

Planning Agreement

Environmental Planning and Assessment Act 1979

657-769 Mamre Road, Kemps Creek

Minister for Planning and Public Spaces (ABN 20 770 707 468)

Altis Frasers JV Pty Ltd (ACN 640 585 897) in its capacity as trustee of the
ARET Frasers Project Trust

Altis Bulky Retail Pty Limited (ACN 164 432 124) in its capacity as trustee of
Altis Bulky Sub Trust 3

Frasers Property Industrial Constructions Pty Limited (ACN 095 586 708)

The Trust Company (Australia) Ltd (ACN 000 000 993)

The block contains three handwritten signatures in black ink. The top signature is a stylized, cursive 'M'. Below it, to the right, are two smaller, more fluid signatures. The bottom signature is a large, bold, cursive 'A'.

TABLE OF CONTENTS

1.	Definitions and interpretation	3
1.1	Definitions.....	3
1.2	Interpretation	8
2.	Operation and application of this deed	9
2.1	Operation.....	9
2.2	Planning agreement under the Act	9
2.3	Application.....	9
3.	Application of sections 7.11, 7.12 and 7.24 of the Act.....	10
4.	Development Contribution	10
4.1	Developer to provide Development Contribution	10
4.2	Acknowledgement.....	10
4.3	Provision of the Mamre Road Works Contribution.....	10
5.	Enforcement	10
5.1	Developer to provide Security	10
6.	Registration	10
6.1	Registration of deed	10
6.2	Evidence of registration.....	11
6.3	Release and discharge of deed	11
6.4	Interest in Land.....	11
6.5	Right to lodge caveat.....	12
7.	Dispute Resolution	12
7.1	Not commence	12
7.2	Written notice of dispute	12
7.3	Attempt to resolve.....	12
7.4	Mediation	12
7.5	Court proceedings	13
7.6	Not use information	13
7.7	No prejudice	13
8.	GST.....	13
8.1	Definitions.....	13
8.2	Intention of the parties.....	13
8.3	Reimbursement	13
8.4	Consideration GST exclusive.....	13
8.5	Additional Amounts for GST	14
8.6	Non monetary consideration.....	14
8.7	Assumptions	14
8.8	No merger.....	14
9.	Assignment and transfer	14
9.1	Right to assign or novate	14
9.2	Right to transfer Land	14
10.	Capacity.....	15
10.1	General warranties	15

10.2	Power of attorney.....	15
10.3	Trustee Developer – Altis Frasers JV	15
10.4	Trustee Developer – Altis Bulky Retail.....	17
10.5	Trustee Developer – The Trust Company	18
11.	Reporting requirement.....	20
12.	General Provisions	20
12.1	Entire deed	20
12.2	Variation	20
12.3	Waiver.....	20
12.4	Further assurances	20
12.5	Time for doing acts	20
12.6	Governing law and jurisdiction.....	21
12.7	Severance	21
12.8	Preservation of existing rights	21
12.9	No merger.....	21
12.10	Counterparts.....	21
12.11	Relationship of parties.....	21
12.12	Good faith.....	21
12.13	No fetter	21
12.14	Explanatory note	22
12.15	Expenses and stamp duty	22
12.16	Notices.....	22
	Schedule 1	23
	Schedule 2 – Address for Service.....	25
	Schedule 3 – Land	27
	Schedule 4 – Development Contribution	28
	Schedule 5 - Security	48
	Schedule 6 – Net Developable Area	52
	Schedule 7 – Landowners	55
	Execution page.....	56
	Annexure A - Mamre Road Works Plan	59
	Annexure B - Proposed Final Warehouse, Logistics and Industrial Facilities Hub Plan.....	62
	Annexure C – SSD-9522 Plan	64

This Planning Agreement is dated

Parties:

Minister for Planning and Public Spaces (ABN 20 770 707 468)

c/- NSW Department of Planning, Industry and Environment of Level 11, 4 Parramatta Square, 12 Darcy Street, Parramatta NSW 2150

Altis Frasers JV Pty Ltd (ACN 640 585 897) in its capacity as trustee of the ARET Frasers Project Trust of Level 14, 60 Castlereagh Street, Sydney NSW 2000 (**Altis Frasers JV**)

Altis Bulky Retail Pty Limited (ACN 164 432 124) in its capacity as trustee of Altis Bulky Sub Trust 3 of Level 14, 60 Castlereagh Street, Sydney NSW 2000 (**Altis Bulky Retail**)

Frasers Property Industrial Constructions Pty Limited (ACN 095 586 708) of Level 2, 1C Homebush Bay Drive, Rhodes NSW 2138 (**Frasers**)

The Trust Company (Australia) Ltd (ACN 000 000 993) of Level 18, 123 Pitt Street, Sydney NSW 2000 (**The Trust Company**)

Introduction:

- A** The Landowner owns the Land.
- B** Altis Frasers JV, Altis Bulky Retail and Frasers propose to carry out the Development on the Land.
- C** Altis Bulky Retail and Frasers have made a Development Application to the Consent Authority in respect of Development on the Land.
- D** Clause 29 of the SEPP 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 regional transport infrastructure and services (including the Erskine Park Link Road Network) in relation to the land to which the SEPP applies.
- 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 clause 29 of the SEPP.

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 means, in relation to the Mamre Road Works, the Final Certified Contract Cost inclusive of variations to achieve satisfactory completion by the Developer of the Mamre Road Works (as determined by the Roads Authority).

Additional Monetary Contribution means payment of a monetary contribution by the Developer to the Minister as may be required by clause 5 of Schedule 4.

Additional Monetary Contribution Notice takes its meaning from clause 5.2(c) of Schedule 4.

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

Approved Actual Cost has the meaning given to it in clause 6.1(c)(ii) of Schedule 4.

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

Authorised Progress Claim Certificate means a certificate signed by the superintendent for the Mamre Road Works confirming that the Developer has paid the amount specified in that certificate to the third party contractor for work performed under the Construction Contract(s).

Available Credit takes its meaning from clause 7.4 of Schedule 4.

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.

Base CPI means the CPI number for the quarter ending 31 March 2020.

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

Contaminated Land Consultant means a certified environmental practitioner under the Environment Institute of Australia and New Zealand's Certified Environmental Practitioner (Site Contamination) (CEnvP(SC)) scheme or a certified professional soil scientist under the Soil Science Australia Certified Professional Soil Scientist Contaminated Site Assessment and Management (CPSS CSAM) scheme.

Contaminated Land Report means a report provided by the Contaminated Land Consultant to support the Contaminated Land Statement.

Contaminated Land Statement means a statement from the Contaminated Land Consultant.

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

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

Consent Authority has the same meaning as in the Act.

Construction Contract means each contract between the Developer and a third party, meeting the requirements of clause 2.3 of Schedule 4, for the carrying out of the Mamre Road Works by that third party.

Contamination has the same meaning as in the CLM Act.

Costs means any loss, cost, fee, charge, expense, Tax, rate, fine, penalty or debts including those in connection with advisors and any compensation payable to any person in accordance with the law.

CoRD Holder Consent means the electronic document lodged through an ELNO that provides consent to the registration of instruments and plans.

CPI means the Consumer Price Index (All Groups Index) for Sydney published by the Commonwealth Statistician, or if that index no longer exists, any similar index that the Minister specifies, in his or her sole discretion, for the purposes of this deed.

CPI Adjustment Date means 1 July 2021 and each anniversary of 1 July 2021 thereafter.

Credit Amount takes its meaning from clause 6.2(b) of Schedule 4.

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

Custodian means The Trust Company.

Dealing means in relation to the Land means, without limitation, selling, transferring, assigning, mortgaging, charging, disposing, encumbering or otherwise dealing with the Land.

Department means the NSW Department of Planning, Industry and Environment.

Developer means Altis Frasers JV, Altis Bulky Retail, Frasers and The Trust Company, unless otherwise specified in this deed.

Development means development involving the subdivision of the Land into approximately 29 lots, the erection of warehouses and offices on the Land and the creation of an internal road network, to give effect generally to the Proposed Final Warehouse, Logistics and Industrial Facilities Hub Plan at Annexure B, being:

- (a) development broadly in accordance with SSD-9522 lodged with the Department, including as indicated on the SSD-9522 Plan at Annexure C, and in accordance with any Development Consent granted to that application, including the demolition of existing structures, subdivision of the Land in 2 stages, erection of warehouses, intersection upgrade and road widening works at Mamre Road, earthworks, landscaping and provision of stormwater and other infrastructure and creation of an internal road network, and
- (b) other development, including further subdivision of the Land and the erection of warehouses and offices on the Land, proposed to be carried out by the Developer in accordance with further development applications.

Development Application has the same meaning as in the Act.

Development Consent has the same meaning as in the Act.

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

- (a) subject to clause 4.3, the Mamre Road Works Contribution;
- (b) the Mamre Road Works Land Contribution;

- (c) subject to clause 4.1 of Schedule 4, the Southern Link Road Land Contribution;
- (d) subject to clause 5.1 of Schedule 4, the Additional Monetary Contribution; and
- (e) SIC Top up Amount (if may be required).

Election Notice has the same meaning given to that term in clause 4.3 or clause 4.1 of Schedule 4.

ELNO has the same meaning as in the *Electronic Conveyancing National Law* (NSW).

Estimated Cost of the Mamre Road Works means the estimated cost of the Mamre Road Works (including the Road Works Design) as set out in the table in clause 1.2 of Schedule 4.

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

Final Certified Contract Cost means the total sum of all the Authorised Progress Claim Certificates.

Five Year Period takes its meaning from clause 4.1(a) of Schedule 4.

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

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

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

Land means the land described in Schedule 3.

Landowner means all the persons listed in Schedule 7.

Mamre Road Contribution means the:

- (a) Mamre Road Works Contribution; and
- (b) Mamre Road Works Land Contribution.

Mamre Road Works means works for widening Mamre Road in accordance with any Development Consent granted to SSD-9522, and as generally outlined in red on the Mamre Road Works Plan at Annexure A.

Mamre Road Works Contribution means the carrying out and completion of the Mamre Road Works by the Developer in accordance with the terms of this deed.

Mamre Road Works Land means the area of land required for the widening of Mamre Road, being at least 16,601 square metres to be used as a public road, generally as identified in green on the Proposed Final Warehouse, Logistics and Industrial Facilities Hub Plan at Annexure B as 'Mamre Road Widening Road Reserve'.

Mamre Road Works Land Contribution means the dedication of the Mamre Road Works Land as a public road by the Developer in accordance with the terms of this deed.

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 Public Spaces and includes the Secretary and the Nominated Officer.

Net Developable Area means the net developable area for that part of the Development to which Development Consent to SSD-9522 relates calculated in accordance with Schedule 6 and in the event of a dispute or ambiguity, as determined by the Secretary.

Nominated Officer means an officer of the Department for the time being holding a position nominated by the Secretary for the purposes of this deed.

Notional Monetary Contribution has the meaning given to that term by clause 1.4(a) of Schedule 4.

Occupation Certificate has the same meaning as in the Act.

Offset Amount means:

- (a) if applicable, the Estimated Cost of the Mamre Road Works or the Approved Actual Cost (if lower);
- (b) the Value of the Mamre Road Works Land; and
- (c) the Value of the Southern Link Road Land (if applicable).

Offset Certificate means a certificate issued by the Secretary as amended or replaced from time to time under this deed.

Plan of Subdivision means a plan of subdivision within the meaning of section 195 of the *Conveyancing Act 1919* (NSW).

Planning Application means:

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

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

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

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

Remediation has the meaning given to it in *State Environmental Planning Policy No. 55 – Remediation of Land* and **Remediate** has a corresponding meaning.

Roads Authority has the meaning given to it in the *Roads Act 1993*, and for the purposes of this deed means Penrith City Council or Transport for NSW.

Road Works Deed means a deed or agreement entered into by the Roads Authority and the Developer regarding the design and construction of the Mamre Road Works and its handover to the Roads Authority by the Developer, if required by the Roads Authority.

Road Works Design means the design of the Mamre Road Works including project management, fees, investigations, consultant fees, studies or reports specifically required for the Mamre Road Works.

Security means one or more Bank Guarantees in the amounts specified as the 'Security Amount' in the table in Schedule 5 and on the terms specified in Schedule 5.

Secretary means the Secretary of the Department.

Section 138 Approval means a consent issued pursuant to section 138 of the *Roads Act 1993*.

SEPP means *State Environmental Planning Policy (Western Sydney Employment Area) 2009*.

SIC means a special infrastructure contribution determined in accordance with section 7.23 of the Act.

SIC Amount for the Development takes its meaning from clause 7.1(b) of Schedule 4.

SIC Determination means a determination by the Minister of a SIC for a special contributions area which includes the Land.

SIC Top up Amount takes its meaning from clause 7.2 of Schedule 4.

Southern Link Road Land means a minimum of 29,375 square metres of future road reserve to be used as a public road, generally identified by pink hatching on the Proposed Final Warehouse, Logistics and Industrial Facilities Hub Plan at Annexure B and referred to in SSD-9522 lodged with the Department.

Southern Link Road Land Contribution means the dedication of the Southern Link Road Land as a public road by the Developer, in accordance with the terms of this deed.

Subdivision Certificate has the same meaning as in the Act.

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

Transport for NSW means Transport for NSW constituted under section 3C of the *Transport Administration Act 1988*.

Value of the Mamre Road Works Land means the value of the Mamre Road Works Land as calculated and notified to the Minister in accordance with clause 1.3 of Schedule 4 (subject to indexation in accordance with clause 3.2(c) of Schedule 4 and any reduction in accordance with clause 3.5(e) of Schedule 4).

Value of the Southern Link Road Land means the value of the Southern Link Road as calculated and notified to the Minister in accordance with clause 1.3 of Schedule 4 (subject to indexation in accordance with clause 4.2(c) of Schedule 4 and any reduction in accordance with clause 4.5(e) of Schedule 4).

