

Planning Agreement

Environmental Planning and Assessment Act 1979

381 Anambah Road, Anambah and 46 Lerra Road, Windella
2320

Minister administering the *Environmental Planning and Assessment Act 1979* (ABN 20 770 707 468)

DB20 Pty Limited (ACN 637 243 844)

Maitland City Council (ABN 11 596 310 805)

Signed by:

0F22499F9106456...

Signed by:

DEF8B45644A040D...

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This Planning Agreement is dated

Parties:

Minister administering the *Environmental Planning and Assessment Act 1979* (ABN 20 770 707 468)
c/- NSW Department of Planning, Housing and Infrastructure of Level 17, 4 Parramatta Square, 12 Darcy Street, Parramatta NSW 2150

DB20 Pty Limited (ACN 637 243 844) of Level 6, 77 Castlereagh Street, Sydney NSW 2000

Maitland City Council (ABN 11 596 310 805) of 263 High Street, Maitland NSW 2320

Introduction:

- A** The Developer owns the Land and proposes to carry out the Development on the Land in the future.
- B** For the purpose of providing contributions towards the provision of State and regional infrastructure in connection with future Development on the Land, the Developer has offered to enter into this deed with the Minister to make a Development Contribution.
- C** The Development Contribution offered includes the following:
- Upgrade of the Intersection;
 - if the Developer is not able to purchase all the land necessary for the Upgrade of the Intersection (or to enter into agreements in relation to the land) provide Council with the funding to acquire such land from the landowners;
 - dedicating any land purchased by the Developer for the Upgrade of the Intersection;
 - transferring land to the Minister (or the Minister's nominee) for a School.
- D** An upgrade of the intersection at Wyndella Road, Springfield Drive and New England Highway, Lochinvar, including the acquisition of land for that purpose, is a public amenity for which Council has collected, and may collect, contributions under section 94 of the Act (renumbered as section 7.11) in accordance with the Contributions Plan. Council has agreed to use those contributions for the purpose for which they were or are imposed towards the Upgrade of the Intersection proposed by the Developer.
- E** The Developer has agreed that the Intersection Offset Amount is to be reduced by any amount of funding provided by Council for the purpose of the Upgrade of the Intersection.

It is agreed:

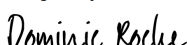
1. Definitions and interpretation

1.1 Definitions

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

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

Signed by:


0F22499F9106456...

Signed by:


DEF8B45644A040D...

Actual Cost means, in relation to the Intersection Works, the Final Certified Contract Cost inclusive of variations to achieve Practical Completion by the Developer of the Intersection Works determined by the Roads Authority, together with any other costs (not exceeding 15% of the Final Certified Contract Cost) incurred and paid by the Developer to third parties for the following:

- (a) design of the Intersection Works, project management, investigations, studies or reports specifically required for the Intersection Works;
- (b) any Approval specifically required to be obtained for the carrying out of the Intersection Works.

Additional Contribution Amount or **Additional Contribution Amount for a DA Development** – see clause 1.1(a) and clause 1.4 of Schedule 4.

Additional Education Land means an additional one hectare area of land owned by the Developer adjacent to the Education Land and shown on the plan at Annexure A.

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.

Approval means any approval, licence, authority or permit required under the Act or the Roads Act.

Approved Actual Cost has the meaning given to it in clause 3.1(c)(ii) of Schedule 5.

Authorised Progress Claim Certificate means a certificate signed by the superintendent for the Intersection 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).

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

Bank Guarantee means an irrevocable and unconditional undertaking:

- (a) by an Australian bank which is an eligible financial institution for the purposes of Treasury Circular NSW TC14/01 dated 24 January 2014 as amended, supplemented or substituted from time to time; and
- (b) on terms acceptable to the Minister, in the Minister's absolute discretion,

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

Base PPI means the PPI number for the September Quarter 2024.

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.

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

Completion Notice means a notice issued by the Developer under:

- (a) clauses 3.1(a) or clause 3.2(b) of Schedule 5; or
- (b) clause 2.1(a) of Schedule 6.

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 1.3 of Schedule 5, for the carrying out of the Intersection Works by that third party.

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.

Contamination has the same meaning as in the CLM Act.

Contribution Amount means the amount of a monetary contribution to be paid by the Developer as described in Schedule 4.

Contribution Notice means the notice given by the Minister or Council to the Developer that sets out a Contribution Amount.

Contributions Plan means the *Lochinvar Section 94 Contributions Plan 2014*, as amended from time to time, and any replacement contributions plan adopted by Council under Division 7.1 of the Act.

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

Council means Maitland City Council constituted under section 219 of the LG Act.

Council Land Amount means an amount of \$551,795, less any amount paid or incurred by Council for acquisition under an alternative arrangement referred to in clause 1.3(d) of Schedule 4 or prior to any such alternative arrangement for the purposes of the Upgrade of the Intersection, and subject to clause 1.2 of Schedule 4.

Council Works Amount means an amount of \$5,023,244.

Credit Balance means the amount shown on the Offsets Certificate as the amount available to the Developer from time to time to offset its obligations under this deed or other obligations as provided for in clause 4 of Schedule 8.

