7. Registration

7.1 Registration of deed

- (a) Within 20 Business Days of receiving a copy of this deed executed by the Minister, the Developer and the Landowner, at their own expense are to take all practical steps and otherwise do anything to procure:
- (i) the consent of each person, as required by the Registrar-General, who:
 - (A) has an estate or interest in the Land registered under the Real Property Act; or
 - (B) is seized or possessed of an estate or interest in the Land,
 to the registration of this deed on the title to the Land and to the terms of this deed; and
 - (ii) the execution of any documents; and
 - (iii) the production of the relevant certificates of title;
 - (iv) the lodgement of this deed in a registrable form at the Land and Property Information for registration by the Registrar-General in the relevant folio of the Register for the Land, or in the General Register of Deeds if this deed relates to land not under the Real Property Act.
- (b) The Developer and the Landowner will take all practical steps and otherwise do anything reasonably required to procure the registration of this deed within three months of the date of this deed in the relevant folio of the Register for the Land, or in the General Register of Deeds if this deed relates to land not under the Real Property Act, including promptly responding to any requisitions made by the Registrar-General in respect of this deed and/or any ancillary documents.

7.2 Evidence of registration

- (a) The Developer and the Landowner must provide the Minister with evidence of the lodgement of this deed pursuant to clause 7.1(a)(iv) within 10 Business Days of such lodgement at the Land and Property Information.
- (b) The Developer and the Landowner will provide the Minister with a copy of the relevant folio of the Register for the Land and a copy of the registered dealing containing this deed within 10 Business Days of receipt of notice of registration of this deed.

7.3 Release and discharge of deed

The Minister agrees to do all things reasonably required by the Developer and Landowner:

- (a) to release and discharge this deed with respect to all of the Land or any part of the Land as requested by the Developer and Landowner from time to time (except for the Education Land, the Minmi East Precinct and the Link Road North Precinct) upon the Developer satisfying its obligations to make the monetary contribution under clause 1(a) of Schedule 4; and
- (b) in respect of the Education Land, the Minmi East Precinct and the Link Road North Precinct:

I am authorised to make this alteration


 Carolyn Harding
 Name
 Date: 8 November 2017

- (i) to release and discharge this Deed in respect of the New School Site and the Link Road North Precinct upon either:
 - (A) the dedication of the New School Site land and if relevant, the payment of the Reconciled Education Cash Contribution in accordance with the provisions of Schedule 4; or
 - (B) the payment of the New School Cash Contribution in accordance with the provisions of Schedule 4.
- (ii) to release and discharge this Deed in respect of the Extension School Site and the Minmi East Precinct upon either:
 - (A) the dedication of the Extension School Site land and if relevant, the payment of the Reconciled Education Cash Contribution in accordance with the provisions of Schedule 4; or
 - (B) the payment of Extension School Cash Contribution in accordance with the provisions of Schedule 4.

7.4 Urban Lots

- (a) This deed is not to remain registered under section 93H of the Act in relation to any lot other than a Super Lot, subject to the Minister being satisfied, acting reasonably and without delay, that the Developer is otherwise in material compliance with this deed.
- (b) For the avoidance of doubt, the Minister agrees that this deed may be released from:
 - (i) the 1st to 599th Urban Lots within the Link Road North Precinct prior to the transfer of the New School Site to the Minister in accordance with clause 4 of Schedule 4, and
 - (ii) the 1st to 199th Urban Lots within the Minmi East Precinct prior to the transfer of the Extension School Site to the Minister in accordance with clause 4 of Schedule 4,

subject to the Minister being satisfied, acting reasonably and without delay, that the Developer is otherwise in material compliance with this deed, including but not limited to clauses 30 and 4.1 of Schedule 4.
- (c) If through error or other reason this deed is registered on the title to any lot (including a Residue Lot or Urban Lot), each party must do such things as are reasonably necessary, as requested by other, to facilitate the lodging and grant of a request for the registration of this deed to be removed from the title to that lot.
- (d) The Minister acknowledges that the preconditions to be satisfied under this deed prior to the issue of a Subdivision Certificate under the Act only relate to the Subdivision Certificates referred to in:
 - (i) in respect of the Monetary Contribution, clause 30 of Schedule 4; and
 - (ii) in respect of the Education Land, the timing specified in clause 4 of Schedule 4.

7.5 Developer's and Landowner's interest in Land

- (a) The Developer represents and warrants that it is:
 - (i) the owner of that part of the Land identified in Schedule 3; and

- (ii) legally and beneficially entitled to obtain all consents and approvals and to compel any person referred to in or contemplated by clause 7.1(a)(i) to assist, cooperate and to otherwise do all things necessary for the Developer to comply with its obligations under clause 7.
- (b) The Landowner represents and warrants that it is:
 - (i) the owner of that part of the Land identified in Schedule 3; and
 - (ii) legally and beneficially entitled to obtain all consents and approvals and to compel any person referred to in or contemplated by clause 7.1(a)(i) to assist, cooperate and to otherwise do all things necessary for the Landowner to comply with its obligations under clause 7.