1.2 Interpretation

In this deed unless the context clearly indicates otherwise:

- (a) a reference to **this deed** or another document means this deed or that other document and any document which varies, supplements, replaces, assigns or novates this deed or that other document;
- (b) a reference to **legislation** or a **legislative provision** includes any statutory modification, or substitution of that legislation or legislative provision and any subordinate legislation made 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**, or a **schedule** is a reference to the introduction, a clause, or a schedule to or of this deed;

- (e) **clause headings, the introduction** and the **table of contents** are inserted for convenience only and do not form part of this deed;
- (f) the **schedules** form part of this deed;
- (g) a reference to a **person** includes a natural person, corporation, statutory corporation, partnership, the Crown or any other organisation or legal entity;
- (h) a reference to a **natural person** includes their personal representatives, successors and permitted assigns;
- (i) a reference to a **corporation** includes its successors and permitted assigns;
- (j) a reference to a right or obligation of a party is a reference to a right or obligation of that party under this deed;
- (k) an **obligation** or **warranty** on the part of 2 or more persons binds them jointly and severally and an obligation or warranty in favour of 2 or more persons benefits them jointly and severally;
- (l) a requirement to do any thing includes a requirement to cause that thing to be done and a requirement not to do any thing includes a requirement to prevent that thing being done;
- (m) **including** and **includes** are not words of limitation;
- (n) a word that is derived from a defined word has a corresponding meaning;
- (o) **monetary amounts** are expressed in Australian dollars;
- (p) the singular includes the plural and vice-versa;
- (q) words importing one gender include all other genders;
- (r) a reference to a thing includes each part of that thing; and
- (s) neither this deed nor any part of it is to be construed against a party on the basis that the party or its lawyers were responsible for its drafting.

2. Operation and application of this deed

2.1 Operation

This deed 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 7.4 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 7.11, 7.12 and 7.24 of the Act

The application of sections 7.11, 7.12 and 7.24 of the Act is excluded to the extent stated in Schedule 1.

4. Development Contribution

4.1 Developer to provide Development Contribution

The Developer undertakes to provide, or procure the provision of, the Development Contribution to the Minister or the Roads Authority in accordance with the provisions of Schedule 4.

4.2 Acknowledgement

The Developer acknowledges and agrees that, subject to section 7.3 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 any amounts to the Developer in connection with this deed; and
- (b) in circumstances where the Development Contribution is made 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.

4.3 Provision of the Mamre Road Works Contribution

- (a) This clause 4.3 applies where the Developer is the owner of the part of the Land on which the Mamre Road Works is to be carried out.
- (b) The Developer may, at any time prior to 31 December 2023, provide the Minister with a notice which states that the Developer intends to provide the Mamre Road Works Contribution as a Development Contribution (**Election Notice**).
- (c) The Election Notice must include:
 - (i) copies of the relevant folios of the Register for the part of the Land on which the Mamre Road Works is to be carried out; and
 - (ii) copies of any applicable approvals to carry out the Mamre Road Works.

5. Enforcement

5.1 Developer to provide Security

The Developer has agreed to provide Security to the Minister for the performance of the Developer's obligations under this deed by:

- (a) agreeing to register this deed in accordance with clause 6; and
- (b) providing the Security in accordance with the terms and procedures set out in Schedule 5.

6. Registration

6.1 Registration of deed

- (a) The Developer agrees to procure the registration of this deed under the Real Property Act in the relevant folios of the Register:

- (i) in relation to Lot 1 DP1018318 and Lot 34 DP1118173, on the date the Developer becomes the owner of that land; and
 - (ii) in relation to the Land except Lot 1 DP1018318 and Lot 34 DP1118173, on the date that is 10 Business Days of receiving a copy of this deed executed by the Minister,
- including promptly responding to any requisitions made by the Registrar-General in respect of this deed and/or any ancillary documents.
- (b) To procure registration of this deed as required in clause 6.1(a), the Developer at its own expense is 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 that land registered under the Real Property Act; or
 - (B) is seized or possessed of an estate or interest in that land,
 to the registration of this deed on the title to that land and to the terms of this deed;
 - (ii) the execution of any documents;
 - (iii) the production of the relevant certificates of title or electronic lodgement of the relevant CoRD Holder Consents through an ELNO; and
 - (iv) the lodgement of this deed in a registrable form at the NSW Land Registry Services for registration by the Registrar-General in the relevant folios of the Register for that land, or in the General Register of Deeds if this deed relates to land not under the Real Property Act.

6.2 Evidence of registration

- (a) The Developer must provide the Minister with evidence of the lodgement of this deed pursuant to clause 6.1(b)(iv) within 10 Business Days of such lodgement at the NSW Land Registry Services.
- (b) The Developer will provide the Minister with copies of the relevant folios of the Register and copies of the registered dealings containing this deed within 10 Business Days of receipt of notice of registration of this deed.

6.3 Release and discharge of deed

The Minister agrees to do all things reasonably required by the Developer to release and discharge this deed with respect to any part of the Land upon the Developer satisfying all of its obligations under this deed in respect of that part of the Land.

6.4 Interest in Land

The Trust Company represents and warrants that it is:

- (a) the owner of part of the Land, being Lot X DP421633, Lot Y DP421633 and Lot 22 DP258414; and
- (b) legally and beneficially entitled to obtain all consents and approvals and to compel any person referred to in or contemplated by clause 6.1(b)(i) to assist, cooperate and to otherwise do all things necessary for Altis Frasers JV, Altis Bulky Retail and Frasers to comply with their obligations under clause 6.

The Trust Company, Altis Frasers JV and Frasers, in their capacity as Developer, represent and warrant that one or more of them are:

- (a) legally and beneficially entitled to become the owners of the other part of the Land and will, subject to exercising their options, become the legal and beneficial owners of that part of the Land; and
- (b) legally and beneficially entitled to obtain all consents and approvals and to compel any person referred to in or contemplated by clause 6.1(b)(i) to assist, cooperate and to otherwise do all things necessary for them to comply with their obligations under clause 6.

6.5 Right to lodge caveat

- (a) Subject to clause 6.5(b) until such time as this deed is registered on the title to Lot X DP421633, Lot Y DP 421633 and Lot 22 DP258414 in accordance with clause 6.1, The Trust Company acknowledges that this deed confers on the Minister an interest in Lot X DP421633, Lot Y DP 421633 and Lot 22 DP258414 and entitles the Minister to lodge and maintain a caveat on the title to Lot X DP421633, Lot Y DP 421633 or Lot 22 DP258414 to prevent any Dealing in respect of Lot X DP421633, Lot Y DP 421633 or Lot 22 DP258414.
- (b) If the Minister lodges a caveat in accordance with clause 6.5(a), then the Minister will do all things reasonably necessary to:
 - (i) ensure that the caveat does not prevent or delay the registration of this deed; and
 - (ii) remove the caveat from the title to Lot X DP421633, Lot Y DP421633 or Lot 22 DP258414 promptly, following registration of this deed in accordance with clause 6.1.
- (c) If, after 10 Business Days of receipt of a copy of this deed executed by the Minister, The Trust Company has failed or has been unable to achieve the registration of this deed on the title to Lot X DP 421633, Lot Y DP 421633 or Lot 22 DP258414 in accordance with clause 6.1, the Trust Company must pay the Minister's reasonable costs and expenses, including legal costs, of exercising the Minister's rights under clause 6.5(a) to lodge and withdraw a caveat(s) (as applicable).

7. Dispute Resolution

7.1 Not commence

A party must not commence any court proceedings relating to a dispute unless it complies with this clause 7.

7.2 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.

7.3 Attempt to resolve

On receipt of notice under clause 7.2, 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.

7.4 Mediation

If the parties do not agree within 21 Business Days of receipt of notice under clause 7.2 (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.

7.5 Court proceedings

If the dispute is not resolved within 60 Business Days after notice is given under clause 7.2 then any party which has complied with the provisions of this clause 7 may in writing terminate any dispute resolution process undertaken under this clause and may then commence court proceedings in relation to the dispute.

7.6 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 7 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 7 for any purpose other than in an attempt to settle the dispute.

7.7 No prejudice

This clause 7 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.

8. GST

8.1 Definitions

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

8.2 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.

8.3 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.

8.4 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 8.4.

8.5 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.

8.6 Non monetary consideration

Clause 8.5 applies to non-monetary consideration.

8.7 Assumptions

The Developer acknowledges and agrees that in calculating any amounts payable under clause 8.5 the Developer must assume the Minister is not entitled to any input tax credit.

8.8 No merger

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

9. Assignment and transfer

9.1 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 9.1.

9.2 Right to transfer Land

- (a) Subject to clause 9.2(b), 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 7.6 of the Act; or

- (ii) for which a Development Contribution required under this deed remain outstanding.
- (b) 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) provides or procures the provision of a bond or Bank Guarantee by the Transferee to the Minister which is equal to the monetary value of the outstanding Development Contribution, and satisfies the Minister that this deed is registered under section 7.6 of the Act over that part of the Land;
 - (ii) 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;
 - (iii) 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
 - (iv) 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 9.2.

10. Capacity

10.1 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.

10.2 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.

10.3 Trustee Developer – Altis Frasers JV

- (a) Altis Frasers JV Pty Ltd (ACN 640 585 897) (**Trustee**) enters into this deed in its capacity as trustee for the ARET Frasers Project Trust (**Trust**) constituted by a trust deed (**Trust Deed**). The Trustee:
 - (i) warrants that:
 - (A) it is the sole trustee of the Trust and no action has been taken to remove or replace it;
 - (B) entry into this deed is for the benefit of the beneficiaries of the Trust and as trustee it is authorised and empowered under the Trust Deed to enter into and to perform its obligations and satisfy or discharge its liabilities under this deed;

- (C) it is not in breach of the Trust Deed;
- (D) it is entitled under the Trust Deed to be indemnified in full in respect of the obligations and liabilities incurred by it under this deed;
- (E) it is not aware of any reason why the assets of the Trust might be insufficient to satisfy or discharge the obligations and liabilities incurred by it under this deed; and
- (F) it has the power under the Trust Deed to execute and perform its obligations and discharge its liabilities under this deed and all necessary action has been taken to authorise the execution and performance of this deed under the Trust Deed; and
- (ii) indemnifies the Minister, and agrees to keep the Minister indemnified, in respect of any loss or liability in any way connected with a breach of a warranty in clause 10.3(a)(i).
- (b) Prior to the Trustee being replaced as the trustee of the Trust in accordance with the Trust Deed:
 - (i) the Trustee must procure that the replacement trustee enters into a new deed with the Minister on the same terms as this deed;
 - (ii) the Trustee (as outgoing trustee) must procure an agreement from the Minister, under which the Minister releases the Trustee from the requirement to observe and perform any future obligation under this deed;
 - (iii) the Trustee (as outgoing trustee) must release the Minister, from the requirement to observe and perform any future obligation under this deed; and
 - (iv) the Trustee (as the outgoing trustee) must pay the reasonable costs and expenses of the Minister in relation to entering into a new deed under this clause 10.3(b) and the costs and expenses of registering any new deed on the title to the Land.
- (c) Subject to clause 10.3(e), liability arising under or in connection with this deed (except under or in connection with clause 10.3(a) above) is limited and can be enforced against the Trustee only to the extent to which the Trustee, having sought indemnification to the maximum extent possible, is actually indemnified in respect of that liability out of the assets of the Trust. This limitation of the Trustee's liability extends to all liabilities and obligations of the Trustee in any way connected with any representation, warranty, conduct, omission, agreement or transaction related to this deed.
- (d) No party to this deed or any person claiming through or on behalf of them will be entitled to:
 - (i) claim from or commence proceedings against the Trustee in respect of any liability in any capacity other than as the trustee of the Trust;
 - (ii) seek the appointment of a receiver, receiver and manager, liquidator, an administrator or any similar office-holder to the Trustee, or prove in any liquidation, administration or arrangement of or affecting the Trustee, except in relation to the assets of the Trust; or
 - (iii) enforce or seek to enforce any judgment in respect of a liability under this deed or otherwise against the Trustee in any capacity other than as Trustee of the Trust,
 except under or in connection with clause 10.3(a) above.
- (e) Notwithstanding any other provision of this deed, clauses 10.3(c) and 10.3(d) do not apply to any obligation or liability of the Trustee to the extent to which there is, in respect of that obligation or liability, whether under the Trust Deed or by operation of law, a reduction in the

extent of the Trustee's indemnification, or loss of the Trustee's right of indemnification, out of the assets of the Trust as a result of Trustee's failure to properly perform its duties as trustee of the Trust.

- (f) Nothing in clause 10.3(e) will make the Trustee liable for any claim for an amount greater than the amount which the Minister would have been able to claim and recover from the assets of the Trust in relation to the relevant obligation or liability if the Trustee's right of indemnification, out of the assets of the Trust had not been prejudiced by the failure of the Trustee to properly perform its duties.

10.4 Trustee Developer – Altis Bulky Retail

- (a) Altis Bulky Retail Pty Limited (ACN 164 432 124) (**Trustee**) enters into this deed in its capacity as trustee for the Altis Bulky Sub Trust 3 (**Trust**) constituted by a trust deed (**Trust Deed**). The Trustee:
 - (i) warrants that:
 - (A) it is the sole trustee of the Trust and no action has been taken to remove or replace it;
 - (B) entry into this deed is for the benefit of the beneficiaries of the Trust and as trustee it is authorised and empowered under the Trust Deed to enter into and to perform its obligations and satisfy or discharge its liabilities under this deed;
 - (C) it is not in breach of the Trust Deed;
 - (D) it is entitled under the Trust Deed to be indemnified in full in respect of the obligations and liabilities incurred by it under this deed;
 - (E) it is not aware of any reason why the assets of the Trust might be insufficient to satisfy or discharge the obligations and liabilities incurred by it under this deed; and
 - (F) it has the power under the Trust Deed to execute and perform its obligations and discharge its liabilities under this deed and all necessary action has been taken to authorise the execution and performance of this deed under the Trust Deed; and
 - (ii) indemnifies the Minister, and agrees to keep the Minister indemnified, in respect of any loss or liability in any way connected with a breach of a warranty in clause 10.4(a)(i).
- (b) Prior to the Trustee being replaced as the trustee of the Trust in accordance with the Trust Deed:
 - (i) the Trustee must procure that the replacement trustee enters into a new deed with the Minister on the same terms as this deed;
 - (ii) the Trustee (as outgoing trustee) must procure an agreement from the Minister, under which the Minister releases the Trustee from the requirement to observe and perform any future obligation under this deed;
 - (iii) the Trustee (as outgoing trustee) must release the Minister, from the requirement to observe and perform any future obligation under this deed; and
 - (iv) the Trustee (as the outgoing trustee) must pay the reasonable costs and expenses of the Minister in relation to entering into a new deed under this clause 10.4(b) and the costs and expenses of registering any new deed on the title to the Land.