Current PPI means the PPI number most recently published when the relevant adjustment is made on the first day of a Quarter (being the PPI number for the Quarter before the Quarter that immediately precedes the Quarter in which the adjustment is made).

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

Department means the NSW Department of Planning, Housing and Infrastructure.

Detailed Site Investigation Report – see clause 1.5(c) and (d) of Schedule 6.

Developer means **DB20 Pty Limited** (ACN 637 243 844) and each successive Landowner (other than an owner of part of the Land referred to in clause 6.3(c)), unless otherwise specified in this deed.

Developer Intersection Works Land means that part of the Intersection Works Land owned by the Developer at the Trigger Date as specified in the Ownership Notice issued under clause 4.3(c).

Development means, subject to clause 1.2, subdivision of and other development on the Land for residential and commercial purposes that will result in approximately 2,800 dwellings and 5,000 square metres of commercial premises, being development that is, or will be, the subject of one or more Planning Applications, including DA/2025/486, lodged with Maitland City Council, for the subdivision of part of the Land into 173 residential lots, 2 Super lots and 1 drainage reserve (among other matters).

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:

- (a) subject to clause 1.2 of Schedule 4, the Intersection Monetary Contribution in accordance with Schedule 4;
- (b) subject to clauses 1.4 and 1.5 of Schedule 4, Additional Contribution Amounts for DA Development in accordance with Schedule 4;
- (c) the Intersection Works Contribution in accordance with Schedule 5;
- (d) the Intersection Works Land Contribution in accordance with Schedule 5; and
- (e) the Education Land Contribution in accordance with Schedule 6.

Education Land means the area of land, being a minimum of two (2) hectares (unless otherwise agreed by the Minister) required to be used for a School, generally as identified on the Indicative Education Land Plan.

Education Land Contribution means the transfer of the Education Land by the Developer to the Minister or the Minister's nominee in accordance with the terms of this deed.

Education Land Offset Amount means the Value of the Education Land.

Education Land Requirements means the requirements for the Education Land set out in Schedule 9.

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

Estimated Cost of the Intersection Works means the amount of \$25,317,393.36, as adjusted in accordance with clause 1.5 of Schedule 5.

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.

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

Final Education Land Plan – see clause 1.4(d) of Schedule 6.

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).

HPC Order means the *Environmental Planning and Assessment (Housing and Productivity Contributions) Order 2024*, as in force as at 30 June 2025.

Indicative Education Land Plan means the plan at Annexure A.

Intersection Monetary Contribution – see clause 1.1 (a) and clause 1.2 of Schedule 4.

Intersection Offset Amount means, subject to clause 3.4 of Schedule 5:

- (a) the Estimated Cost of the Intersection Works or the Approved Actual Cost (if lower); and
- (b) the Value of the Intersection Works Land, including any Intersection Monetary Contribution.

Intersection Works means all necessary works to upgrade the intersection at Wyndella Road, Springfield Drive and New England Highway, Lochinvar, that is:

- (a) shown generally on the Intersection Works Plan at Annexure B; and
- (b) carried out in accordance with any Approval.

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

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

Intersection Works Land means the area of land required for the Developer to carry out and complete the Intersection Works, being parts of Lots 223 and 224 DP 246447, Lots 4, 5 and 6 DP 747391 and Lot 13 DP 1219648, excluding any public road.

Intersection Works Land Contribution means the dedication of the Developer Intersection Works Land or the Third Party Intersection Works Land (or both) as a public road in accordance with the terms of this deed.

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

Land means the land described in Schedule 3.

Landowner means the owner of any part of the Land from time to time, and at the commencement of this deed means the person listed in Schedule 3.

Land Survey has the meaning given to it in clause 2.2(c) of Schedule 5.

Land Transfer Date means the date by which the Education Land must be transferred in accordance with clause 1.6(a) of Schedule 6.

LG Act means the *Local Government Act 1993* (NSW).

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 administering the *Environmental Planning and Assessment Act 1979* and includes the Secretary and the Nominated Officer.

Monetary Contribution means payment of one or more Contribution Amounts by the Developer in accordance with Schedule 4.

Neighbouring Land means land that is adjoining or in the vicinity of the Intersection Works Land that is required to be occupied and used for the purpose of carrying out the Intersection Works.

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

Notice has the meaning given to it in clause 12.16.

Notional Monetary Contribution for a DA Development – see clause 1.4 of Schedule 4.

Offset Amount means:

- (a) the Education Land Offset Amount; and
- (b) the Intersection Offset Amount.

Offset Certificate means the certificate required to be kept by the Minister under Schedule 8.

Ownership Notice means the notice given by the Developer pursuant to clause 4.3(c).

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.

PPI means the Producer Price Index (Road and Bridge Construction (New South Wales)) published by the Australian Bureau of Statistics, or if that index ceases to be issued, such other index that the Minister designates for the purposes of this deed.

PPI Adjustment Date means the first day of a Quarter immediately following the commencement of this deed and the first day of each Quarter thereafter.

Practical Completion means practical completion of the Intersection Works in accordance with the Intersection Works Deed.