8. Dispute Resolution

8.1 Not commence

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

8.2 Written notice of dispute

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

8.3 Attempt to resolve

On receipt of notice under clause 8.2, the parties must endeavour in good faith to resolve the dispute expeditiously using informal dispute resolution processes such as mediation, expert evaluation or other methods 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 Program. The parties must request the president of the Law Society of NSW or the president's nominee to select the mediator and determine the mediator's remuneration.

8.5 Court proceedings

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

8.6 Not use information

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

8.7 No prejudice

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

9. GST

9.1 Definitions

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

9.2 Intention of the parties

The parties intend that:

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

9.3 Reimbursement

Any payment or reimbursement required to be made under this deed that is calculated by reference to a cost, expense, or other amount paid or incurred must 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 exclusive of GST. 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 9.4.

9.5 Additional Amounts for GST

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

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

9.6 Non monetary consideration

Clause 9.5 applies to non-monetary consideration.

9.7 Assumptions

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

9.8 No merger

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

10. Assignment and transfer

10.1 Right to assign or novate

- (a) Prior to a proposed assignment or novation of its rights or obligations under this deed, the party seeking to assign its rights or novate its obligations (**Assigning Party**) must seek the consent of the Minister and:
 - (i) satisfy the Minister (acting reasonably) that the person to whom the Assigning Party's rights or obligations are to be assigned or novated (**Incoming Party**) has sufficient assets, resources and expertise required to perform the Assigning Party's obligations under this deed insofar as those obligations are to be novated to the Incoming Party;
 - (ii) procure the execution of an agreement by the Incoming Party with the Minister on terms satisfactory to the Minister (acting reasonably) under which the Incoming Party agrees to comply with the terms and conditions of this deed as though the Incoming Party were the Assigning Party; and
 - (iii) satisfy the Minister, acting reasonably, that it is not in material breach of its obligations under this deed.
- (b) The Assigning Party must pay the Minister's reasonable legal costs and expenses incurred under this clause 10.1.

10.2 Right to transfer Land

- (a) The Developer must not sell or transfer to another person (**Transferee**) the whole or part of any part of the Land:
 - (i) on which this deed remains registered under section 93H of the Act; or
 - (ii) for which the Development Contribution required under this deed remains outstanding.
- (b) Contingent on clause 10.2(a), the Developer may sell or transfer the whole or any part of the Land to a Transferee if prior to the proposed sale or transfer the Developer:
 - (i) satisfies the Minister, acting reasonably, that the proposed Transferee has sufficient assets, resources and expertise required to perform any of the remaining obligations of the Developer under this deed or satisfies the Minister, acting reasonably, that the Developer will continue to be bound by the terms of this deed after the transfer has been effected;

- (ii) procures the execution of an agreement by the Transferee with the Minister on terms satisfactory to the Minister, acting reasonably, under which the Transferee agrees to comply with the terms and conditions of this deed as though the Transferee were the Developer; and
 - (iii) satisfies the Minister, acting reasonably, that it is not in material breach of its obligations under this deed.
- (c) The Developer must pay the Minister's reasonable legal costs and expenses incurred under this clause 10.2.

10.3 Replacement Security

Provided that:

- (a) the Developer has complied with clauses 10.1 and 10.2; and
- (b) the Transferee or Incoming Party (as the case may be) has provided the Minister with a replacement Security in accordance with the requirements of Schedule 5 and on terms acceptable to the Minister,

the Minister will promptly return the Security to the Developer.

10.4 Transfer of Land between the Landowner and the Developer

The provisions of clauses 10.1 to 10.3 do not apply where the Landowner transfers any part of the Land it owns to the Developer.

11. Capacity

11.1 General warranties

Each party warrants to each other party that:

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

11.2 Power of attorney

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

12. Reporting requirement

- (a) By 1 September each year or as otherwise agreed with the Secretary, the Developer must deliver to the Secretary a report (in a format acceptable to the Secretary) for the period 1 July to 30 June of the preceding financial year which must include the following matters, as applicable:
 - (i) details of all Development Consents and Subdivision Certificates issued in relation to the Development;

- (ii) a description of the status of the Development including a plan that identifies what parts of the Development have been completed, are under construction and are to be constructed;
 - (iii) a forecast in relation to the anticipated progression and completion of the Development;
 - (iv) a compliance schedule showing the details of all Contribution Amounts provided under this deed as at the date of the report and indicating any non-compliance with this deed and the reason for the non-compliance; and
 - (v) when the Developer expects to lodge the next Planning Application.
- (b) Upon the Secretary's request, the Developer must deliver to the Secretary all documents and other information which, in the reasonable opinion of the Secretary are necessary for the Secretary to assess the status of the Development and the Developer's compliance with this deed.