- (c) Subject to clause 10.4(e), liability arising under or in connection with this deed (except under or in connection with clause 10.4(a) above) is limited and can be enforced against the Trustee only to the extent to which the Trustee, having sought indemnification to the maximum extent possible, is actually indemnified in respect of that liability out of the assets of the Trust. This limitation of the Trustee's liability extends to all liabilities and obligations of the Trustee in any way connected with any representation, warranty, conduct, omission, agreement or transaction related to this deed.
- (d) No party to this deed or any person claiming through or on behalf of them will be entitled to:
 - (i) claim from or commence proceedings against the Trustee in respect of any liability in any capacity other than as the trustee of the Trust;
 - (ii) seek the appointment of a receiver, receiver and manager, liquidator, an administrator or any similar office-holder to the Trustee, or prove in any liquidation, administration or arrangement of or affecting the Trustee, except in relation to the assets of the Trust; or
 - (iii) enforce or seek to enforce any judgment in respect of a liability under this deed or otherwise against the Trustee in any capacity other than as Trustee of the Trust,
 except under or in connection with clause 10.4(a) above.
- (e) Notwithstanding any other provision of this deed, clauses 10.4(c) and 10.4(d) do not apply to any obligation or liability of the Trustee to the extent to which there is, in respect of that obligation or liability, whether under the Trust Deed or by operation of law, a reduction in the extent of the Trustee's indemnification, or loss of the Trustee's right of indemnification, out of the assets of the Trust as a result of Trustee's failure to properly perform its duties as trustee of the Trust.
- (f) Nothing in clause 10.4(e) will make the Trustee liable for any claim for an amount greater than the amount which the Minister would have been able to claim and recover from the assets of the Trust in relation to the relevant obligation or liability if the Trustee's right of indemnification, out of the assets of the Trust had not been prejudiced by the failure of the Trustee to properly perform its duties.

10.5 Trustee Developer – The Trust Company

- (a) In this clause 10.5, "Obligations" means all obligations and liabilities of whatever kind undertaken or incurred by, or devolving upon, the Custodian under or in respect of this document, "Assets" includes all assets, property and rights real and personal of any value whatsoever of the Trust, "trust" means the ARET Frasers Project Trust and "Trustee" means Altis Frasers JV Pty Ltd or any replacement Trustee of the Trust from time to time.
- (b) The Custodian enters into this document as custodian for the ARET Frasers Project Trust and in no other capacity.
- (c) The parties other than the Custodian acknowledge that the Obligations are incurred by the Custodian solely in its capacity as a custodian of the Assets of the trust and as custodian of the Trustee and that the Custodian will cease to have any Obligation under this document if the Custodian ceases for any reason to be custodian of the Assets of the trust.
- (d) Subject to the provisions of this clause, the Custodian will not be liable to pay or satisfy any Obligations except to the extent to which it is indemnified by the Trustee or except out of the Assets against which it is entitled to be indemnified in respect of any liability incurred by it. The

Obligation of the Trustee to indemnify the Custodian and the right of the Custodian to be indemnified out of the Assets are limited.

- (e) The parties other than the Custodian may enforce their rights against the Custodian arising from non-performance of the Obligations only to the extent of the Custodian's indemnity as provided above in clause 10.5(d).
- (f) Subject to the provisions of clause 10.5(h), if any party other than the Custodian does not recover all money owing to it arising from non-performance of the Obligations it may not seek to recover the shortfall by:
 - (i) bringing proceedings against the Custodian in its personal capacity; or
 - (ii) applying to have the Custodian wound up or proving in the winding up of the Custodian.
- (g) Subject to the provisions of clause 10.5(h), the parties other than the Custodian waive their rights and release the Custodian from any personal liability whatsoever, in respect of any loss or damage:
 - (i) which they may suffer as a result of any:
 - (A) breach of the Custodian of any of its Obligations; or
 - (B) non-performance by the Custodian of the Obligations; and
 - (ii) which cannot be paid or satisfied from the indemnity set out above clause 10.5(d) in respect of any liability incurred by it.
- (h) The parties other than the Custodian acknowledge that the whole of this document is subject to this clause and the Custodian shall in no circumstances be required to satisfy any liability arising under, or for non- performance or breach of any Obligations under or in respect of this document or under or in respect of any other document to which it is expressed to be a party out of any funds, property or Assets other than to the extent that this document requires satisfaction out of the Assets of the trust under the Custodian's control and in its possession as and when they are available to the Custodian to be applied in exoneration for such liability under the terms of this document between the Trustee and the Custodian provided that if the liability of the Custodian is not fully satisfied out of the Assets of the trust as referred to in this clause, the Custodian will be liable to pay out of its own funds, property and Assets the unsatisfied amount of that liability but only to the extent of the total amount, if any, by which the Assets of the Trust have been reduced by reasons of fraud, negligence or breach of this document between the Custodian and Trustee in the performance of the Custodian's duties.
- (i) The parties acknowledge that the Trustee is responsible for performing a variety of Obligations relating to the trust, including under this document. The parties agree that no act or omission of the Custodian (including any related failure to satisfy any Obligations) will constitute fraud, negligence or breach of duty of the Custodian to the extent to which the act or omission was caused or contributed to by any failure of the Trustee or any other person to fulfil its Obligations relating to the trust or by any other act or omission of the Trustee or any other person.
- (j) No attorney, agent or other person appointed in accordance with this document has authority to act on behalf of the Custodian in a way which exposes the Custodian to any personal liability and no act or omission of such a person will be considered fraud, negligence or breach of duty of the Custodian for the purposes of this clause.

11. 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, Subdivision Certificates and Occupation 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 forecast in relation to the anticipated progression and completion of the Mamre Road Works (if to be provided as a Development Contribution under this deed); 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.

12. General Provisions

12.1 Entire deed

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

12.2 Variation

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

12.3 Waiver

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

12.4 Further assurances

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

12.5 Time for doing acts

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

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

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

12.6 Governing law and jurisdiction

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

12.7 Severance

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

12.8 Preservation of existing rights

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

12.9 No merger

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

12.10 Counterparts

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

12.11 Relationship of parties

Unless otherwise stated:

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

12.12 Good faith

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

12.13 No fetter

Nothing in this deed 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.

12.14 Explanatory note

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

12.15 Expenses and stamp duty

- (a) The Developer must pay its own and the Minister's reasonable legal costs, valuation 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 12.15(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.

12.16 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 prepaid ordinary mail within Australia; or
 - (iii) 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 prepaid ordinary mail within Australia, on the date that is 2 Business Days after the date of posting; or
 - (iii) sent by email:
 - (A) before 5pm on a Business Day, on that Day;
 - (B) after 5pm 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 7.4 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 7.4(2)) The Developer has: <ul style="list-style-type: none"> (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. 	<ul style="list-style-type: none"> (a) No (b) Yes (c) No
Description of land to which this deed applies – (section 7.4(3)(a))	See Schedule 3
Description of development to which this deed applies – (section 7.4(3)(b))	See definition of Development in clause 1.1
Description of change to the environmental planning instrument to which this deed applies – (section 7.4(3)(b))	N/A
The scope, timing and manner of delivery of contribution required by this deed – (section 7.4(3)(c))	See Schedule 4
Applicability of sections 7.11 and 7.12 of the Act – (section 7.4(3)(d))	The application of sections 7.11 and 7.12 of the Act is not excluded in respect of the Development.
Applicability of section 7.24 of the Act – (section 7.4(3)(d))	The application of section 7.24 of the Act is excluded in respect of the Development.
Consideration of benefits under this deed if section 7.11 applies – (section 7.4(3)(e))	No
Mechanism for Dispute Resolution – (section 7.4(3)(f))	See clause 7
Enforcement of this deed – (section 7.4(3)(g))	See clause 5 and clause 6

Requirement under the Act	This deed
No obligation to grant consent or exercise functions – (section 7.4(10))	See clause 12.13

Table 2 – Other matters

Requirement under the Act	This deed
Registration of the Planning Agreement – (section 7.6 of the Act)	Yes (see clause 6)
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)	No

Schedule 2 – Address for Service

(clause 1.1)

Minister

Contact: The Secretary

Address: Department of Planning, Industry and Environment
Level 11, 4 Parramatta Square, 12 Darcy Street
PARRAMATTA NSW 2050

Email: planningagreements@planning.nsw.gov.au

Altis Frasers JV The Company Directors and Secretary, Altis Frasers JV Pty Ltd

Contact: Paul Solomon

Address: c/-Frasers Property Australia Pty Limited
Level 2, IC Homebush Bay Drive
RHODES NSW 2138

Email: paul.solomon@frasersproperty.com.au

Altis Bulky Retail Limited The Company Directors and Secretary, Altis Bulky Retail Pty

Contact: Stephen O'Connor

Address: c/-Altis Property Partners Pty Ltd
Level 14, 60 Castlereagh Street
SYDNEY NSW 2000

Email: stephen.oconnor@altisproperty.com.au

Frasers The Company Directors and Secretary, Frasers Property Industrial
Constructions Pty Limited

Contact: Paul Solomon

Address: c/-Frasers Property Australia Pty Limited
Level 2, 1C Homebush Bay Drive
RHODES NSW 2138

Email: paul.solomon@frasersproperty.com.au

The Trust Company: The Company Directors and Secretary
The Trust Company (Australia) Ltd

Contact: Trent Franklin

Address: Level 18, 123 Pitt Street
SYDNEY NSW 2000

Email: trent.franklin@perpetual.com.au

Schedule 3 – Land

(clause 1.1)

Lots	Deposited Plan	Landowner
34	1118173	Lantoo Pty Limited
1	1018318	Ahmed Fiazuddin & Rubina Fareen
X	421633	The Trust Company (Australia) Limited
Y	421633	The Trust Company (Australia) Ltd
22	258414	The Trust Company (Australia) Ltd

Schedule 4 – Development Contribution

(clause 4)

1. Development Contribution**1.1 Development Contribution, excluding Mamre Road Works Contribution**

If the Developer does not issue an Election Notice to the Minister in accordance with clause 4.3 of its intention to provide the Mamre Road Works Contribution, the Developer undertakes to provide the Development Contribution to the Minister or the Roads Authority in the manner as set out in the table below:

Item	Development Contribution	Estimated cost/value	Timing
------	--------------------------	----------------------	--------

1.	Mamre Road Works Land Contribution	\$425 per square metre of land that comprises the Mamre Road Works Land	The earlier of: within three months of receiving approval from the Roads Authority to register the proposed Plan of Subdivision or other plan that on registration would dedicate the Mamre Road Works Land as a public road; and 31 December 2024.
2.	Southern Link Road Land Contribution (if required)	\$425 per square metre of land that comprises the Southern Link Road Land	Subject to clause 4.1 of this Schedule 4, the earlier of within: three months of receiving approval from the Roads Authority to register the proposed Plan of Subdivision or other plan that on registration would dedicate the Southern Link Road Land as a public road; and 12 months of the issue of the Election Notice pursuant to clause 4.1 of this Schedule 4.
3.	Additional Monetary Contribution (if requested)	An amount calculated in accordance with clause 5.2 of this Schedule 4.	Subject to clause 5.1 of this Schedule 4, within 30 days of the Minister issuing an Additional Monetary Contribution Notice to the Developer.
4.	SIC Top up Amount (if any is required)	An amount calculated in accordance with clause 7.2 of this Schedule 4 .	Subject to clause 7.2 of this Schedule 4, within 30 days of the Minister issuing notice to the Developer to pay the SIC Top up Amount.

1.2 Development Contribution, including Mamre Road Works Contribution

If the Developer issues an Election Notice to the Minister in accordance with clause 4.3 of its intention to provide the Mamre Road Works Contribution, the Developer undertakes to provide the Development Contribution in the manner set out in the table below:

Item	Development Contribution	Estimated cost/value	Timing
1.	Mamre Road Works Contribution	\$20,720,460	By 31 December 2025.
2.	Mamre Road Works Land Contribution	\$425 per square metre of land that comprises the Mamre Road Works Land	The earlier of within: three months of receiving approval from the Roads Authority to register the proposed Plan of Subdivision or other plan that on registration would dedicate the Mamre Road Works Land as a public road; and 12 months of completion of the Mamre Road Works.
3.	Southern Link Road Land Contribution (if required)	\$425 per square metre of land that comprises the Southern Link Road Land	Subject to clause 4.1 of this Schedule 4, the earlier of within: three months of receiving approval from the Roads Authority to register the proposed Plan of Subdivision or other plan that on registration would dedicate the Southern Link Road Land as a public road; and 12 months of the issue of the Election Notice pursuant to clause 4.1 of this Schedule 4.
4.	SIC Top up Amount (if any is required)	An amount calculated in accordance with clause 7.2 of this Schedule 4.	Subject to clause 7.2 of this Schedule 4, within 30 days of the Developer receiving notice from the Minister to pay the SIC Top up Amount.

1.3 Value of the Development Contribution

- (a) The value of each item of the Development Contribution is specified in the third column of the tables above.

- (b) Prior to dedication of the Mamre Road Works Land as a public road, or the dedication of the Southern Link Road Land as a public road in accordance with this deed, the Developer must procure a survey of the Mamre Road Works Land or the Southern Link Road Land (as the case may be) by a registered surveyor, for the purpose of calculating the Value of the Mamre Road Works Land or the Value of the Southern Link Road Land (**Land Survey**).
- (c) The Value of the Mamre Road Works Land or the Value of the Southern Link Road Land will be an amount equal to the sum represented by '\$[X]' in the following formula:

For the Mamre Road Works Land:
$$\$[X] = \text{SQM} \times \$425$$

For the Southern Link Road Land:
$$\$[X] = \text{SQM} \times \$425$$

'SQM' means the number of square metres comprised in the Mamre Road Works Land or the Southern Link Road Land, as determined by the Land Survey.
- (d) As soon as reasonably practicable upon completion of the Land Survey, the Developer will provide notice in writing to the Minister of the Value of the Mamre Road Works Land or the Value of the Southern Link Road Land (as the case may be).

1.4 Development Contribution as a Monetary Contribution

- (a) The Minister and Developer acknowledge and agree that if the Developer were to provide the Development Contribution as a monetary contribution, the Development Contribution would be an amount equal to the sum represented by 'X' in the following formula:

$$X = N \times \text{WCR (Notional Monetary Contribution)}$$

"N" means the number of hectares comprised in the Net Developable Area for that part of the Development to which the Development Consent to SSD 9522 relates.

"WCR" is the amount representing the notional monetary contribution rate, which:
 - (i) at the date of this deed is \$200,000; and
 - (ii) is adjusted in accordance with clause 1.4(b) of this Schedule 4.
- (b) The value of WCR is to be adjusted by multiplying \$200,000 by an amount equal to the CPI applicable at the date for which the determination of the Notional Monetary Contribution must be made under clause 5.2 or 6.2 of this Schedule 4.

2. Mamre Road Works

2.1 Application

This clause 2 applies where the Developer has issued an Election Notice to the Minister in accordance with clause 4.3 of its intention to provide the Mamre Road Works Contribution.