Quarter each of the following three-month periods in a calendar year:

- (a) March Quarter—1 January to 31 March,
- (b) June Quarter—1 April to 30 June,
- (c) September Quarter—1 July to 30 September,
- (d) December Quarter—1 October to 31 December.

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

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

Remediation has the meaning given to it in Chapter 4 of *State Environmental Planning Policy (Resilience and Hazards) 2021* and **Remediate** has a corresponding meaning.

Required Standard means the standard to which any Contamination in, on or under the Education Land must be Remediated so that:

- (a) the Education Land is suitable for the purposes of a School, as at the Land Transfer Date; and
- (b) there is no significant risk of harm (determined in accordance with any relevant guidelines published by the Environment Protection Authority) to people using the Education Land for the purposes of a school by reason of any Contamination.

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

- (a) to be dedicated or otherwise transferred to an Authority; or
- (b) for any public utility undertaking within the meaning of the Standard Instrument as at the date of this deed,

but which does not include a Super Lot.

Roads Act means the *Roads Act 1993* (NSW).

Roads Authority has the meaning given to it in the Roads Act, and for the purposes of this deed means Council or TfNSW.

School includes pre-school.

Secretary means the Secretary of the Department.

Secretary of the Department of Education includes the Secretary's nominee for the purposes of this deed.

Section 138 Approval means a consent given pursuant to section 138 of the Roads Act.

Secured Obligation means an obligation secured by a Security as described in the table to clause 1(b), or clause 2(c), of Schedule 7, as the case may require.

Security means a Bank Guarantee in an amount specified in Schedule 7 and on the terms specified in Schedule 7.

Site Audit Report means a site audit report within the meaning of the CLM Act prepared by a Site Auditor in relation to a Site Audit Statement.

Site Audit Statement - see clause 1.7 of Schedule 6.

Site Auditor has the same meaning as in the CLM Act.

Standard Instrument means the standard instrument set out at the end of the *Standard Instrument (Local Environmental Plans) Order 2006*.

Subdivision Certificate has the same meaning as in the Act.

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

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

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

Third Party means an owner of Intersection Works Land and/or Neighbouring Land.

Third Party Intersection Works Land means that part of the Intersection Works Land subject to a Third Party Landowner Agreement, as specified in the Ownership Notice under clause 4.3(c).

Third Party Landowner means an owner of Third Party Intersection Works Land.

Third Party Landowner Agreement has the meaning given to it in clause 4.3(b).

Trigger Date means the date that is 20 Business Days after the commencement of this deed.

Upgrade of the Intersection means the upgrading of the intersection at Wyndella Road, Springfield Drive and New England Highway, Lochinvar, proposed by the Developer.

Value of the Education Land means the value of the Education Land as calculated in accordance with clause 1.9(a) of Schedule 6, subject to indexation in accordance clause 1.9(b) of Schedule 6.

Value of the Intersection Works Land means the value of the Developer Intersection Works Land as calculated in accordance with clause 2.6(b) and (c) of Schedule 5.

Works Notice means the written notice given by the Developer to the Minister to confirm that it intends to commence the Intersection Works pursuant to clause 1.3(a) of Schedule 5.

1.2 Development

If this deed is released and discharged from a part of the Land under clause 6.3, any development on that part of the Land that is subject to a development application or application for a complying development certificate made after the date of release and discharge is not development to which this deed applies, despite any other provision of this deed.

1.3 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 **Department of Planning, Housing and Infrastructure** continues to be a reference to the Department even if renamed and, if that Department is abolished or ceases to include the group of staff principally responsible for the administration of the Act, is a reference to any other Department or other Public Service agency (within the meaning of the *Government Sector Employment Act 2013* (NSW)) that includes that group of staff, whether or not the change in relation to the Department occurs before or after the execution of this deed by the Minister;
- (e) 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;
- (f) **clause headings**, the **introduction** and the **table of contents** are inserted for convenience only and do not form part of this deed;
- (g) the **schedules** form part of this deed;
- (h) a reference to a **person** includes a natural person, corporation, statutory corporation, partnership, the Crown or any other organisation or legal entity;

- (i) a reference to a **natural person** includes their personal representatives, successors and permitted assigns;
- (j) a reference to a **corporation** includes its successors and permitted assigns;
- (k) a reference to a right or obligation of a party is a reference to a right or obligation of that party under this deed;
- (l) 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;
- (m) 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;
- (n) **including** and **includes** are not words of limitation;
- (o) a word that is derived from a defined word has a corresponding meaning;
- (p) **monetary amounts** are expressed in Australian dollars;
- (q) the singular includes the plural and vice-versa;
- (r) words importing one gender include all other genders;
- (s) a reference to a thing includes each part of that thing; and
- (t) 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 Developer Intersection Works Land; and
- (c) the Development.

3. Application of development contributions provisions of the Act

The application of the following provisions of the Act to the Development is excluded (or not excluded) to the extent stated in Schedule 1:

- (a) sections 7.11 and 7.12;
- (b) Subdivision 4 of Division 7.1.

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 Minister's nominee in accordance with the provisions of Schedule 4, Schedule 5 and Schedule 6.