13. General Provisions

13.1 Entire deed

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

13.2 Variation

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

13.3 Waiver

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

13.4 Further assurances

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

13.5 Time for doing acts

- (a) If:
 - (i) the time for doing any act or thing required to be done; or
 - (ii) a notice period specified in this deed,
 expires on a day other than a Business Day, the time for doing that act or thing or the expiration of that notice period is extended until the following Business Day.
- (b) If any act or thing required to be done is done after 5 pm on the specified day, it is taken to have been done on the following Business Day.

13.6 Governing law and jurisdiction

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

13.7 Severance

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

13.8 Preservation of existing rights

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

13.9 No merger

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

13.10 Counterparts

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

13.11 Relationship of parties

Unless otherwise stated:

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

13.12 Good faith

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

13.13 No fetter

Nothing in this deed is to be construed as requiring 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.

13.14 Explanatory note

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

13.15 Expenses and stamp duty

- (a) The Developer must pay its own and the Minister's reasonable legal costs and disbursements in connection with the negotiation, preparation, execution and carrying into effect of this deed.
- (b) The Developer must pay for all reasonable costs and expenses associated with the giving of public notice of this deed and the Explanatory Note in accordance with the Regulation.
- (c) The Developer must pay all Taxes assessed on or in respect of this deed and any instrument or transaction required or contemplated by or necessary to give effect to this deed (including stamp duty and registration fees, if applicable).
- (d) The Developer must provide the Minister with bank cheques, or an alternative method of payment if agreed with the Minister, in respect of the Minister's costs pursuant to clauses 13.15(a) and (b):
 - (i) where the Minister has provided the Developer with written notice of the sum of such costs prior to execution, on the date of execution of this deed; or
 - (ii) where the Minister has not provided the Developer with prior written notice of the sum of such costs prior to execution, within 30 Business Days of demand by the Minister for payment.

13.16 Notices

- (a) Any notice, demand, consent, approval, request or other communication (**Notice**) to be given under this deed must be in writing and must be given to the recipient at its Address for Service by being:
 - (i) hand delivered; or
 - (ii) sent by facsimile transmission; or
 - (iii) sent by prepaid ordinary mail within Australia; or
 - (iv) in the case of a Notice to be given by the Minister or Secretary, sent by email.
- (b) A Notice is given if:
 - (i) hand delivered, on the date of delivery but if delivery occurs after 5pm New South Wales time or a day that is not a Business Day, is taken to be given on the next Business Day;
 - (ii) sent by facsimile and the sending party's facsimile machine reports that the facsimile has been successfully transmitted;
 - (A) before 5 pm on a Business Day, on that day;
 - (B) after 5 pm on a Business Day, on the next Business Day after it is sent; or
 - (C) on a day that is not a Business Day, on the next Business Day after it is sent; or
 - (iii) sent by prepaid ordinary mail within Australia, on the date that is 2 Business Days after the date of posting; or

- (iv) sent by email:
 - (A) before 5 pm on a Business Day, on that Day;
 - (B) after 5 pm on a Business Day, on the next Business Day after it is sent; or
 - (C) on a day that it is not a Business Day, on the next Business Day after it is sent,
and the sender does not receive a delivery failure notice.

Schedule 1

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

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

Requirement under the Act	This deed
Planning instrument and/or development application – (section 93F(2)) The Developer has: (a) sought a change to an environmental planning instrument. (b) made, or proposes to make, a Development Application. (c) entered into an agreement with, or is otherwise associated with, a person, to whom paragraph (a) or (b) applies.	(a) No (b) Yes (c) No
Description of land to which this deed applies – (section 93F(3)(a))	See Schedule 3
Description of development to which this deed applies – (section 93F(3)(b))	See definition of Development in clause 1.1
Description of change to the environmental planning instrument to which this deed applies – (section 93F(3)(b))	N/A
The scope, timing and manner of delivery of contribution required by this deed – (section 93F(3)(c))	See Schedule 4
Applicability of sections 94 and 94A of the Act – (section 93F(3)(d))	The application of sections 94 and 94A of the Act is not excluded in respect of the Development.
Applicability of section 94EF of the Act – (section 93F(3)(d))	The application of section 94EF of the Act is excluded in respect of the Development.
Consideration of benefits under this deed if section 94 applies – (section 93F(3)(e))	No
Mechanism for Dispute Resolution – (section 93F(3)(f))	See clause 8
Enforcement of this deed – (section 93F(3)(g))	See clause 6 and clause 7
No obligation to grant consent or exercise functions – (section 93F(10))	See clause 13.13

Table 2 – Other matters

Requirement under the Act	This deed
Registration of the Planning Agreement – (section 93H of the Act)	Yes (see clause 7)
Whether the Planning Agreement specifies that certain requirements of the agreement must be complied with before a construction certificate is issued – (clause 25E(2)(g) of the Regulation)	No
Whether the Planning Agreement specifies that certain requirements of the agreement must be complied with before an occupation certificate is issued – (clause 25E(2)(g) of the Regulation)	No
Whether the Planning Agreement specifies that certain requirements of the agreement must be complied with before a subdivision certificate is issued – (clause 25E(2)(g) of the Regulation)	Yes (see clauses 3 & 4 of Schedule 4)