2.2 Conditions to Commencement of the Mamre Road Works

Prior to commencement of the Mamre Road Works, the Developer must:

- (a) if Development Consent is required — provide evidence to the Minister that it has obtained Development Consent for the Mamre Road Works;
- (b) if required by the Roads Authority to enter into a Road Works Deed:
 - (i) enter into a Road Works Deed, on such terms and conditions as are:
 - (A) consistent with the requirements of this deed, including this Schedule 4; and
 - (B) acceptable to the Roads Authority and the Minister; and
 - (ii) provide to the Minister a copy of the executed Road Works Deed to carry out the Mamre Road Works; and
 - (iii) provide evidence to the Minister of the Security provided for of the Mamre Road Works in accordance with Schedule 5 to this deed, and
- (c) if a Section 138 Approval is required in relation to the Mamre Road Works, provide to the Minister a copy of the Section 138 Approval.

2.3 Construction Contract for the Mamre Road Works

- (a) The Developer must provide written notice to the Minister which confirms that it intends to commence the Mamre Road Works (**Notice**). The Developer may only enter into a Construction Contract with a contractor who is:
 - (i) appointed under the competitive tender process on an arm's length basis; and
 - (ii) approved by the Roads Authority and meets all of the Roads Authority's requirements.
- (b) The Developer must undergo a competitive tender process in awarding a Construction Contract for the Mamre Road Works and provide evidence of such tender process to the Minister within 10 Business Days of awarding the Construction Contract.
- (c) The Notice must be accompanied by a copy of each Construction Contract in place for the Mamre Road Works.
- (d) If further Construction Contract(s) are entered into after the Notice has been issued the Developer must provide a written notice to the Minister of that fact as soon as is practicable and follow the process for appointing a construction contractor described in clause 2.3(b) above. The Developer will provide the Minister with a copy of the further Construction Contract(s).
- (e) Each Construction Contract must:
 - (i) identify a superintendent for the Mamre Road Works;
 - (ii) provide a reasonable itemisation of works comprising the Mamre Road Works, which, in relation to construction work, may be by a bill of quantities;
 - (iii) identify the contract value for each item of the Mamre Road Works; and
 - (iv) identify the terms and conditions applicable to the carrying out of the Mamre Road Works.

2.4 Timing of Mamre Road Works

If the Developer issues an Election Notice to the Minister in accordance with clause 4.3, the Developer must complete the Mamre Road Works in accordance with the Road Works Deed and by no later than the time specified in the table in clause 1.2 of this Schedule 4.

2.5 Estimated Cost and Actual Cost of the Mamre Road Works

- (a) The parties agree that on each CPI Adjustment Date, the Estimated Cost of the Mamre Road Works is to be adjusted by multiplying that cost by an amount equal to the Current CPI divided by the Base CPI.
- (b) The parties agree that if the Actual Cost of the Mamre Road Works is more than the Estimated Cost of the Mamre Road Works, the portion of Offset Amount the Developer may receive by carrying out the Mamre Road Works is the Estimated Cost of the Mamre Road Works.
- (c) The parties agree that the Minister may make any reasonable determination required to be made for the purpose of calculating the Actual Cost of the Mamre Road Works, following consultation with the Developer, acting in good faith and having proper regard to all matters put before the Minister by the Developer.

3. Mamre Road Works Land

3.1 Provision of the Mamre Road Works Land Contribution

The Developer must provide the Mamre Road Works Land Contribution in accordance with this clause 3.

3.2 Valuation of the Mamre Road Works Land

- (a) The parties agree that the portion of the Offset Amount that the Developer may receive by dedicating the Mamre Road Works Land as a public road, is the Value of the Mamre Road Works Land.
- (b) Subject to clauses 3.2(c) and 3.5(e) of this Schedule 4, the Minister will recognise the amount calculated and notified to the Minister in accordance with clause 1.3 of Schedule 4, as applicable, as the Value of the Mamre Road Works Land.
- (c) The parties agree, on each CPI Adjustment Date, the Value of the Mamre Road Works Land will be adjusted by multiplying the amount calculated and notified to the Minister in accordance with clause 1.3 of this Schedule 4 by an amount equal to the Current CPI divided by the Base CPI until an Offset Certificate is issued to the Developer that sets out the portion of the Offset Amount that has been credited for the Mamre Road Works Land Contribution.

3.3 Subdivision of the Mamre Road Works Land

- (a) In order to dedicate the Mamre Road Works Land in accordance with clause 3.5 of this Schedule 4, the Developer must (at its cost) obtain Development Consent (if any is required) and any other necessary approvals, in connection with a proposed Plan of Subdivision or other plan that on registration will dedicate the Mamre Road Works Land as a public road in accordance with section 9 of the *Roads Act 1993*.
- (b) The Developer must comply with any conditions of Development Consent and other approvals.

3.4 Timing for Provision of the Mamre Road Works Land Contribution

- (a) The Developer must provide the Mamre Road Works Land Contribution in accordance with this deed by no later than the time specified in the table in clause 1 of this Schedule 4 (as applicable) (**Mamre Road Works Land Dedication Date**).
- (b) Notwithstanding the time provided in the table in clause 1 of this Schedule 4 for the provision of the Mamre Road Works Land Contribution, the Minister is to, subject to the following conditions being met by the Developer, agree to extend the time by which the Mamre Road Works Land Contribution is to be provided by up to six months, if the Developer has not received approval from the Roads Authority to register the proposed Plan of Subdivision or other plan referred to in clause 3.5(a)(i) of this Schedule 4 within six months of the timeframe provided in clause 3.5(a)(i) of this Schedule 4 for delivery to the Roads Authority for its approval:
 - (i) any request by the Developer for an extension of time by which the Mamre Road Works Land Contribution is to be provided must be in writing;
 - (ii) the request must specify:
 - (A) any reason of which the Developer is aware for the failure of the Roads Authority to approve the proposed Plan of Subdivision or other plan;
 - (B) the proposed extension period; and
 - (C) the steps the Developer will take to ensure the Mamre Road Works Land Contribution is provided within the extension period specified in that request.
- (c) The Developer may request an extension of up to six months on more than one occasion in accordance with clause 3.4(b) of this Schedule 4. The Minister, subject to the conditions in that clause being met, is to grant the extension, but not so as to extend the time specified in the applicable table in clause 1 of this Schedule 4 by more than two years.

3.5 Dedication of the Mamre Road Works Land

- (a) In satisfying its obligation under clause 3.4(a) of this Schedule 4, the Developer must:
 - (i) deliver to the Roads Authority for approval a proposed Plan of Subdivision or other plan that bears a statement of intention to dedicate the Mamre Road Works Land as a public road as provided by section 9 of the *Roads Act 1993*:
 - (A) if the Developer does not issue an Election Notice to the Minister in accordance with clause 4.3 of its intention to provide the Mamre Road Works Contribution, by 31 January 2024;
 - (B) if the Developer issues an Election Notice to the Minister in accordance with clause 4.3 of its intention to provide the Mamre Road Works Contribution, within 30 days of the issue of that Election Notice;
 - (ii) deliver to the Roads Authority a Contaminated Land Report and Contaminated Land Statement from a Contaminated Land Consultant in respect of the Mamre Road Works Land which:
 - (A) state that the Mamre Road Works Land is suitable or will be suitable for the purposes of a road as at the Mamre Road Works Land Dedication Date;
 - (B) are addressed to the Minister and the Roads Authority; and

- (C) are otherwise on terms satisfactory to the Minister and Roads Authority (acting reasonably);
 - (iii) upon receipt of approval from the Roads Authority to register the proposed Plan of Subdivision or other plan that bears a statement of intention to dedicate the Mamre Road Works Land as a public road referred to in clause 3.5(a)(i) of this Schedule 4, lodge that proposed Plan of Subdivision or other plan at the NSW Land Registry Services for registration;
 - (iv) promptly comply, or procure compliance with, any requisitions raised by the Registrar-General in relation to the dedication of the Mamre Road Works Land as a public road; and
 - (v) take any other necessary action to give effect to the dedication of the Mamre Road Works Land as a public road free of all encumbrances (including any mortgages, easements, covenants and planning agreements) and affectations (including any charge or liability for rates, Taxes and charges) other than service easements or such other encumbrances as agreed by the Minister or the Roads Authority in writing.
- (b) If the Developer does not comply with clause 3.5(a)(ii), the Minister or Roads Authority may:
- (i) refuse to accept the dedication the Mamre Road Works Land; and
 - (ii) require that the Developer undertake works, at the Developer's cost and within a timeframe determined by the Minister or the Roads Authority (acting reasonably), so as to enable the Developer to comply with clause 3.5(a)(ii),
- in which case the Developer must comply with the Minister's requirements.
- (c) For avoidance of doubt, clause 3.5(a)(v) of this Schedule 4 does not apply in relation to encumbrances or affectations being statutory rights that exist or arise under legislation which are of a type which the Developer or owner of the Mamre Road Works Land could not prevent from affecting the Mamre Road Works Land and in respect of which no action can be taken by the Developer or owner of the Mamre Road Works Land.
- (d) Despite clause 3.5(a)(v) of this Schedule 4, if, having used its best endeavours, the Developer cannot ensure that the land to be dedicated is free from any relevant encumbrance and affectation which would otherwise be the subject of clause 3.5(a)(v), then:
- (i) the Developer may request that the Roads Authority agree to accept the land subject to those encumbrances and affectations; and
 - (ii) if the encumbrance or affectation:
 - (A) does not prevent the future use of the land as a public road; or
 - (B) is not a charge arising as a result of unpaid taxes or charges,
 the Minister or Roads Authority may agree to accept the land subject to those encumbrances (**Agreed Encumbrances for Mamre Road Works Land**); and
 - (iii) in other circumstances, the Minister or the Roads Authority may withhold the Minister's or Roads Authority's agreement at their absolute discretion.
- (e) If the Minister or Roads Authority agrees to accept the Mamre Road Works Land subject to the Agreed Encumbrances for Mamre Road Works Land, then:

- (i) the Developer must provide to the Minister or the Roads Authority with a valuation report (prepared by an appropriately qualified valuation expert) which quantifies the diminution in value of the Mamre Road Works Land as a result of the Agreed Encumbrances for Mamre Road Works Land (**Mamre Road Works Land Diminution Amount**); and
 - (ii) the Value of the Mamre Road Works Land is to be reduced by the Mamre Road Works Land Diminution Amount.
- (f) The Developer indemnifies and agrees to keep indemnified the Minister and the Roads Authority against all Claims made against the Minister or Roads Authority as a result of any Contamination that is required to be Remediated by an Authority over the whole or any part of the Mamre Road Works Land but only in relation to Contamination that existed on or before the date the Mamre Road Works Land is dedicated as a public road or compulsorily acquired by the Minister or the Roads Authority (as the case may be).
- (g) The Developer will pay all rates and Taxes owing in respect of the Mamre Road Works Land up to and including the date that the Developer dedicates the Mamre Road Works Land as a public road pursuant to clause 3.4 of this Schedule 4 or the date of acquisition (as applicable), after which time the Roads Authority will be responsible for any rates and Taxes in relation to the Mamre Road Works Land.
- (h) The Developer indemnifies and keeps indemnified the Minister (or at the Minister's election, the Roads Authority) in relation to any failure of the Developer to comply with clauses 3.1 to 3.6 of this Schedule 4.
- (i) The parties agree that clause 3 of this Schedule 4 operates as a deed poll in favour of the Roads Authority (where applicable).
- (j) Despite any other provision of this Schedule 4, the Developer may request the Minister to agree to providing the Mamre Road Works Land Contribution in a different manner to dedication through registration of a Plan of Subdivision or other plan as referred to in section 9 of the *Roads Act 1993*. If the Minister agrees to the request, the parties may agree to the modification of provisions of Schedule 4 referring to such a plan to accommodate the alternative manner in which the land is to be provided.

3.6 Compulsory acquisition of Mamre Road Works Land

- (a) If the Developer does not dedicate the Mamre Road Works Land as a public road as required by clause 3.5 of this Schedule 4, the Minister may elect to, and the Developer consents to, the Minister or the Roads Authority compulsorily acquiring the whole or any part of the Mamre Road Works Land in accordance with the *Land Acquisition (Just Terms Compensation) Act 1991* (NSW), for the amount of \$1.
- (b) The Developer and the Minister agree that:
 - (i) this clause 3.6 is an agreement between the Developer and the Minister or Roads Authority for the purposes of section 30 of the *Land Acquisition (Just Terms Compensation) Act 1991* (NSW); and
 - (ii) in this clause 3.6 the Developer and the Minister or Roads Authority have agreed on all relevant matters concerning the compulsory acquisition and the compensation to be paid for the acquisition.

- (c) Subject to clause 3.5(d) of this Schedule 4, the Developer must ensure that the Mamre Road Works Land is free of all encumbrances and affectations (including any charge or liability for rates, Taxes and charges), on the date that the Developer is liable to dedicate the Mamre Road Works Land as a public road in accordance with clause 3.4 of this Schedule 4.
- (d) The Developer indemnifies and keeps indemnified the Minister and the Roads Authority against any Claims made against the Minister or Roads Authority as a result of any acquisition by the Minister or the Roads Authority of the whole or any part of the Mamre Road Works Land under this clause 3.6.
- (e) The Developer must pay the Minister or Roads Authority, promptly on demand, an amount equivalent to all Costs incurred by the Minister in acquiring the whole or any part of the Mamre Road Works Land as contemplated by this clause 3.6.

4. Southern Link Road Land

4.1 Provision of the Southern Link Road Land

- (a) The Minister may, at any time within five years of the date of this deed (**Five Year Period**), provide the Developer with a notice which states that the Minister requires the Southern Link Road Contribution (**Election Notice**).
- (b) If the Minister provides the Election Notice to the Minister, the Developer must provide the Southern Link Road Land Contribution in accordance with this clause 4.

4.2 Valuation of the Southern Link Road Land

- (a) The parties agree that the portion of the Offset Amount that the Developer may receive by dedicating the Southern Link Road Land as a public road, is the Value of the Southern Link Road Land.
- (b) Subject to clauses 4.2(c) and 4.5(e) of this Schedule 4, the Minister will recognise the amount calculated and notified to the Minister in accordance with clause 1.3 of this Schedule 4, as applicable as the Value of the Southern Link Road Land.
- (c) The parties agree, on each CPI Adjustment Date, the Value of the Southern Link Road Land will be adjusted by multiplying the amount calculated and notified to the Minister in accordance with clause 1.3 of this Schedule 4 by an amount equal to the Current CPI until an Offset Certificate is issued to the Developer that sets out the portion of the Offset Amount that has been credited for the Southern Link Road Land Contribution.

4.3 Subdivision of the Southern Link Road Land

- (a) In order to dedicate the Southern Link Road Land in accordance with clause 4.5 of this Schedule 4, the Developer must (at its cost) obtain Development Consent (if any is required), and any other necessary approvals, in connection with a proposed Plan of Subdivision or other plan that on registration will dedicate the Southern Link Road Land as a public road in accordance with section 9 of the *Roads Act 1993*.
- (b) The Developer must comply with any conditions of Development Consent and other approvals.