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 Ownership of the Intersection Works Land

- (a) The Developer and Council acknowledge that at the date of this deed the Developer does not own the whole of the Intersection Works Land.
- (b) The Developer acknowledges and agrees to use its best endeavours to:
 - (i) become the owner of the Intersection Works Land by the Trigger Date; or
 - (ii) enter into an agreement (**Third Party Landowner Agreement**) by the Trigger Date permitting the Developer to carry out the Intersection Works on a Third Party's land and requiring the Third Party to dedicate, by way of a Plan of Subdivision, its portion of the Intersection Works Land as a public road,

so that the whole of the Intersection Works Land will be able to be dedicated as a public road in accordance with Schedule 5.
- (c) The Developer must, no later than Trigger Date, give the Minister and Council notice (**Ownership Notice**) that specifies the part of the Intersection Works Land that it owns (**Developer Intersection Works Land**) and the part that is subject to Third Party Landowner Agreements (if any) (**Third Party Intersection Works Land**). The Ownership Notice must include copies of the relevant folios of the Register for the whole of the Intersection Works Land.
- (d) If the whole of the Intersection Works Land is not either owned by the Developer or subject to Third Party Land Agreements at the Trigger Date as specified in the Ownership Notice, then an Intersection Monetary Contribution may be required to be paid in accordance with Schedule 4.
- (e) If any part of the Intersection Works Land is owned by the Developer or subject to Third Party Land Agreements (as specified in the Ownership Notice), then clause 2 of Schedule 5 applies to that part.
- (f) Nothing in this clause 4.3 requires the Developer to commence or continue endeavours to become the owner of any part of the Intersection Works Land or require a Third Party, under a Third Party Landowner Agreement, to dedicate any part of that land if another arrangement is made with the Third Party for the dedication of that part as a public road. To avoid doubt, another arrangement may take the form of a voluntary planning agreement within the meaning of the Act, whether with Council or another planning authority.

4.4 Council Contribution and review of Contributions Plan

- (a) Council agrees to contribute to the cost of delivering the Intersection Works and Intersection Works Land in accordance with Schedule 5.
- (b) To the extent permitted by law, Council agrees to maintain in its Contributions Plan the requirement to pay monetary contributions towards the upgrade of the intersection at Wyndella Road, Springfield Drive and New England Highway, Lochinvar until the full Council Land Amount and Council Works Amount have been paid to the Developer.
- (c) Council and the Developer agree that if the Contributions Plan is amended, or a new Contributions Plan is adopted, or any other event occurs, that will have the effect of increasing the monetary contributions (by indexation or otherwise) that Council is entitled to collect for upgrading the intersection at Wyndella Road, Springfield Drive and New England Highway, Lochinvar, they will, acting reasonably and in good faith, review the Council Land Amount and the Council Works Amount under this deed.

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 7.

6. Registration

6.1 Registration of deed

- (a) The Developer agrees to procure the registration of this deed on the title to the Land and the Developer Intersection Works Land, including promptly responding to any requisitions made by the Registrar-General in respect of this deed and/or any ancillary documents.
- (b) To avoid doubt, the Developer is not required to procure the registration of this deed on any part of the Intersection Works Land that is not Developer Intersection Works Land.
- (c) 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; and
 - (iii) 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(c)(iii) 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

- (a) 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. To avoid doubt:
 - (i) the obligations with respect to a part of the land may be satisfied by the Developer applying the whole or part of its Credit Balance; and
 - (ii) in relation to any part of the Land that is not the Education Land - it is not necessary that the Education Land Contribution has been made.
- (b) For the purposes of clause 6.3(a), the parties agree that the obligations under this deed are satisfied in respect of a part of the Land if Development Consent for a part of the Development on that part of the Land has been granted (**DA Development**), the DA Development comprises or includes subdivision into Final Residential Lots and:
 - (i) no Additional Monetary Contribution for the DA Development on that part of the Land is payable under clause 1.4 of Schedule 4; or
 - (ii) any Additional Monetary Contribution for the DA Development under that clause has been made.

The Developer acknowledges that the Minister is not required, under this subclause 6.3(b), to agree to release and discharge this deed from any lot or proposed lot that is not a Final Residential Lot.

- (c) Although this deed may not be released and discharged from a part of the Land under clause 6.3(a) because an Additional Monetary Contribution is required under clauses 1.4 and 1.5 of Schedule 4 but has not yet been made, the Minister agrees to execute the relevant documents to enable the Developer to remove the notation of the deed from the relevant folios of the Register in respect of that part of the Land to enable a Plan of Subdivision for the part to create Final Residential Lots to be registered if the Developer has provided Security in respect of the obligation to make the Additional Monetary Contribution in accordance with Schedule 7.
- (d) To avoid doubt, the Developer may satisfy the Minister that all its obligations under this deed with respect to a part of the Land have been satisfied if Development Consent has been granted for DA Development on that part (other than for subdivision as referred to in clause 6.3(b)) and:
 - (i) no Additional Monetary Contribution for the DA Development on that part of the Land is payable under clause 1.4 of Schedule 4; or
 - (ii) any Additional Monetary Contribution for the DA Development under that clause has been made.