Schedule 2 Address for Service

(clause 1.1)

Minister

Contact: The Secretary

Address: Department of Planning and Environment
320 Pitt Street
SYDNEY NSW 2000

Facsimile No: (02) 9228 6455

Email: Not applicable

Developer

Contact: The Directors

Address: Level 10, 61 Lavender Street, Milsons Point NSW 2061

Facsimile No: (02) 9929 5001

Email: bsarkis@winten.com.au

Landowner

Contact: The Directors

Address: ~~123 Albert Street, Brisbane QLD 4000~~ Level 26, 363 George St, Sydney

Facsimile No: +61 2 8583 5399 NSW 2000

Email: notices@yaucoal.com.au

I am authorised to make this alteration

Glenn Candyn Harding 8 November 2017
Signature Name

Schedule 3 Land

(clause 1.1)

Lot	Deposited Plan	Folio Identifier	Landowner
2	877349	2/877349	Minmi Land Pty Ltd
30	1214525	30/1214525	Winten (No 21) Pty Limited
6 (Part)	1044574	6/1044574	Minmi Land Pty Ltd
1	1156243	1/1156243	Minmi Land Pty Ltd
48	115128	48/115128	Minmi Land Pty Ltd
1	1230960	1/1230960	Winten (No 21) Pty Limited
2	1230960	2/1230960	Winten (No 21) Pty Limited
3	1230960	3/1230960	Winten (No 21) Pty Limited
4	1230960	4/1230960	Minmi Land Pty Ltd
5	1230960	5/1230960	Minmi Land Pty Ltd

I am authorised to make this alteration



 Carolyn Harding-Smith

 Date: 8 November 2017

Signature

Name

Schedule 4 Development Contributions

(clause 4)

1. Development Contributions

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

Development Contribution (DC)	Value	Timing	Planning Agreement
Monetary Contribution	\$519,662	Pursuant to clause ^{3(a)} 4 of this Schedule 4	This deed
Education Contribution	\$4,565,000	Pursuant to clause 4 of this Schedule 4	This deed
Regional Conservation Land Contribution	\$13,200,000	In accordance with the Coal & Allied VPA – completed as at the date of this deed.	Coal & Allied VPA
Total	\$18,284,662		

2. Calculation of the value of Contribution Amount

The total value of the Development Contributions (\$18,284,662) is the amount equal to the sum represented by "X" in the following formula:

$$X = N \times \$81,994$$

"N" means the number of hectares comprised in the net developable area of the Development, being 223 hectares.

3. Payment of Contribution Amounts

The Developer must pay to the Minister or the Minister's nominee the Monetary Contribution, on the Commencement Date.

4. Education Contribution

4.1 Requirement to provide the New School Site

- (a) For the purpose of this clause, at least 12 months before the Developer applies for a Subdivision Certificate for a Plan of Subdivision that will create the 500th Urban Lot in the Link Road North Precinct, the Developer must notify the Minister of its intention to lodge an application for that Subdivision Certificate.

I am authorised to make this alteration

Clairin S. Candlyn-Harding SM _{SM} Date: 8 November 2017
Signature Name

- (b) Within 3 months of receiving notice from the Developer under clause 4.1(a) of this Schedule 4, the Minister must provide the Developer with a written notice stating either that the Minister:
 - (i) requires the New School Site to be used for the relevant public purpose; or
 - (ii) does not require all or part of the New School Site.
- (c) If the Minister does not provide the Developer with a notice referred to clause 4.1(b) of this Schedule 4 or notifies the Developer that the Minister does not require the New School Site:
 - (i) the Developer is not required to procure the transfer of the New School Site to the Minister;
 - (ii) the provisions of this clause 4.1 of this Schedule 4 will otherwise not apply; and
 - (iii) the Developer must pay the New School Cash Contribution by no later than the issue of a Subdivision Certificate that will create the 600th Urban Lot in the Link Road North Precinct.

4.2 Requirement to provide Extension School Site

- (a) For the purpose of this clause, at least 12 months before the Developer applies for a Subdivision Certificate for a Plan of Subdivision that will create the 150th Urban Lot in the Minmi East Precinct, the Developer must notify the Minister of its intention to lodge an application for that Subdivision Certificate.
- (b) Within 3 months of receiving notice from the Developer under clause 4.2(a) of this Schedule 4, the Minister must provide the Developer with a written notice stating either that the Minister:
 - (i) requires the Extension School Site to be used for the relevant public purpose; or
 - (ii) does not require all or part of the Extension School Site.
- (c) If the Minister does not provide the Developer with a notice referred to clause 4.2(b) of this Schedule 4 or notifies the Developer that the Minister does not require the Extension School Site:
 - (i) the Developer is not required to procure the transfer of the Extension School Site to the Minister;
 - (ii) the provisions of this clause 4.2 of this Schedule 4 will otherwise not apply; and
 - (iii) the Developer must pay the Extension School Cash Contribution by no later than the issue of a Subdivision Certificate or Strata Certificate (as the case may be) that will create the 200th Urban Lot in the Minmi East Precinct.