4.4 Timing of Provision of the Southern Link Road Land Contribution

- (a) If the Minister provides an Election Notice to the Developer in accordance with clause 4.1 of this Schedule 4, the Developer must provide the Southern Link Road Land Contribution in

accordance with this deed by no later than the time specified in the table in clause 1 of this Schedule 4 (as applicable) (**Southern Link Road Land Dedication Date**).

- (b) Notwithstanding the time provided in the table in clause 1 of this Schedule 4 for the provision of the Southern Link Road Land Contribution, the Minister is to, subject to the following conditions being met by the Developer, agree to extend the time by which the Southern Link Road Land Contribution is to be provided by up to six months, if the Developer has not received approval from the Roads Authority to register the proposed Plan of Subdivision or other plan referred to in clause 4.5(a)(i) of this Schedule 4 within six months of the timeframe provided in clause 4.5(a)(i) of this Schedule 4 for delivery to the Roads Authority for its approval:
 - (i) any request by the Developer for an extension of time by which the Southern Link Road Land Contribution is to be provided must be in writing;
 - (ii) the request must specify:
 - (A) any reason of which the Developer is aware for the failure of the Roads Authority to approve the proposed Plan of Subdivision or other plan;
 - (B) the proposed extension period; and
 - (C) the steps the Developer will take to ensure the Southern Link Road Land Contribution is provided within the extension period specified in that request.
- (c) The Developer may request an extension of up to six months on more than one occasion in accordance with clause 4.4(b) of this Schedule 4. The Minister, subject to the conditions in that clause being met, is to grant the extension, but not so as to extend the time specified in the applicable table in clause 1 of this Schedule 4 by more than two years.

4.5 Dedication of the Southern Link Road Land

- (a) In satisfying its obligation under clause 4.4(a) of this Schedule 4, the Developer must:
 - (i) deliver to the Roads Authority for approval a proposed Plan of Subdivision or other plan that bears a statement of intention to dedicate the Southern Link Road Land as a public road as provided by section 9 of the *Roads Act 1993* by no later than 30 days after the Minister has issued an Election Notice to the Developer in accordance with clause 4.1(a) of this Schedule 4;
 - (ii) deliver to the Roads Authority a Contaminated Land Report and Contaminated Land Statement from a Contaminated Land Consultant in respect of the Southern Link Road Land which:
 - (A) state that the Southern Link Road Land is suitable or will be suitable for the purposes of a road corridor as at the Southern Link Road Land Dedication Date;
 - (B) are addressed to the Minister and the Roads Authority; and
 - (C) are otherwise on terms satisfactory to the Minister and Roads Authority (acting reasonably);
 - (iii) upon receipt of approval from the Roads Authority to register the proposed Plan of Subdivision or other plan that bears a statement of intention to dedicate the Southern Link Road Land as a public road referred to in clause 4.5(a)(i) of this Schedule 4, lodge that proposed Plan of Subdivision or other plan at the NSW Land Registry Services for registration;

- (iv) promptly comply, or procure compliance with, any requisitions raised by the Registrar-General in relation to the dedication of the Southern Link Road Land as a public road; and
 - (v) take any other necessary action to give effect to the dedication of the Southern Link Road Land as a public road free of all encumbrances (including any mortgages, easements, covenants and planning agreements) and affectations (including any charge or liability for rates, Taxes and charges) other than service easements or such other encumbrances as agreed by the Minister or the Roads Authority in writing.
- (b) If the Developer does not comply with clause 4.5(a)(ii), the Minister or Roads Authority may:
- (i) refuse to accept the dedication of the Southern Link Road Land; and
 - (ii) require that the Developer undertake works, at the Developer's cost and within a timeframe determined by the Minister or the Roads Authority (acting reasonably), so as to enable the Developer to comply with clause 4.5(a)(ii),
- in which case the Developer must comply with the Minister's requirements.
- (c) For avoidance of doubt, clause 4.5(a)(v) of this Schedule 4 does not apply in relation to encumbrances or affectations being statutory rights that exist or arise under legislation which are of a type which the Developer or owner of the Southern Link Road Land could not prevent from affecting the Southern Link Road Land and in respect of which no action can be taken by the Developer or owner of the Southern Link Road Land.
- (d) Despite clause 4.5(a)(v) of this Schedule 4, if, having used its best endeavours, the Developer cannot ensure that the land to be dedicated is free from any relevant encumbrance and affectation which would otherwise be the subject of clause 4.5(a)(v), then:
- (i) the Developer may request that the Roads Authority agree to accept the land subject to those encumbrances and affectations; and
 - (ii) if the encumbrance or affectation:
 - (A) does not prevent the future use of the land as a road corridor; or
 - (B) is not a charge arising as a result of unpaid taxes or charges,
 the Minister or Roads Authority may agree to accept the land subject to those encumbrances (**Agreed Encumbrances for Southern Link Road Land**); and
 - (iii) in other circumstances, the Minister or the Roads Authority may withhold the Minister's or Roads Authority's agreement at their discretion, acting reasonably.
- (e) If the Minister or Roads Authority agrees to accept the Southern Link Road Land subject to the Agreed Encumbrances for Southern Link Road Land, then:
- (i) the Developer must provide to the Minister or the Roads Authority with a valuation report (prepared by an appropriately qualified valuation expert) which quantifies the diminution in value of the Southern Link Road Land as a result of the Agreed Encumbrances for Southern Link Road Land (**Southern Link Road Land Diminution Amount**); and
 - (ii) the Value of the Southern Link Road Land is to be reduced by the Southern Link Road Land Diminution Amount.

- (f) The Developer indemnifies and agrees to keep indemnified the Minister and the Roads Authority against all Claims made against the Minister or Roads Authority as a result of any Contamination that is required to be Remediated by an Authority over the whole or any part of the Southern Link Road Land but only in relation to Contamination that existed on or before the date the Southern Link Road Land is dedicated as a public road or compulsorily acquired by the Minister or the Roads Authority (as the case may be).
- (g) The Developer will pay all rates and Taxes owing in respect of the Southern Link Road Land up to and including the date that the Developer dedicates the Southern Link Road Land as a public road pursuant to clause 4.5 of this Schedule 4 or the date of acquisition (as applicable), after which time the Roads Authority will be responsible for any rates and Taxes in relation to the Southern Link Road Land.
- (h) The Developer indemnifies and keeps indemnified the Minister (or at the Minister's election, the Roads Authority) in relation to any failure of the Developer to comply with clauses 4.1 to 4.6 of this Schedule 4.
- (i) The parties agree that clause 4 of this Schedule 4 operates as a deed poll in favour of the Roads Authority (where applicable).
- (j) Despite any other provision of this Schedule 4, the Developer may request the Minister to agree to providing the Southern Link Road Land Contribution in a different manner to dedication through registration of a Plan of Subdivision or other plan as referred to in section 9 of the *Roads Act 1993*. If the Minister agrees to the request, the parties may agree to the modification of provisions of Schedule 4 referring to such a plan to accommodate the alternative manner in which the land is to be provided.

4.6 Compulsory acquisition of Southern Link Road Land

- (a) If the Developer does not dedicate Southern Link Road as a public road as required by clause 4.5 of this Schedule 4, the Minister may elect to, and the Developer consents to, the Minister or the Roads Authority compulsorily acquiring the whole or any part of the Southern Link Road Land in accordance with the *Land Acquisition (Just Terms Compensation) Act 1991* (NSW), for the amount of \$1.00.
- (b) The Developer and the Minister agree that:
 - (i) this clause 4.6 is an agreement between the Developer and the Minister or Roads Authority for the purposes of section 30 of the *Land Acquisition (Just Terms Compensation) Act 1991* (NSW); and
 - (ii) in this clause 4.6 the Developer and the Minister or Roads Authority have agreed on all relevant matters concerning the compulsory acquisition and the compensation to be paid for the acquisition.
- (c) Subject to clause 4.5(d) of this Schedule 4, the Developer must ensure that the Southern Link Road Land is free of all encumbrances and affectations (including any charge or liability for rates, Taxes and charges), on the date that the Developer is liable to dedicate the Southern Link Road Land as a public road in accordance with clause 4.5 of this Schedule 4.
- (d) The Developer indemnifies and keeps indemnified the Minister and the Roads Authority against all Claims made against the Minister or Roads Authority as a result of any acquisition by the Minister or the Roads Authority of the whole or any part of the Southern Link Road Land under this clause 4.6.

- (e) The Developer must pay the Minister or Roads Authority, promptly on demand, an amount equivalent to all Costs incurred by the Minister in acquiring the whole or any part of the Southern Link Road Land as contemplated by this clause 4.6.

5. Additional Monetary Contribution

5.1 Application

This clause 5 applies only if:

- (a) the Developer does not issue an Election Notice to the Minister in accordance with clause 4.3 of its intention to provide the Mamre Road Works Contribution; and
- (b) the Minister does not issue an Election Notice to the Developer in accordance with clause 4.1 of this Schedule 4 to require the Developer to provide the Southern Link Road Land Contribution.

5.2 Provision of Additional Monetary Contribution

- (a) The Developer agrees to provide the Additional Monetary Contribution to the Minister in accordance with this clause 5.
- (b) The Additional Monetary Contribution is an amount equal to the sum represented by 'X' in the following formula:

$$X = \text{Notional Monetary Contribution} - \text{Value of the Mamre Road Works Land}$$

Where:

Notional Monetary Contribution is that amount calculated in accordance with clause 1.4 of this Schedule 4 as at the end of the Five Year Period, and

Value of the Mamre Roads Works Land is the Value of the Mamre Roads Works Land as shown in the Offset Certificate as at the end of the Five Year Period.

- (c) As soon as reasonably practicable after the Five Year Period, the Minister is to give the Developer a notice setting out the Additional Monetary Contribution and a tax invoice for that amount (**Additional Monetary Contribution Notice**).

5.3 Timing of Additional Monetary Contribution

The Developer must provide the Additional Monetary Contribution to the Minister by no later than the time specified in the table in clause 1.1 of this Schedule 4.

5.4 Delivery of the Additional Monetary Contribution

- (a) The Additional Monetary Contribution is made for the purpose of this Schedule 4 when cleared funds are deposited by means of electronic funds transfer or bank cheque into a bank account nominated by the Minister.
- (b) If the Developer does not agree with the Minister's determination of the Additional Monetary Contribution, the Developer must nevertheless comply with clause 5.3 of this Schedule 4. Clause 7 applies to the resolution of the dispute.

6. Completion of a Development Contribution

6.1 Completion Notice

- (a) If the Developer considers that it has completed the Mamre Road Works Contribution, the Mamre Road Works Land Contribution or the Southern Link Road Land Contribution in accordance with the requirements of the Roads Authority and this deed, the Developer will provide notice to the Minister stating that the Developer considers that the Mamre Road Works Contribution, the Mamre Road Works Land Contribution or the Southern Link Road Land Contribution (as the case may be) has been completed (**Completion Notice**) to the Minister together with:
 - (i) in relation to the Mamre Road Works Contribution, a certificate from the Roads Authority confirming that the Mamre Road Works has been completed;
 - (ii) in relation to the Mamre Road Works Land Contribution or the Southern Link Road Land Contribution, a registered Plan of Subdivision or other plan that bears a statement of intention to dedicate the Mamre Road Works Land or the Southern Link Road Land (as the case may be) as a public road in accordance with section 9 of the *Roads Act 1993*;
 - (iii) in the case of the Mamre Road Works Contribution, a report to the Minister which:
 - (A) provides an itemised breakdown and details of the Actual Costs incurred by the Developer, including accounts for the Actual Costs;
 - (B) shows that the Actual Costs have been reduced by the amount of any input tax credit which the Developer is entitled to claim;
 - (C) provides a reconciliation of the Actual Costs with the Estimated Cost of the Mamre Road Works;
 - (D) includes a tabulated and indexed folder of tax invoices for, and documentary evidence of the payment of, each of the items which the Developer proposes to form the Actual Costs; and
 - (iv) in the case of the Mamre Road Works Contribution, such other supporting documentation as is necessary for the Minister or Nominated Officer to determine whether the Mamre Road Works Contribution has been completed and the Actual Cost associated with the Mamre Road Works. The Developer must promptly provide any additional information reasonably requested by the Minister or Nominated Officer.
- (b) The Minister may commission an accountant or a quantity surveyor (or both) at the Developer's expense, to review the materials submitted by the Developer and to assist with the Minister's assessment of the Completion Notice and the Actual Costs associated with the Mamre Road Works Contribution.
- (c) The Minister or Nominated Officer will, within 45 days of receiving the Completion Notice and all the certificates and information required under this clause 6.1 determine:
 - (i) whether the Mamre Road Works Contribution, the Mamre Road Works Land Contribution or the Southern Link Road Land Contribution (as the case may be) has been completed; and
 - (ii) the Approved Actual Cost which the Minister will recognise as being properly attributable to the Mamre Road Works Contribution.

- (d) If the Minister or Nominated Officer, acting reasonably, is satisfied that the Mamre Road Works Contribution, the Mamre Road Works Land Contribution or the Southern Link Road Land Contribution (as the case may be) has been provided, the Minister will:
 - (i) accept the Mamre Road Works Contribution, the Mamre Road Works Land Contribution or the Southern Link Road Land Contribution (as the case may be) to discharge (partly or in full) the Developer's obligation to make a contribution towards regional transport infrastructure and services; and
 - (ii) issue an Offset Certificate to the Developer which will set out the portion of the Offset Amount that has been credited for the Mamre Road Works Contribution, the Mamre Road Works Land Contribution or the Southern Link Road Land Contribution (as the case may be).
- (e) If the Offset Amount that has been credited for the Mamre Road Works Contribution, the Mamre Road Works Land Contribution and the Southern Link Road Land Contribution (as the case may be) is greater than the Notional Monetary Contribution calculated in accordance with clause 1.4 of this Schedule 4 then clause 6.2 of this Schedule 4 apply.
- (f) If the Minister or Nominated Officer, acting reasonably, is not satisfied that the Mamre Road Works Contribution, the Mamre Road Works Land Contribution or the Southern Link Road Land Contribution (as the case may be) has been provided, the Minister or Nominated Officer will notify the Developer and provide an explanation as to why he or she considered that the Mamre Road Works Contribution, the Mamre Road Works Land Contribution or the Southern Link Road Land Contribution (as the case may be) has not been completed and, if applicable, provide details of:
 - (i) any additional work or tasks which must be undertaken; and/or
 - (ii) any information or documents which must be provided,

by the Developer, in order to complete the Mamre Road Works Contribution, the Mamre Road Works Land Contribution or the Southern Link Road Land Contribution (as the case may be). The Developer may, after taking into account the Minister or the Nominated Officer's explanation and undertaking the work or providing the information or documents required, re-submit a Completion Notice together with any necessary documentation.
- (g) If, despite the actions undertaken under clause 6.1(f) of this Schedule 4, the parties dispute whether the Mamre Road Works Contribution, the Mamre Road Works Land Contribution or the Southern Link Road Land Contribution has been provided to the Minister, clause 7 applies to the resolution of the dispute.
- (h) Despite any other provision of this deed, the Minister may, at the Minister's absolute discretion, decide to credit an amount that is less than the Estimated Cost of the Mamre Road Works or the Approved Actual Cost, if Transport for NSW advises that a portion of those works needs to be removed or demolished to give effect to Transport for NSW's design for Mamre Road at the relevant time. The Minister in exercising his right under this clause may only have regard to the costs of the works that are required to be removed or demolished.