However, this subclause 6.3(d) does not limit the matters to which the Minister may need to have regard in order to be satisfied that the obligations under this deed with respect to a part of the Land have been satisfied.

- (e) The Minister agrees to provide a release and discharge of this deed so that this deed may be removed from the relevant folios of the Register in respect of the Developer Works Intersection Land when that land has been dedicated or transferred to the Roads Authority in accordance with this deed.
- (f) In this clause 6.3, a **Final Residential Lot** means a lot or proposed lot in a Residential Zone (within the meaning of the Standard Instrument) that the Minister is satisfied is unlikely to be further subdivided.

6.4 Interest in Land

The Developer represents and warrants that it is as at the date of execution of this deed:

- (a) the owner of the Land as shown in Schedule 3; 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 the Developer 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 the Land in accordance with clause 6.1, the Developer acknowledges that this deed confers on the Minister an interest in the Land and entitles the Minister to lodge and maintain a caveat on the title to the Land to prevent any Dealing in respect of the Land.
- (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 the Land 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 Developer has been unable to achieve the registration of this deed, the Developer 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 8 that are defined in the GST Legislation have the meanings 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 Council and:
 - (i) satisfy the Minister and Council (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 and Council on terms satisfactory to the Minister and Council (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 and Council, acting reasonably, that it is not in material breach of its obligations under this deed.
- (b) The Assigning Party must pay the Minister's and Council's reasonable legal costs and expenses incurred under this clause 9.1.
- (c) Despite clause 9.1(a), the Developer may assign or novate its rights or obligations under this deed to Roche Group Pty Limited (ACN 000 606 682) without the consent of the Minister or Council. However, the Developer must:
 - (i) notify both the Minister and Council within 5 Business Days after the assignment or novation of the details of the assignment and novation; and
 - (ii) promptly procure the execution of an agreement by Roche Group Pty Limited on terms satisfactory to both the Minister and Council under which Roche Group Pty Limited agrees to comply with the terms and conditions of this deed as though it were the Assigning Party.

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 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) Notwithstanding clause 9.2(a), the Developer may sell or transfer the whole or any part of the Land to a Transferee if prior to the proposed sale or transfer the Developer:
 - (i) satisfies the Minister and Council, acting reasonably, that:
 - (A) the proposed Transferee has sufficient assets, resources and expertise required to perform any of the remaining obligations of the Developer under this deed; or
 - (B) the Developer will continue to be bound by the terms of this deed after the transfer has been effected;
 - (ii) procures the execution of an agreement by the Transferee with the Minister and Council on terms satisfactory to the Minister and Council, acting reasonably, under which the Transferee agrees to comply with the terms and conditions of this deed as though the Transferee were the Developer; and
 - (iii) satisfies the Minister and Council, acting reasonably, that it is not in material breach of its obligations under this deed.
- (c) The Developer must pay the Minister's and Council's reasonable legal costs and expenses incurred under this clause 9.2.

9.3 Replacement Security

Provided that:

- (a) the Developer has complied with clauses 9.1 and 9.2; and
- (b) the Transferee or Incoming Party (as the case may be) has provided the Minister with a replacement Security in accordance with the requirements of Schedule 7 and on terms acceptable to the Minister,

the Minister will promptly return the Security to the Developer.

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.

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 that includes the following matters, as applicable:
 - (i) details of all Development Consents, Construction Certificates and Subdivision Certificates issued in relation to the Development;
 - (ii) a description of the status of the Development including a plan that identifies what parts of the Development have been completed, are under construction and are to be constructed;
 - (iii) a forecast in relation to the anticipated progression and completion of the Development;
 - (iv) a forecast in relation to the anticipated transfer of the Education Land; 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

- (a) 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.
- (b) To avoid doubt, Council is not entering into this deed in its capacity as Roads Authority and nothing in this deed limits, restricts or fetters Council in any way in respect of anything it may do (or not do) as Roads Authority.

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 reasonable legal costs of both the Minister and Council, 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 pay its own and the reasonable costs and disbursements of both the Minister and Council in connection with the release and discharge of this deed with respect to any part of the Land pursuant to clause 6.3.
- (e) The Developer must provide the Minister and Council with bank cheques, or an alternative method of payment if agreed with the Minister or Council, respectively, for the Minister's or Council's costs pursuant to clauses 12.15(a), (b) and (d):
 - (i) where the Minister or Council, as the case may require, 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 or Council 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 or Council, respectively, 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.