4.3 Education Land selection process

- (a) The parties acknowledge that while the approximate location of the Education Land is shown on the Indicative Concept Plan, the final location of each of the proposed sites for the Education Land, being the New School Site and the Extension School Site (**Education Land Site**) is yet to be determined.
- (b) In the event that the Minister notifies the Developer that it requires the relevant Education Land, the parties agree that the final location of each Education Land Site will be determined by the following process:
 - (i) the Developer, must at its cost, prepare and provide the Minister with a detailed survey plan (**Education Land Plan**) identifying the boundaries and topography of the relevant Education Land Site (**Proposed Site**):
 - (A) in relation to the Extension School Site, within 30 days after notification is received by the Developer that the Minister requires the Extension School Site under clause 4.2(b)(i); and
 - (B) in relation to the New School Site, within 30 days after notification is received by the Developer that the Minister requires the New School Site under clause 4.1(b)(i);
 - (ii) the Education Land Plan must:
 - (A) be accompanied by written confirmation that the Developer has consulted with the Department of Education in accordance with clause 4.4 of this Schedule 4; and
 - (B) take into account any comments provided by the Department of Education following consultation required by clause 4.4 of this Schedule 4;
 - (iii) the Minister may inspect the Proposed Site for the purpose of determining whether it is suitable to constitute the Education Land. The Developer and Landowner agree to grant access to the Land to the Minister and their nominees, agents and contractors for this purpose (subject to any reasonable conditions as required by the Developer or Landowner);
 - (iv) the Minister will provide written notice to the Developer of whether the Proposed Site is suitable to constitute the Education Land. The Minister agrees to use reasonable endeavours to provide such notice within 60 Business Days of receipt of the Education Land Plan. If a notice under this clause:
 - (A) states that the Proposed Site is to constitute the Education Land, the relevant Proposed Site will form the Education Land. The Developer agrees to make any amendments to the Education Land Plan reasonably required by the Minister;
 - (B) is not provided by the Minister within 60 Business Days of receipt of the Education Land Plan, the Developer may give written notice to the Minister stating that the Proposed Site will form the Education Land and the Developer will provide the relevant Education Land Site by the time referred to in clause 4.6(b) of this Schedule;

- (C) states that the Proposed Site is not suitable as an Education Land Site, the provisions of clause 4.3(b)(v) will apply;
- (v) if the Minister issues a notice under clause 4.3(b)(iv)(C):
 - (A) representatives of the Developer and the Minister must meet within 30 days of the issue of a notice under clause 4.3(b)(iv)(C) to discuss alternative locations for the Education Land Site; and
 - (B) if, after 10 days the location of the Education Land Site has not been resolved between the parties, the parties shall be in dispute and the provisions of clause 5 of this Schedule 4 will apply in relation to the relevant Education Land Site;
- (vi) if the Developer does not provide any Education Land Plan by the time required under clause 4.3(b)(i) of this Schedule 4,:
 - (A) the Minister must issue a notice to the Developer stating that it considers the Developer to be in breach of clause 4.3(b)(i) of this Schedule 4 (**Education Land Plan Notice**);
 - (B) the Developer must, within 20 Business Days of the issue of the Education Land Plan Notice, rectify that breach (**Rectification Period**); and
 - (C) in the event that the Developer fails to provide the Education Land Plan within that Rectification Period, the Minister may decide in his or her sole discretion the location of the Education Land Site.

4.4 Department of Education consultation

The Developer must consult with the Department of Education in the preparation of any Education Land Plan prepared for the:

- (a) New School Site; and
- (b) Extension School Site;

prior to providing the relevant Education Land Plan to the Minister under clause 4.3(b)(i) of this Schedule 4.

4.5 Site requirements

Unless the Minister in their sole discretion agrees in writing otherwise, the Developer must:

- (a) ensure that the Education Land when transferred to the Transferee is serviced with kerb and gutters and footpaths, and by the following services to a level and quality sufficient to use the Education Land for the purpose of an Educational Establishment:
 - (i) water;
 - (ii) sewer;
 - (iii) electricity;
 - (iv) gas;
 - (v) telecommunications; and

- (b) ensure that the Education Land when transferred to the Minister (or nominee) is free of all encumbrances, except those encumbrances which in the Minister's reasonable opinion, do not impede the use of the land for the purposes of an Educational Establishment; and
- (c) ensure that the Education Land when transferred to the Transferee is suitable for its intended use as an Educational Establishment.