6.2 Use of Offset Amount

- (a) The Developer must not apply, or purport to apply, or agree to or allow any other person to apply or purport to apply, part of the Offset Amount to discharge an obligation to make a development contribution except in accordance with this deed.

- (b) If the Offset Amount is more than the Notional Monetary Contribution, the Minister is to allow the Developer to apply the amount that represents the difference between the Offset Amount and the Notional Monetary Contribution (the **Credit Amount**) to discharge the Developer's liability or the liability of another person nominated by the Developer to make a development contribution under another planning agreement that is in force when this deed commences relating to the provision of regional transport infrastructure and services on other land (not being the Land) to which the SEPP applies.
- (c) For the purpose of applying this clause 6.2, the Credit Amount is to be determined by the Minister as soon as practicable after the earlier of the following:
 - (i) an Offset Certificate has been issued to the Developer that sets out the portions of the Offset Amount that have been credited for both the Mamre Road Contribution and the Southern Link Road Land Contribution; and
 - (ii) an Offset Certificate has been issued to the Developer that sets out the portions of the Offset Amount that have been credited for either the Mamre Road Contribution or both the Mamre Road Works Land Contribution and the Southern Link Road Land Contribution, where an Election Notice has not been provided under clause 4.1 of this Schedule 4 or clause 4.3 (as the case may require), and the time for providing such a notice has expired.

The Credit Amount is to be determined as at the date of the issue of the relevant Offset Certificate.

- (d) If the Minister allows any part of the Credit Amount to be applied to discharge an obligation in accordance with clause 6.2(b) of this Schedule 4:
 - (i) that part of the Credit Amount will be taken to have been surrendered to the Minister; and
 - (ii) the Minister will provide an updated Offset Certificate to the Developer showing that the value of the Offset Amount has decreased by that amount.
- (e) The Developer acknowledges and agrees that under no circumstances will it be or become entitled to a refund of any unapplied Credit Amount.
- (f) Upon the making of a SIC Determination that applies to the Land, the Minister is to allow the Developer to apply the Credit Amount to satisfy the non-monetary percentage of a SIC (within the meaning of clause 7.4 of this Schedule 4) for development on other land to which the SIC Determination applies. However, the Developer acknowledges and agrees that if the Credit Amount is more than the Available Credit (being the amount referred to in clause 7.4 of this Schedule 4), only the Available Credit can be applied to discharge an obligation to make a SIC in accordance with clause 7 of this Schedule 4.

7. Reconciliation with SIC Determination and SIC Top up Amount

7.1 Reconciliation with SIC Determination and calculation of SIC Top up Amount

- (a) This clause 7 applies if:
 - (i) a SIC Determination takes effect before the Development Contribution, as required to be made in accordance with this Schedule 4 other than this clause 7, is made in full; and
 - (ii) a SIC would have been required to be made for the Development in accordance with the SIC Determination had the application of section 7.24 of the Act not been excluded by

this deed, and the Development Consent for the Development had been granted on or after the SIC Determination came into effect.

It does not matter, for the purposes of the application of this clause 7, whether Development Consent for any part of the Development is granted before or after the SIC Determination comes into effect or before or after this deed commences.

- (b) The Minister is to determine the amount of the SIC that would have been payable for the Development as a monetary contribution in accordance with the SIC Determination and this clause 7.1 (the **SIC Amount for the Development**), as soon as practicable after:
 - (i) issuing an Offset Certificate that sets out the portion of the Offset Amount that has been credited for the Mamre Road Works Contribution, together with any amounts that have been credited for the Mamre Road Works Land Contribution and the Southern Link Road Land Contribution (if the Developer is required to provide those contributions), and
 - (ii) paying the Additional Monetary Contribution if required under clause 5 of this Schedule 4.
- (c) Development Consent for the Development is to be taken as having been granted on the same date that the SIC Determination came into effect, if that Development Consent was granted before that date, for the purpose of determining the SIC Amount for the Development under 7.1(b) of this Schedule 4. That amount is to be calculated in accordance with the SIC Determination as in force on that date.
- (d) If Development Consent for the Development is granted on or after the date that the SIC Determination came into effect, the SIC Amount for the Development is to be determined in accordance with the SIC Determination as in force at the date the Development Consent becomes effective.
- (e) Whether clause 7.1(c) or (d) of this Schedule 4 applies in relation to the Development Consent, the SIC Amount for the Development is to be determined by applying the contribution rate that is the contribution rate under the SIC Determination at the time the Minister issues the Offset Certificate referred to in clause 7.1(b) or, if the Developer pays the Additional Monetary Contribution, at the time of payment (rather than at the time the SIC would have been payable under the SIC Determination).
- (f) If there is more than one Development Consent granted in respect of the Development, the amounts of the SICs that would have been payable for each part of the Development subject to a Development Consent are to be separately determined in accordance with the SIC Determination and this clause 7.1. The sum of those amounts is the SIC Amount for the Development for the purposes of this clause 7.
- (g) Despite clause 7.1(f) of this Schedule 4, if only Development Consent to SSD-9522 has been granted in respect of the Land at the time both the Offset Certificate referred to in clause 7.1(b) of this Schedule 4 has been issued and any Additional Monetary Contribution has been paid, then the SIC Amount for that part of the Development subject to that consent is to be determined in accordance with this clause 7.1, and clauses 7.2 to 7.4 of this Schedule 4 are to be applied accordingly, so as to determine whether any SIC Top up Amount is required to be paid or whether the Developer has Available Credit.

If one or more Development Consents are subsequently granted to any other Development on the Land, this clause 7 is to be re-applied, taking into account any SIC Top up Amount already paid or any Available Credit already applied, in a manner determined by the Minister, acting reasonably.

7.2 SIC Top up Amount

- (a) If the SIC Amount for the Development, as determined in accordance with clause 7.1 of this Schedule 4, is more than the sum of:
 - (i) the Offset Amount referred to in clause 7.1(b) of this Schedule 4, and
 - (ii) any Additional Monetary Contribution paid under clause 5 of this Schedule 4,

(VPA contribution) the Minister is to notify the Developer in writing of the amount by which the SIC Amount exceeds the VPA contribution (**SIC Top up Amount**) and give the Developer a tax invoice for the SIC Top up Amount.
- (b) The Developer is, within 30 days of receiving the Minister's notice under clause 7.2(a) of this Schedule 4, to pay the SIC Top up Amount to the Minister or provide a Bank Guarantee to the Minister to secure the payment of the SIC Top up Amount.
- (c) The SIC Top up Amount is made for the purposes of this clause 7 when cleared funds are deposited by means of electronic funds transfer or bank cheque into a bank account nominated by the Minister.
- (d) If the Developer does not agree with the Minister's determination of the SIC Top up Amount, the Developer must nevertheless comply with clause 7.2(b) of this Schedule 4. Clause 7 applies to the resolution of the dispute.

7.3 Bank Guarantee

- (a) The Minister may call upon a Bank Guarantee provided in accordance with clause 7.2(b) of this Schedule 4 and any other Bank Guarantee provided to the Minister under this deed where the Developer has failed to pay the amount required under this clause 7 within 8 weeks of receiving the Minister's notice under clause 7.2(a) of this Schedule 4.
- (b) When this occurs, the Minister may retain such monies in lieu of the amounts that would have otherwise been payable under this clause 7.
- (c) If the Developer pays the amount required under this clause 7 (before the Minister calls upon any Bank Guarantee) the Minister will promptly return the Bank Guarantee(s) (less any costs, charges, duties and taxes payable) to the Developer.
- (d) For avoidance of doubt, if the Development Contribution otherwise required to be made under this deed has been made in full before a SIC Determination comes into effect, the Developer is not required to pay any SIC Top up Amount.

7.4 Available Credit

- (a) If the SIC Amount, as determined in accordance with this clause 7, is less than the VPA contribution, then the difference between the SIC Amount and the VPA contribution represents the Developer's **Available Credit** for the purposes of this clause 7.4.
- (b) Subject to clause 7.4(d) of this Schedule 4, Available Credit may be used to satisfy the non-monetary percentage of a SIC for any other development to which the SEPP applies that is to be carried out on land within the same special contributions area as the Land, after the date of this deed, if the land is owned by the Developer or any other person nominated by the Developer.
- (c) Available Credit may be used by:

- (i) any person comprising the Developer, if all persons comprising the Developer have provided written consent to this to the Minister's satisfaction, or
 - (ii) any other person nominated by the Developer if all the persons comprising the Developer have provided written consent to this to the Minister's satisfaction.
- (d) The Developer acknowledges and agrees that if the Available Credit is more than the Credit Amount (being the amount referred to in clause 6.2 of this Schedule 4), only the Credit Amount can be applied to discharge an obligation to make a SIC in accordance with this clause 7.4.
- (e) For avoidance of doubt, the Minister is not required to reimburse the Developer any amount that represents the difference between the SIC Amount for the Development and the VPA contribution.
- (f) The Minister will not be involved in any dispute about whether the Developer or any other person nominated by the Developer is entitled to any Available Credit. Nor will the Minister be involved in any dispute about who is responsible to pay any SIC Top up Amount. For the avoidance of doubt, the Developer will remain wholly liable for payment of any SIC Top up Amount unless this obligation is expressly novated to a third party with the written consent of the Minister.
- (g) For the purposes of this clause 7.4, the **non-monetary percentage of a SIC**, in relation to a development, means that percentage or part of the SIC for the development that may be made (whether or not requiring the agreement of the Minister) by carrying out works for the provision of infrastructure, or by providing land for infrastructure, and that is not expressly required, under the terms of the SIC Determination, to be made as a monetary contribution.

Schedule 5 - Security

(clause 5.1)

1. Developer to provide Security

- (a) In order to secure the performance of the obligations of the Developer under this deed, the Developer has agreed to provide the Security, in the form of Bank Guarantees, to the Minister upon execution of this deed by the Developer.
- (b) Each Bank Guarantee must:
 - (i) name the “Minister for Planning and Public Spaces” and the “Department of Planning, Industry and Environment ABN 20 770 707 468” 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.

Security Amount	Secured Obligation
\$200,000	All obligations imposed on the Developer under this deed.
An amount equal to \$400,000 per lot (Registration Security)	The obligation to register this deed on the title to the Land.
\$5,616,520 (Road Works Security)	The obligation to deliver the Mamre Road Works under this deed.

2. Security

- (a) The Developer agrees that clause 1, and this clause 2, of this Schedule 5 operate as a deed poll in favour of the Minister from the date of execution by the Developer of this deed.
- (b) To avoid doubt, clause 1, and this clause 2, of this Schedule 5 commence from the date of execution of this deed by the Developer, even though this deed has not commenced pursuant to clause 2.1.
- (c) At the time the Developer executes this deed, the Developer must provide the Security (as set out in the table in clause 1 of this Schedule 5) to the Minister in order to secure the Developer’s obligations to make the Development Contribution under this deed when it is executed by the Minister.
- (d) From the date the Developer executes this deed until the date that the Developer has provided the Development Contribution, the Minister is entitled to retain the Security and call upon it in the circumstances set out in clause 5 of this Schedule 5.
- (e) To the extent necessary, the definitions in clause 1 apply to the construction of the deed poll created by this clause 2 of Schedule 5.
- (f) The deed poll created by this clause 2 of Schedule 5 will cease to operate 6 months from the execution by the Developer of this deed unless the Minister has executed the deed within that period.

3. Registration Security

(a) If, following execution of this deed, the Developer:

- (i) procures the registration of this deed on the title to the Land in accordance with clause 6.1; and
- (ii) provides the Minister with copies of the relevant folios of the Register for the Land and copies of the registered dealings containing this deed in accordance with clause 6.2,

the Minister will return the Registration Security within 20 Business Days of the Minister receiving the documents referred to in clause 3(ii) of this Schedule 5.

(b) If the Developer provides the Minister with:

- (i) evidence of registration of this deed on the title to part of the Land and the Minister is satisfied such registration has been effected; and
- (ii) security for a face value of \$400,000 for each lot on which this deed remains unregistered (**Replacement Security**),

the Minister will accept the Replacement Security as the Registration Security and return the Security required in the table under clause 1(b) of this Schedule 5 (**Original Security**) less any costs, charges, duties and taxes payable, or the remainder of the monies secured by the Original Security, to the Developer subject to clause 3(c) of this Schedule 5.

- (c) The Minister will not be obliged to accept the Replacement Security where the Developer is in breach of its obligations under this deed.
- (d) To avoid doubt, the provisions of this Schedule 5 (other than clause 2 of this Schedule 5) apply to the Replacement Security in the same way as they apply to the Original Security.

4. Road Works Security

(a) If, following the execution of this deed, the Developer:

- (i) enters into one or more Road Works Deed in relation to the Mamre Road Works;
- (ii) provides security to the Roads Authority so that the total amount of the security provided to the Roads Authority equals or exceeds the Road Works Security; and
- (iii) satisfies the Minister, in the Minister's absolute discretion, as to the adequacy of the security provided to the Roads Authority for the Mamre Road Works including providing all information reasonably required by the Minister regarding the security provided,

the Minister will accept the security provided to the Roads Authority as securing the performance of the Developer's obligation to deliver the Mamre Road Works, and will provide written notification to the Developer of the Minister's position under this clause 4(a) within 20 Business Days of receiving all required information from the Developer regarding the security provided to the Roads Authority.

(b) Where:

- (i) clause 4(a) of this Schedule 5 applies; or

- (ii) the Developer does not issue an Election Notice in accordance with clause 4.3 of its intention to provide the Mamre Road Works Contribution,

the Minister will return the Road Works Security within 20 Business Days of the Minister notifying the Developer of the Minister's acceptance of the security provided to the Roads Authority or, after 31 December 2023, respectively.