12.17 Electronic Execution

- (a) Each party consents to this deed and any variations of this deed being signed by electronic signature by the methods set out in this clause.
- (b) This clause applies regardless of the type of legal entity of the parties. If this deed or any subsequent variations are signed on behalf of a legal entity, the persons signing warrant that they have the authority to sign.
- (c) For the purposes of this clause, the parties agree that the following methods validly identify the person signing and indicate that person's intention to sign this deed and any variation of it:
 - (i) insertion of an image (including a scanned image) of the person's own unique signature on to the deed;
 - (ii) insertion of the person's name on to the deed; or
 - (iii) use of a stylus or touch finger or a touch screen to sign the deed,
provided that in each of the above cases, words to the effect of '*Electronic signature of me, [NAME], affixed by me on [DATE]*' are also included on the deed;
 - (iv) use of a reliable electronic signature and exchange platform (such as DocuSign or AdobeSign) to sign the deed; or
 - (v) as otherwise agreed in writing (including via email) between the parties.
- (d) The parties agree that the above methods are reliable as appropriate for the purpose of signing this deed and that electronic signing of this deed by or on behalf of a party indicates that party's intention to be bound.

- (e) A signed copy of this deed transmitted by email or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original executed copy of this deed for all purposes.

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: (a) sought a change to an environmental planning instrument. (b) made, or proposes to make, a Development Application. (c) entered into an agreement with, or is otherwise associated with, a person, to whom paragraph (a) or (b) applies.	(a) N/A (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 and clause 1.2
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, Schedule 5 and Schedule 6.
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 to the Development is not excluded .
Applicability of Subdivision 4 of Division 7.1 of the Act – (section 7.4(3)(d))	The application of Subdivision 4 of Division 7.1 of the Act to the Development is excluded .
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
No obligation to grant consent or exercise functions – (section 7.4(9) and 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 – (section 21 <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i>)	Yes (see clause 1.5 of Schedule 4)
Whether the Planning Agreement specifies that certain requirements of the agreement must be complied with before an occupation certificate is issued – (section 48 of <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i>)	No.
Whether the Planning Agreement specifies that certain requirements of the agreement must be complied with before a subdivision certificate is issued – (section 6.15(1)(d) of the Act)	Yes (see clause 1.5 of Schedule 4, clause 1.4(b) of Schedule 5 and clause 1.4(b) and clause 1.6(b) of Schedule 6.

Schedule 2 – Address for Service

(clause 1.1)

Minister

Contact: The Secretary

Address: Department of Planning, Housing and Infrastructure
Level 17 – 4PSQ Mailroom
4 Parramatta Square, 12 Darcy Street
PARRAMATTA NSW 2150

Email: planningagreements@planning.nsw.gov.au

Developer

Contact: The Company Directors and Secretary

Address: DB20 Pty Limited
Level 6, 77 Castlereagh Street
SYDNEY NSW 2000

Attention: Wes van der Gardner

Email: wes@rochegroup.com.au

Council

Contact: General Manager

Address: Maitland City Council
263 High Street
MAITLAND NSW 2320

Attention: Adam Ovenden

Email: Adam.Ovenden@maitland.nsw.gov.au and
info@maitland.nsw.gov.au

Schedule 3 – Land

(clause 1.1)

Lot/Deposited Plan	Folio Identifier	Landowner
Lot 56 in Deposited Plan 874170	56/874170	DB20 Pty Limited (ACN 637 243 844)
Lot 1 in Deposited Plan 1110433	Auto Consol 5447-6	DB20 Pty Limited (ACN 637 243 844)
Lot 2 in Deposited Plan 1110433	Auto Consol 5447-6	DB20 Pty Limited (ACN 637 243 844)
Lot 178 in Deposited Plan 874171	178/874171	DB20 Pty Limited (ACN 637 243 844)
Lot 6 in Deposited Plan 19925	Auto Consol 5447-6	DB20 Pty Limited (ACN 637 243 844)
Lot A in Deposited Plan 431640	Auto Consol 5447-6	DB20 Pty Limited (ACN 637 243 844)
Lot 3 in Deposited Plan 785359	3/785359	DB20 Pty Limited (ACN 637 243 844)

Schedule 4 - Development Contribution (Monetary Contributions)

(clause 4)

1. Monetary Contribution**1.1 Provision of the Monetary Contribution**

- (a) The Developer undertakes to provide the Monetary Contribution to the Minister or Council, as the case may require, in the manner set out in the table below:

Monetary Contribution	Value	Timing
A. Contribution Amount - Monetary contribution towards the acquisition of the Intersection Works Land (if required), being the Intersection Monetary Contribution under clause 1.2(d) of this Schedule 4.	The difference between the Total Purchase Price and the Council Land Amount as provided for in clause 1.2(d) of this Schedule 4, where the Total Purchase Price is the sum of the following amounts: (a) the amount paid or incurred by Council, acting reasonably and in accordance with the Just Terms Act, to acquire a part or parts of the Intersection Works Land that is not owned by the Developer, or is not subject to a Third Party Landowner Agreement, by the Trigger Date; and (b) the amount paid or incurred by Council, acting reasonably, to obtain a right to occupy and use, and carry out works on, Neighbouring Land, for the purpose of carrying out functions of a Roads Authority in relation to the Intersection Works. The amount to purchase any part of the Intersection Works Land is to be determined in accordance with the Just Terms Act and may include reasonable expenses incurred by Council (including legal and	Pursuant to clause 1.2 (e) of this Schedule 4

	valuation costs) in acquiring the land.	
B. Additional Contribution Amount for a DA Development (if required)	An amount calculated in accordance with clause 1.4 of this Schedule 4.	Pursuant to clause.1.5 of this Schedule 4.