4.6 Transfer of the Education Land

- (a) The Developer must (at its cost) prepare and register a Plan of Subdivision to create a separate lot or lots for each Education Land Site.
- (b) Following receipt of a notice from the Minister pursuant to clause 4.3(b)(iv)(A) of this Schedule 4 and before:
 - (i) in relation to the Extension School Site, the issue of a Subdivision Certificate that will create the 200th Urban Lot in the Minmi East Precinct or as otherwise agreed with the Minister; and
 - (ii) in relation to the New School Site, the issue of a Subdivision Certificate that will create the 600th Urban Lot in the Link Road North Precinct or as otherwise agreed with the Minister;

the Developer agrees to:

- (iii) deliver to the Minister (or the Minister's nominee):
 - (A) a form of transfer in respect of the relevant land comprising the Education Land executed by the landowner and in registerable form; and
 - (B) the certificates of title for the relevant part of the Education Land; and
 - (C) a Site Audit Statement for the relevant part of the Education Land;
- (iv) take any other necessary action (other than paying stamp duty associated with the transfer or contract for sale) to give effect to the transfer of the title of the Education Land to the Transferee, and except for those encumbrances specified in clause 4.5(b) of this Schedule 4, transfer title free of all encumbrances and affectations (including any charge or liability for rates, taxes and charges).
- (c) Upon transfer, the Education Land will be free from any encumbrances other than those identified in clause 4.5(b) of this Schedule 4.
- (d) The Developer indemnifies and agrees to keep indemnified the Minister (and their nominee) against all claims made against the Minister (and their nominee) as a result of any Contamination that is required to be cleaned up by an Authority over the whole or part of the Education Land but only in relation to Contamination that existed on or before the date that the Education Land is transferred to the Minister (or nominee).
- (e) The Developer must promptly comply, or procure compliance with, any requisitions raised by the Registrar-General in relation to the transfer of the Education Land.
- (f) The Developer will pay all rates and taxes owing in respect of the Education Land up to and including the date that the Developer delivers the form of transfer and certificates of title for the Education Land pursuant to clause 4.6(b) of this Schedule 4, after which time the Minister (or their nominee) will be responsible for all rates and taxes to the Education Land.

- (g) Subject to the exclusion provided in clause 10.4 of this deed, the Developer and Landowner agree not to transfer or otherwise deal with the Education Land unless the Minister has consented in writing to the transfer or dealing.
- (h) Notwithstanding clause 10.2 of this deed, the Developer and Landowner must, from the date that this deed is signed by all the parties not undertake any action or activity, prior to the Transfer being registered that will have a detrimental effect on the Education Land except where the Developer or Landowner is:
 - (i) directed to undertake such action or activity by another government agency or instrumentality (such as the Rural Fire Service);
 - (ii) maintaining existing access and existing tracks; or
 - (iii) otherwise required by law to undertake such an action or activity.

4.7 Reconciled Education Cash Contribution

- (a) For the purposes of this clause, the:
 - (i) **New School Site Area** means the area of the New School Site (in square metres) transferred to the Minister or nominee in accordance with this Schedule 4, being no more than 4 hectares; and
 - (ii) **Extension School Site Area** means the area of the Extension School Site (in square metres) transferred to the Minister or nominee in accordance with this Schedule 4, being no more than 1.3 hectares.
- (b) If the:
 - (i) New School Site Area is less than 4 hectares; or
 - (ii) Extension School Site is less than 1.3 hectares,

the Developer must provide a monetary contribution to the Minister, calculated in accordance with clause 4.7(c) of this Schedule 4 (**Reconciled Education Cash Contribution**).
- (c) The Reconciled Education Cash Contribution shall be calculated as follows:
 - (i) in relation to the New School Site:

\$3,200,000 – (New School Site Area x \$80 per sqm); and
 - (ii) in relation to the Extension School Site:

\$1,365,000 – (Extension School Site Area x \$105 per sqm).
- (d) The Reconciled Education Cash Contribution must be paid:
 - (i) in relation to the New School Site, upon delivery of the items required in accordance with clause 4.6(b)(iii) of this Schedule 4; and
 - (ii) in relation to the Extension School Site, upon delivery of the items required in accordance with clause 4.6(b)(iii) of this Schedule 4.

4.8 Site Audit Statement

The Developer agrees in relation to any Site Audit Statement provided to the Minister in accordance with clause 4.6(b)(iii):

- (a) to the extent that it is legally able to do so and where necessary, having obtained the consent of any other party, to assign the Site Audit Statement to the Minister or the Minister's nominee; and
- (b) to the extent that it is not legally able to assign the Site Audit Statement, to hold its rights and interest in the Site Audit Statement for the benefit of the Minister (or nominee) and must do whatever the Minister reasonably requires to enable the Minister to enjoy that benefit.