- (c) If the Developer does not satisfy the Minister as to the adequacy of the security provided for the Mamre Road Works to the Roads Authority in accordance with clause 4(a) of this Schedule 5, then:
 - (i) the Developer will be required to provide a Bank Guarantee to the Minister for the difference between the total amount of the security provided under clause 4(a)(ii) to the Roads Authority and the Road Works Security;
 - (ii) upon receipt of the Bank Guarantee required by the Minister under clause 4(c)(i) of this Schedule 5, the Minister will accept that Bank Guarantee and the security provided to the Roads Authority as securing the performance of the Developer's obligation to deliver the Mamre Road Works; and
 - (iii) the Minister will return the Road Works Security within 10 Business Days of receiving the Bank Guarantee under clause 4(c)(i) of this Schedule 5.

5. 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 fulfil the Secured Obligation in accordance with this deed; and
 - (ii) retain and apply such monies towards 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 the Security; and
 - (ii) applies all or part of such monies towards 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 5(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 6 of this Schedule 5, the Minister is in possession of Security for a face value equivalent to the Security required to be provided in accordance with clause 1 of this Schedule 5.

6. Release of Security

If:

- (a) the Developer has paid or satisfied all of its obligations under this deed, including:
 - (i) registration of this deed on the title to the Land; and
 - (ii) provision of the Development Contribution in accordance with this deed; 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.

Schedule 6 – Net Developable Area

- (a) The Net Developable Area for the development to which Development Consent to SSD-9522 (the **relevant Development Consent**) relates is the area of land, measured in hectares, subject to the other provisions of this Schedule 6. To avoid doubt, as the Relevant Development Consent (if granted) will authorise subdivision of the Land, the Net Developable Area for the development is the whole of the area subject to any proposed plan of subdivision authorised by that consent, including the area of any lots that are to be, or may be, further subdivided, subject to the exclusions from the Net Developable Area set out in this Schedule 6.
- (b) The Net Developable Area includes the area of any land that the relevant Development Consent authorises, or requires, to be used as a road, or reserved or dedicated as a public road, but does not include:
 - (i) any existing road which was constructed before the grant of the relevant Development Consent and in respect of which works are required to be carried out (including road widening) under the Development Consent;
 - (ii) the area of any land (excluding easements) which is delivered as a land contribution under this deed; or
 - (iii) any road referred to in clauses (c)(xi) or (xii) of this Schedule 6.
- (c) The Net Developable Area does not include the area of any land that a Development Consent authorises, or requires, to be reserved, dedicated or otherwise set aside as, or for the purpose of, any of the following:
 - (i) school;
 - (ii) TAFE establishment;
 - (iii) emergency services facility;
 - (iv) health services facility owned or operated by a public authority;
 - (v) passenger transport facility;
 - (vi) public reserve or drainage reserve (within the meaning of the *Local Government Act 1993*);
 - (vii) public transport corridor (other than a road corridor);
 - (viii) public utility undertaking;
 - (ix) bus depot, whether or not owned or operated by a public authority;
 - (x) recreation area;
 - (xi) roads, or other public amenities or public services, in connection with which development contributions have been imposed under section 7.11 or section 7.12 of the Act or may be imposed in accordance with a contributions plan approved under section 7.18 of the Act that is in force when the first Development Consent for the Development is granted; or
 - (xii) roads or other infrastructure in connection with which SICs have been, or may be, imposed in accordance with section 7.23 of the Act before the date of this deed.

- (d) The following areas of land are not to be included in the calculation of the Net Developable Area of the Land:
- (i) any part of the land to which the relevant Development Consent relates that is at or below the level of a 1:100 ARI (average recurrent interval) flood event, if that part of the land is unsuitable for the Development by virtue of it being at or below that level;
 - (ii) any part of the land to which the relevant Development Consent relates that is identified as public open space in a development control plan or in a contributions plan approved under section 7.18 of the Act;
 - (iii) any area of land that is within Zone E2 Environmental Conservation, RE 1 Public Recreation, RE2 Private Recreation or SP2 Infrastructure or within Zone Environment and Recreation under *State Environmental Planning Policy (Western Sydney Aerotropolis) 2020*;
 - (iv) any area of land that is subject to an easement in favour of a public utility undertaking for the purpose of the supply of the utility service to the public as shown on the title to that land, if the Secretary is satisfied that the area is rendered incapable of development by virtue of the easement.
- (e) The Net Developable Area for development subject to the relevant Development Consent that involves subdivision of the Land to create a lot of more than 0.1 hectare in area only in order to contain an existing lawful habitable dwelling is taken to be reduced by 0.1 hectare.
- (f) This paragraph applies if any lot of land to which the relevant Development Consent relates includes (wholly or partly):
- (i) land that is within the curtilage of a building listed on the State Heritage Register; or
 - (ii) land that is within Zone E4 Environmental Living.
- For the purpose of calculating the Net Developable Area, any such lot that is more than 0.1 hectare in area is taken to be 0.1 hectare.
- (g) The Secretary may make any determination required to be made for the purpose of calculating the Net Developable Area for the development to which the relevant Development Consent applies and, for that purpose, may have regard to any information available at the time, such as any proposed Plan of Subdivision and any measurements made by a registered surveyor of the land concerned.
- (h) In this Schedule:
- (i) **curtilage**, in relation to a building, means the curtilage of that building, or the site of that building, as specified or described in the listing of the building on the State Heritage Register, and
 - (ii) the following terms have the same meanings as they have in the standard instrument for a principal local environmental plan prescribed by the *Standard Instrument (Local Environmental Plans) Order 2006*:
 - (A) emergency services facility,
 - (B) health services facility,
 - (C) passenger transport facility,

- (D) public utility undertaking,
- (E) recreation area,
- (F) school.

Schedule 7— Landowner

The following persons jointly and severally comprise the Landowner for the purposes of this deed:

- Lantoo Pty Limited (ACN 002 569 799) of 657 Mamre Road, Erskine Park NSW 2759
- Ahmed Fiazuddin of 707A Mamre Road, Kemps Creek NSW 2178
- Rubina Fareen of 707A Mamre Road, Kemps Creek NSW 2178
- The Trust Company (Australia) Ltd (ACN 000 000 993) of Level 18, 123 Pitt Street, Sydney NSW 2000

Execution page**Executed as a deed**

Signed, sealed and delivered by the **Minister for Planning and Public Spaces** (ABN 20 770 707 468), in the presence of:

.....
Signature of witness


.....
Signature of the delegate of the Minister for Planning and Public Spaces

.....
Name of witness in full

.....
Name of the delegate of the Minister for Planning and Public Spaces

.....
Address of witness

Signed, sealed and delivered by **Altis Frasers JV Pty Ltd** (ACN 640 585 897) in its capacity as trustee of the ARET Frasers Project Trust in accordance with section 127 of the *Corporations Act 2001* (Cth) by:


.....
Signature of Director

Alastair Wright


.....
Name of Director in full


.....
Signature of Director/Secretary

Shaun Hannah

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

Signed, sealed and delivered by **Altis Bulky Retail Pty Limited** (ACN 164 432 124) in its capacity as trustee of Altis Bulky Sub Trust 3 in accordance with section 127 of the *Corporations Act 2001* (Cth) by:


.....
Signature of Director

Alastair Wright

.....
Name of Director in full



.....
Signature of Director/Secretary

Shaun Hannah

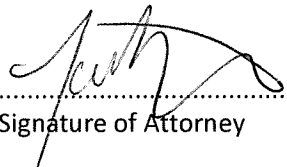
.....
Name of Director/Secretary in full

Executed by **Frasers Property Industrial Constructions Pty Limited** (ACN 095 586 708) by its attorney pursuant to a Power of Attorney dated 15 December 2020

who states that he /she has no notice of revocation of the said Power of Attorney in the presence of:

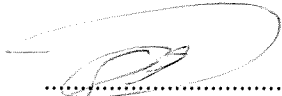

.....
Signature of Witness

Bree Jackson
.....
Name of Witness in full

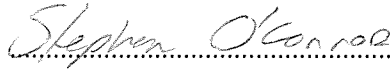

.....
Signature of Attorney

IAN BARTER
.....
Name of Attorney in full

Executed by The Trust Company (Australia) Limited by its attorney pursuant to a Power of Attorney dated 11 September 2020 who states that he /she has no notice of revocation of the said Power of Attorney in the presence of:



Signature of Witness



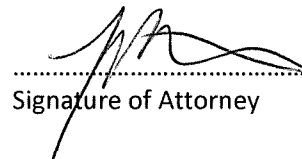
Name of Witness in full



Signature of Attorney

Alastair Wright

Name of Attorney in full

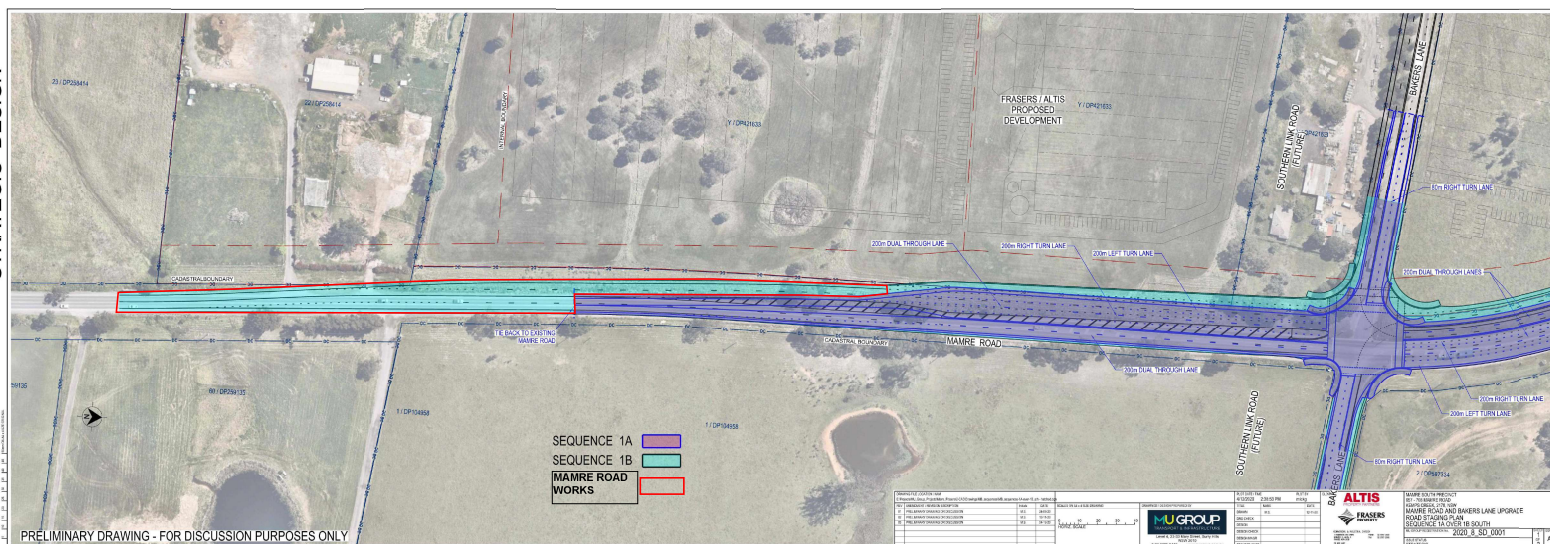


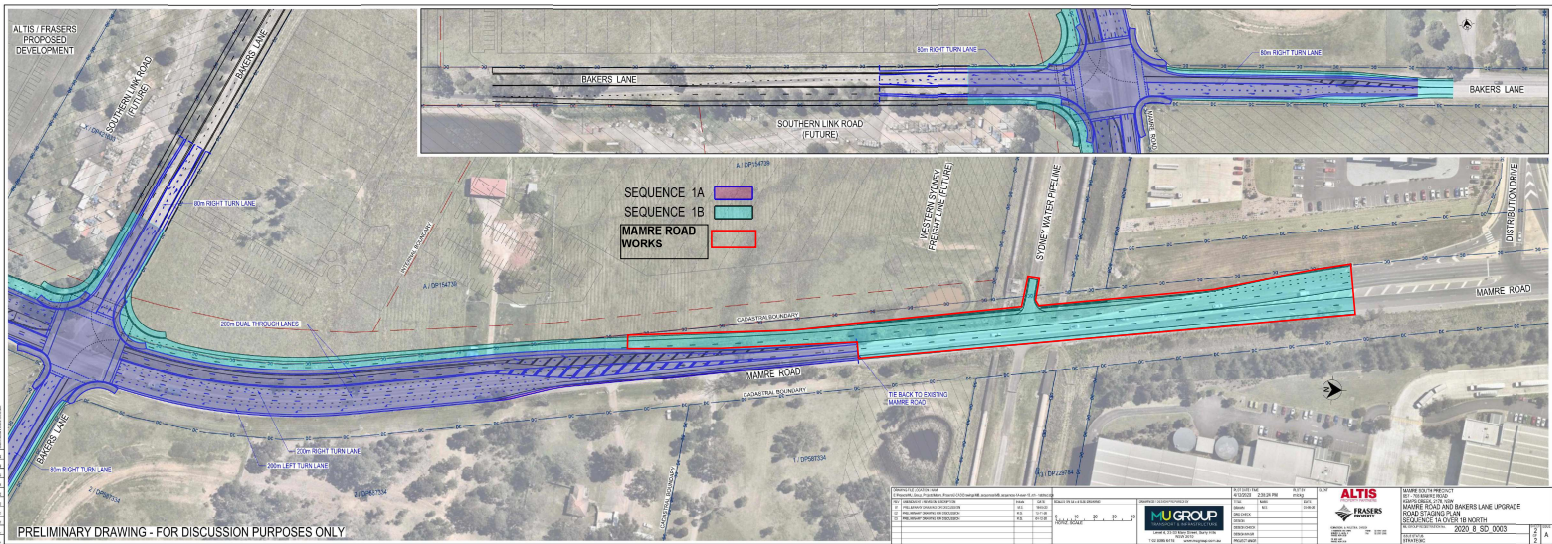
Signature of Attorney

IAN BARTER

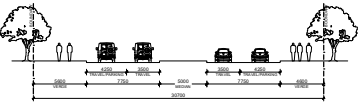
Name of Attorney in full

Annexure A - Mamre Road Works PlanHandwritten signature and initials in black ink, located in the bottom right corner of the page. The signature is a large, stylized cursive mark, and the initials are smaller, also in cursive, positioned to the right of the signature.