- (b) The Minister, Council and Developer acknowledge and agree that the Monetary Contribution is the sum of the Contribution Amounts, as specified in clause 1.1 (a), under this deed.

1.2 Payment of Intersection Monetary Contribution (if any)

- (a) This clause 1.2 applies only if Council:
- (i) acquires a part of the Intersection Works Land that is not Developer Intersection Works Land or Third Party Intersection Works Land to be transferred to it under Schedule 5; or
 - (ii) obtains a right to occupy and use, and carry out works on, Neighbouring Land as referred to in clause 1.1(a) of this Schedule 4.
- (b) Subject to clause 1.2(d) of this Schedule 4, the Council Land Amount is reduced by:
- (i) each amount paid by Council to acquire a part of the Intersection Works Land to the extent that that amount is determined in accordance with the Just Terms Act (including any reasonable expenses incurred by Council as referred to in the table in clause 1.1 (a) (item A)); and
 - (ii) each amount paid by Council to obtain a right to occupy and use, and carry out works on, Neighbouring Land as referred to in clause 1.1(a) of this Schedule 4.
- (c) Council must notify the Developer each time it makes a deduction from the Council Land Amount and provide details of the acquisition (or rights obtained) for which the deduction has been made.
- (d) If the total amount paid by Council (being the **Total Purchase Price** referred to in clause 1.1 (a) (item A)) exceeds the Council Land Amount (being that amount before any deductions have been made under clause 1.2(b)), the Developer must pay the difference between the Total Purchase Price and the Council Land Amount to Council (**Intersection Monetary Contribution**). To avoid doubt, if an Intersection Monetary Contribution is paid to Council under this clause 1.2(d), no part of the Council Land Amount is payable by Council to the Developer.
- (e) Any Intersection Monetary Contribution required under clause 1.2(d) of this Schedule 4 must be paid within 20 Business Days after Council issues a Contribution Notice to the Developer. The Contribution Notice must be accompanied by a tax invoice for the Contribution Amount.
- (f) Any Intersection Monetary Contribution paid by the Developer in accordance with this clause 1.2 is to be credited to the Developer on the Offset Certificate.
- (g) An amount is paid for the purposes of this clause 1.2 when cleared funds are deposited by means of electronic funds transfer or bank cheque into a bank account nominated by Council.

- (h) If the Developer does not pay an Intersection Monetary Contribution, as required by this clause 1.2, Council may recover that amount, and any costs incurred by Council in remedying the breach, as a debt due in a court of competent jurisdiction.
- (i) For the purpose of clause 1.2(h) of this Schedule 4, Council's costs of remedying the breach include, but are not limited to:
 - (i) the costs of Council's employees, agents and contractors reasonably incurred for that purpose;
 - (ii) all fees and charges necessarily or reasonably incurred by Council in remedying the breach; and
 - (iii) all legal costs and expenses reasonably incurred by Council, by reason of the breach.

1.3 Council acquisition of Intersection Works Land

- (a) Subject to clause 1.3(b) and (d) of this Schedule 4, Council agrees to:
 - (i) commence taking steps towards the acquisition of that part of the Intersection Works Land that is not owned by the Developer or the subject of a Third Party Landowner Agreement, within 60 Business Days after the Developer issues the Ownership Notice under clause 4.3(c); and
 - (ii) use its reasonable endeavours to acquire the relevant land, in accordance with the Just Terms Act, without delay.
- (b) The parties acknowledge and agree, that Council is not required to take the necessary steps to acquire any Intersection Works Land under clause 1.3(a) of this Schedule 4 unless and until the Developer provides written confirmation that it has made reasonable efforts to acquire the relevant land or enter into a Third Party Landowner Agreement for the dedication of the land.
- (c) The Developer's reasonable efforts to enter into a Third Party Landowner Agreement for dedication of relevant land as a public road or to acquire the relevant land must include at least three reasonable offers to the Third Party Landowner to do so. Council acknowledges and agrees that the reasonable offers required to be made by the Developer can include:
 - (i) offers made prior to the parties entering into this deed; and
 - (ii) offers to provide non-monetary benefits (for example, increased land value or improvement works can constitute reasonable offers of compensation for the acquisition or dedication of the relevant land).
- (d) Nothing in this clause 1.3 of Schedule 4 requires Council to commence or continue steps to acquire any Intersection Works Land if another arrangement is made with a Third Party who is the owner of a portion of Intersection Works Land for its dedication as a public road. To avoid doubt, another arrangement may take the form of a voluntary planning agreement within the meaning of the Act, whether with Council or another planning authority.
- (e) Council agrees to commence taking steps to obtain a right to occupy and use, and carry out works on, Neighbouring Land (as referred to in clause 1.1(a)) that is not the subject of a Third Party Landowner Agreement within 60 business Days after the Developer issues the Ownership Notice under clause 4.3(c) and to use its reasonable endeavours to obtain that right without delay (and in accordance with the Just Terms Act, if that Act is applicable).