5. Compulsory Acquisition

- (a) The Developer expressly agrees that clause 5(b) and clause 5(c) of this Schedule 4 operate, to the extent necessary, as a deed poll in favour of the Minister's nominee.
- (b) If the Developer does not transfer any part of the Education Land to the Minister or the Minister's nominee as required by this deed, the Developer consents to the Minister (or their nominee) compulsorily acquiring that part of the Education Land in accordance with the *Land Acquisition (Just Terms Compensation) Act 1991* (NSW), for the amount of \$1.00.
- (c) The Developer and the Minister agree that:
 - (i) this clause 5 is an agreement between them for the purposes of section 30 of the *Land Acquisition (Just Terms Compensation) Act 1991* (NSW); and
 - (ii) in this clause 5, they have agreed on all relevant matters concerning the compulsory acquisition and the compensation to be paid for the acquisition.
- (d) If the Minister must pay compensation under Part 3 of the *Land Acquisition (Just Terms Compensation) Act 1991* to any person, other than the Developer, in accordance with the compulsory acquisition arrangements under clause 5 of this Schedule 4, the Developer:
 - (i) must reimburse the amount of that compensation to the Minister on request.
 - (ii) indemnifies and agrees to keep indemnified the Minister or their nominee against all claims made against the Minister or their nominee pursuant to the *Land Acquisition (Just Terms Compensation) Act 1991* as a result of any acquisition by the Minister or their nominee of the whole or any part of the Education Contribution Land under this clause 5 of this Schedule 4.
- (e) The Developer must pay the Minister or their nominee, promptly on demand, an amount equal to all costs, charges or expenses incurred by the Minister or their nominee acquiring the whole or any part of the Education Contribution Land as contemplated by this clause 5 of this Schedule 4.
- (f) The Developer indemnifies and agrees to keep indemnified the Minister (or their nominee) against all claims made against the Minister (or their nominee) as a result of any Contamination that is required to be cleaned up by an Authority to allow the use of the Education Land for Educational Establishment purposes but limited to Contamination that existed on or before the date that the Education Land is acquired by the Minister (or their nominee). The indemnity is limited to claims made reasonably by an Authority including

costs for clean up of Contamination for the use of the Education Land for Educational Establishment purposes.

Schedule 5 Security terms

(clause 6.2)

1. Developer to provide Security

- (a) In order to secure the payment or performance of the Development Contribution the Developer has agreed to provide the Security in the form of Bank Guarantees as set out in the table below.
- (b) Each Bank Guarantee must:
 - (i) name the “Minister for Planning” and the “Department of Planning and Environment ABN 38 755 709 681” as the relevant beneficiaries;
 - (ii) be in the amount as set out in the table below;
 - (iii) be as security for the Secured Obligation as set out in the table below; and
 - (iv) not have an expiry date.

Bank Guarantee Amount	Secured Obligation
\$20,000	The requirement to provide the Development Contributions

2. Claims under Bank Guarantees

- (a) The Minister may:
 - (i) call upon any Security provided in accordance with this deed where the Developer has failed to provide a Development Contribution to which the Security relates on or after the date for payment under this deed; and
 - (ii) retain and apply such monies towards the Development Contribution and any costs and expenses incurred by the Minister in rectifying any default by the Developer under this deed.
- (b) Prior to calling upon the Security, the Minister must give the Developer not less than 10 Business Days written notice of his or her intention to call upon the Security.
- (c) If:
 - (i) the Minister calls upon a Security; and
 - (ii) applies all or part of such monies towards the Development Contribution and any costs and expenses incurred by the Minister in rectifying any default by the Developer under this deed; and
 - (iii) has notified the Developer of the call upon the Security in accordance with clause 2(b) of this Schedule 5;

then the Developer must provide the Minister with a replacement Security to ensure that, at all times, until the date the Security is released in accordance with clause 3 of this Schedule, the Minister is in possession of Security for a face value equivalent to the relevant Security required to be provided in accordance with clause 1 of this Schedule.

3. Release of Security

If:

- (a) the Developer has paid or satisfied all of its obligations under this deed with regards to that Secured Obligation; and
- (b) the whole of the Security relevant to the Secured Obligation has not been expended;

then the Minister will promptly return the Security as it relates to that Secured Obligation (less any costs, charges, duties and taxes payable) to the Developer.

Execution page

Executed as a deed

Signed , sealed and delivered for and on behalf of the **Minister for Planning** (ABN 38 755 709 681), in the presence of:

.....
Signature of witness

.....
Signature of the Minister for Planning or delegate

.....
Name of witness in full

.....
Name of Minister for Planning or delegate

.....
Address of witness

Executed by Winten (No 21) Pty Limited (ACN 096 449 393) in accordance with section 127 of the Corporations Act 2001:

.....
Signature of Director

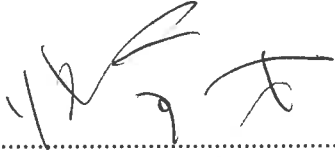
.....
Signature of Director/Secretary

.....
Name of Director in full

.....
Name of Director/Secretary in full

Executed by Minmi Land Pty Ltd (ACN 129 266 477) in accordance with section 127 of the Corporations Act 2001:


.....
Signature of Director


.....
Signature of Director/Secretary

REINHOLD SCHMITT
.....
Name of Director in full

BAOCAI ZHANG
.....
Name of Director/Secretary in full

Annexure A

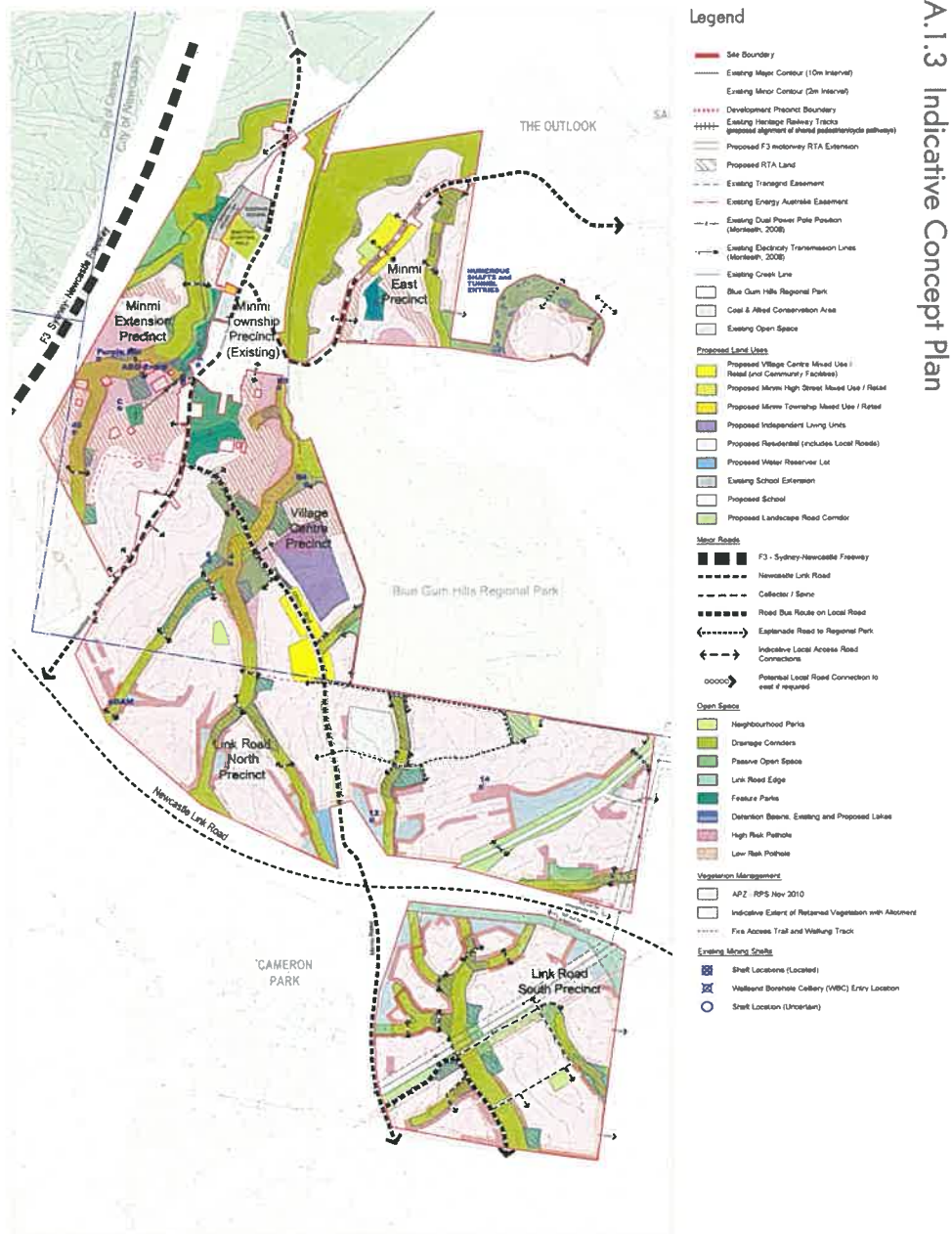


Figure A.1.3 Illustrative Concept Plan

[Handwritten signatures and initials]

Annexure B

2020 WA ENVIRONMENTAL STANDARDS BOARD • APPENDIX A • CONCEPT PLAN DESIGN GUIDELINES

A.1.7 Proposed Precincts

The Concept Plan divides the subject area into five precincts: Minimi East, Minimi Extension, Village Centre, Link Road North and Link Road South. The precincts consist of a balanced mix of urban characteristics, which will assist in the delivery of a cohesive but diverse built landscape that will define the new township of Minimi. The natural features of the landscape, including topography, riparian zones and significant vegetation formed the basis for the identification of each of the five precincts. The layout and design of each precinct has also been directly influenced by the physical attributes of the land. Consideration has been given to the relationship between future development and these attributes. The following sections provide an overview of the defining characteristics of each of the precincts.



Figure A.1.7 Indicative Proposed Precincts Plan