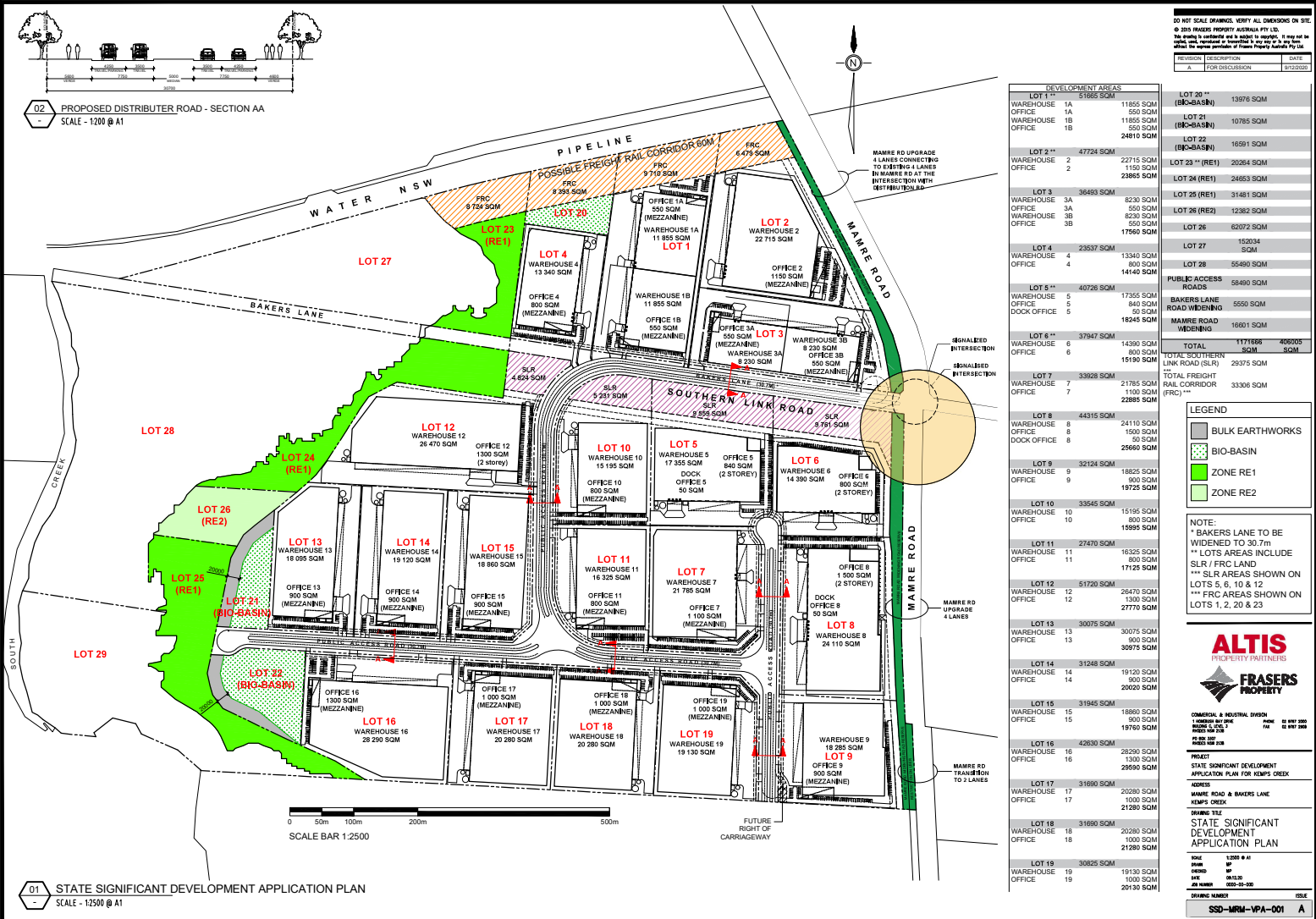




Annexure B - Proposed Final Warehouse, Logistics and Industrial Facilities Hub PlanA handwritten signature in black ink, consisting of a large, stylized 'M' followed by a series of loops and a final flourish.



02 PROPOSED DISTRIBUTER ROAD - SECTION AA
SCALE - 1200 @ A1



01 STATE SIGNIFICANT DEVELOPMENT APPLICATION PLAN
SCALE - 1:2500 @ A1

DO NOT SCALE DRAWINGS. VERIFY ALL DIMENSIONS ON SITE.
© 2015 FRASERS PROPERTY AUSTRALIA PTY LTD.
This drawing is preliminary and is subject to change. It may not be used for any purpose other than that for which it was prepared without the written permission of Frasers Property Australia Pty Ltd.

REVISION	DESCRIPTION	DATE
A	FOR DISCUSSION	8/12/2015

DEVELOPMENT AREAS		
LOT 1**	51865 SQM	
WAREHOUSE 1A	11855 SQM	
OFFICE 1A	550 SQM	
WAREHOUSE 1B	11855 SQM	
OFFICE 1B	550 SQM	
	24810 SQM	
LOT 2**	47724 SQM	
WAREHOUSE 2	22715 SQM	
OFFICE 2	1150 SQM	
	23865 SQM	
LOT 3	36493 SQM	
WAREHOUSE 3A	8230 SQM	
OFFICE 3A	550 SQM	
WAREHOUSE 3B	8230 SQM	
OFFICE 3B	550 SQM	
	17560 SQM	
LOT 4	23537 SQM	
WAREHOUSE 4	13340 SQM	
OFFICE 4	800 SQM	
	14140 SQM	
LOT 5**	40726 SQM	
WAREHOUSE 5	17355 SQM	
OFFICE 5	840 SQM	
DOCK OFFICE 5	50 SQM	
	18245 SQM	
LOT 6**	37947 SQM	
WAREHOUSE 6	14390 SQM	
OFFICE 6	800 SQM	
	15190 SQM	
LOT 7	33028 SQM	
WAREHOUSE 7	21785 SQM	
OFFICE 7	1100 SQM	
	22885 SQM	
LOT 8	44315 SQM	
WAREHOUSE 8	24110 SQM	
OFFICE 8	1500 SQM	
DOCK OFFICE 8	50 SQM	
	25660 SQM	
LOT 9	32124 SQM	
WAREHOUSE 9	18625 SQM	
OFFICE 9	800 SQM	
	19425 SQM	
LOT 10	33545 SQM	
WAREHOUSE 10	15195 SQM	
OFFICE 10	800 SQM	
	15995 SQM	
LOT 11	27470 SQM	
WAREHOUSE 11	16325 SQM	
OFFICE 11	17125 SQM	
LOT 12	51720 SQM	
WAREHOUSE 12	26470 SQM	
OFFICE 12	1300 SQM	
	27770 SQM	
LOT 13	30075 SQM	
WAREHOUSE 13	30075 SQM	
OFFICE 13	30075 SQM	
LOT 14	31248 SQM	
WAREHOUSE 14	19120 SQM	
OFFICE 14	1800 SQM	
	20920 SQM	
LOT 15	31945 SQM	
WAREHOUSE 15	18660 SQM	
OFFICE 15	900 SQM	
	19560 SQM	
LOT 16	42630 SQM	
WAREHOUSE 16	28290 SQM	
OFFICE 16	1300 SQM	
	29590 SQM	
LOT 17	31690 SQM	
WAREHOUSE 17	20280 SQM	
OFFICE 17	1000 SQM	
	21280 SQM	
LOT 18	31690 SQM	
WAREHOUSE 18	20280 SQM	
OFFICE 18	1000 SQM	
	21280 SQM	
LOT 19	30825 SQM	
WAREHOUSE 19	19130 SQM	
OFFICE 19	1000 SQM	
	20130 SQM	

LOT 20**	51865 SQM	
WAREHOUSE 20A	11855 SQM	
OFFICE 20A	550 SQM	
WAREHOUSE 20B	11855 SQM	
OFFICE 20B	550 SQM	
	24810 SQM	
LOT 21	10785 SQM	
LOT 22	16591 SQM	
LOT 23** (RE1)	20284 SQM	
LOT 24 (RE1)	24553 SQM	
LOT 25 (RE1)	31481 SQM	
LOT 26 (RE2)	12382 SQM	
LOT 26	62072 SQM	
LOT 27	152034 SQM	
LOT 28	55490 SQM	
PUBLIC ACCESS ROADS	5550 SQM	
BAKERS LANE ROAD WIDENING	5550 SQM	
MAMRE ROAD WIDENING	16601 SQM	
TOTAL	117158 SQM	46005 SQM
TOTAL SOUTHERN LINK ROAD (SLR)	29375 SQM	
TOTAL FREIGHT RAIL CORRIDOR (FRC)	33306 SQM	

- LEGEND
- BULK EARTHWORKS
 - BIO-BASIN
 - ZONE RE1
 - ZONE RE2

NOTE:
* BAKERS LANE TO BE WIDENED TO 30.7m
** LOTS AREAS INCLUDE SLR / FRC LAND
*** SLR AREAS SHOWN ON LOTS 5, 6, 10 & 12
*** FRC AREAS SHOWN ON LOTS 1, 2, 20 & 23



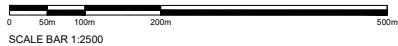
COMMERCIAL & INDUSTRIAL DIVISION
BANKING & FINANCE
PROJECT NO: 1501
DATE: 08/12/2015
PAGE: 01 OF 001

PROJECT: STATE SIGNIFICANT DEVELOPMENT APPLICATION PLAN FOR KEMPS CREEK
ADDRESS: MAMRE ROAD & BAKERS LANE KEMPS CREEK
DRAWING TITLE: STATE SIGNIFICANT DEVELOPMENT APPLICATION PLAN

SCALE: 1:2500 @ A1
DATE: 08/12/2015
PAGE: 01 OF 001
PROJECT NO: 1501

SSD-MRW-NPA-001 A

Annexure C – SSD-9522 PlanA handwritten signature in black ink, consisting of a large, stylized 'C' followed by several vertical strokes and a final flourish.



01 STATE SIGNIFICANT DEVELOPMENT APPLICATION PLAN
- SCALE: 1:2500 @ A1

DEVELOPMENT AREAS

WAREHOUSE LOT 1**

1A

11855 SQM

OFFICE

1A

550 SQM

WAREHOUSE

1B

11855 SQM

OFFICE

1B

550 SQM

24810 SQM

LOT 2**

47724 SQM

WAREHOUSE OFFICE

2

22715 SQM

1150 SQM

23865 SQM

LOT 3

36493 SQM

WAREHOUSE OFFICE

3A

8230 SQM

OFFICE

3A

550 SQM

WAREHOUSE OFFICE

3B

8230 SQM

OFFICE

3B

550 SQM

17860 SQM

LOT 4

23537 SQM

WAREHOUSE OFFICE

4

13340 SQM

OFFICE

4

800 SQM

14140 SQM

LOT 5**

40726 SQM

WAREHOUSE OFFICE

5

17355 SQM

OFFICE

5

840 SQM

DOCK OFFICE

5

50 SQM

19245 SQM

LOT 6**

37947 SQM

WAREHOUSE OFFICE

6

14390 SQM

OFFICE

6

800 SQM

15190 SQM

LOT 7

33928 SQM

WAREHOUSE OFFICE

7

17185 SQM

OFFICE

7

1100 SQM

22805 SQM

LOT 8

44315 SQM

WAREHOUSE OFFICE

8

24110 SQM

OFFICE

8

1500 SQM

DOCK OFFICE

8

50 SQM

25660 SQM

LOT 9

28502 SQM

LOT 10**

206003 SQM

LOT 11** (BC-B-A-SH)

13976 SQM

LOT 12 (BC-B-A-SH)

10785 SQM

LOT 13 (BC-B-A-SH)

16591 SQM

LOT 14** (RE1)

20284 SQM

LOT 15 (RE1)

24653 SQM

LOT 16 (RE1)

31481 SQM

LOT 17 (RE2)

12382 SQM

STAGE 1 SUBDIVIDED LOT 2

140457 SQM

STAGE 1 SUBDIVIDED LOT 3

62072 SQM

STAGE 1 SUBDIVIDED LOT 4

152034 SQM

STAGE 1 SUBDIVIDED LOT 5

55490 SQM

PUBLIC ACCESS ROADS

58490 SQM

BAKERS LANE ROAD WIDENING

5550 SQM

MAIRIE ROAD WIDENING

16601 SQM

TOTAL

1171686 SQM

162355 SQM

TOTAL SOUTHERN LINK ROAD (SLR) ***

29375 SQM

TOTAL FREIGHT RAIL CORRIDOR (FRC) ***

33006 SQM

DO NOT SCALE DRAWING. VERIFY ALL DIMENSIONS ON SITE

© 2013 FRASERS PROPERTY AUSTRALIA PTY LTD.

THIS DRAWING IS PREPARED BY A MEMBER OF FRASERS. IT IS NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF FRASERS PROPERTY AUSTRALIA PTY LTD.

REVISION

DESCRIPTION

DATE

A

FOR DISCUSSION

1/10/2020

B

FOR DISCUSSION

8/10/2020

C

FOR DISCUSSION

1/06/2020

D

FOR DISCUSSION

1/06/2020

E

FOR DISCUSSION

21/07/2020

F

FOR DISCUSSION

22/07/2020

G

FOR DISCUSSION

21/07/2020

H

DATA ISSUE

2/06/2020

I

FOR DISCUSSION

1/06/2020

J

FOR DISCUSSION

21/07/2020

K

FOR DISCUSSION

21/07/2020

L

FOR DISCUSSION

1/06/2020

M

DATA ISSUE

21/09/2020

LEGEND

BULK EARTHWORKS

BIO-BASIN

ZONE RE1

ZONE RE2

NOTE:


*** BAKERS LANE TO BE WIDENED TO 30.7m

*** LOTS INCLUDE SLR / FRC LAND

*** SLR AREAS SHOWN ON LOTS 5, 6 & 10


*** FRC AREAS SHOWN ON LOTS 1, 2, 11 & 14

N



ALTIS

PROPERTY PARTNERS



FRASERS

PROPERTY

COMMERCIAL & INDUSTRIAL DIVISION

1 LINDSEY ROAD SUITE 100/101

PO BOX 200

STANTON NSW 2168

DATE: 02/01/20

BY: JH/SLR

APP NUMBER: 0020-00-00-00

PROJECT

STATE SIGNIFICANT DEVELOPMENT APPLICATION PLAN FOR KEMPS CREEK

MANNE ROAD & BAKERS LANE KEMPS CREEK

DRAWING TITLE

STATE SIGNIFICANT DEVELOPMENT APPLICATION PLAN

SCALE

1:1000 @ A1

SCALE

1:1000 @ A1

DATE

02/01/20

APP NUMBER

0020-00-00-00

DRAWING NUMBER

STATE SIGNIFICANT DEVELOPMENT APPLICATION PLAN

SCALE

1:1000 @ A1

SCALE

1:1000 @ A1

DATE

02/01/20

APP NUMBER

0020-00-00-00