1.4 Notional Monetary Contribution and calculation of Additional Contribution Amounts

- (a) The parties agree that, if the Developer were to provide the Development Contribution solely as a monetary contribution, the Development Contribution would comprise the sum of amounts calculated for each part of the Development that is authorised by a Development Consent (**DA Development**) in accordance with the HPC Order.
- (b) The base component amount under the HPC Order for the Lower Hunter is to be adjusted in accordance with the HPC Order as in force as at 30 June 2025, even if the order is amended or repealed after that date, and the amount for each DA Development is to be calculated under clause 1.4(a) of this Schedule 4 by applying the applicable base component amounts as adjusted when Development Consent for the DA Development is granted.
- (c) Each amount calculated for a DA Development as referred to in clause 1.4(a) and clause 1.4(b) of this Schedule 4 is the **Notional Monetary Contribution for the DA Development**.
- (d) The Notional Monetary Contribution for the DA Development is to be adjusted in accordance with the HPC Order at the time it would be required to be paid under that order had it been imposed as a housing and productivity contribution by a condition of consent for the DA Development (**Adjusted Notional Monetary Contribution for the DA Development**).
- (e) The Notional Monetary Contribution is to be adjusted under clause 1.4(d) as if the Consent PPI number referred to in clause 22 of the HPC Order is the PPI number last used to adjust the applicable base component amount when Development Consent to the DA Development was granted.
- (f) The **Additional Contribution Amount for a DA Development**, required by this clause 1.4, is the Adjusted Notional Monetary Contribution for the DA Development **less** the Credit Balance available to the Developer as at the date when the Adjusted Notional Monetary Contribution for the DA Development is determined in accordance with clause 1.4(d) and 1.4(e) of this Schedule 4.
- (g) If the deduction of the Credit Balance under clause 1.4 (f) of this Schedule 4 results in a negative number, the Additional Contribution Amount is nil.
- (h) For clarity, a reference to Development Consent in this clause 1.4 includes a reference to a complying development certificate within the meaning of the Act.

1.5 Payment of Additional Contribution Amounts

- (a) The Additional Contribution Amount for a DA Development must be paid to the Minister at the time that the Notional Monetary Contribution for the DA Development would have been required to be paid as a housing and productivity contribution under the HPC Order had it applied to the DA Development.
- (b) If the Notional Monetary Contribution for the DA Development would have been required to be paid before the issue of a subdivision certificate, construction certificate or other certificate, the Developer must provide the Minister with not less than 10 Business Days' written notice of its intention to lodge an application for the relevant certificate.
- (c) Within 10 Business Days of receipt of the written notice under clause 1.5(b) of this Schedule 4, the Minister is to give the Developer a notice setting out the Additional Contribution Amount for the DA Development and a tax invoice for that amount.

- (d) The obligation to pay an Additional Contribution Amount for a DA Development under this Schedule 4 is subject to clause 4 of Schedule 7, which provides for the provision of Security to secure the payment of an Additional Contribution Amount.
- (e) However, if Security is provided to secure the payment of the Additional Contribution Amount for a DA Development (or part of that amount), the outstanding amount must be redetermined, as at the time the Developer seeks to discharge its obligation with respect to it. The outstanding amount is to be redetermined by multiplying the amount of the Security by the following number:

$$\frac{\text{highest PPI}}{\text{base PPI for Security}}$$

where:

base PPI for Security is the PPI number that was the “highest PPI number” for the purposes of applying the formula in clause 22 of the HPC when adjusting the Notional Monetary Contribution for the DA Development under clause 1.4(d) and (e) of Schedule 4.

highest PPI is the highest PPI number for any quarter following (and including) the quarter whose PPI number was the **base PPI for Security** and up to (and including) the 2nd last quarter before the quarter in which the obligation with respect to the outstanding amount is discharged.

- (f) The parties agree that the requirement to make a payment under this clause of an Additional Contribution Amount for a DA Development is a restriction on the issue of each of the following certificates for the DA Development, as the case may require:
 - (i) a Subdivision Certificate, as referred to in section 6.15(1)(d) of the Act;
 - (ii) a Construction Certificate, as referred to in section 21 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021.
- (g) The Additional Contribution Amount is paid when cleared funds are deposited by means of electronic funds transfer or bank cheque into a bank account nominated by the Minister.

1.6 Review of clauses 1.4 and 1.5 of this Schedule 4 if HPC scheme changes

The Minister and the Developer agree that if the housing and productivity contribution increases or decreases significantly because of an amendment to the HPC Order or its replacement, or if a new State infrastructure contributions scheme is introduced, they will, acting reasonably and in good faith, review the provisions of clauses 1.4 and 1.5 of this Schedule 4. A party is not in breach of this deed if it does not agree to amend the deed as requested by the other party in or as a result of a review.

Schedule 5– Development Contribution (Intersection Works Contribution and Intersection Works Land Contribution)

(clause 4)

1. Intersection Works Contribution

1.1 Provision of the Intersection Works

The Developer must provide the Intersection Works Contribution in accordance with this Schedule 5.

1.2 Pre-conditions to commencement of the Intersection Works

Prior to commencement of the Intersection Works, the Developer must:

- (a) if Development Consent is required — provide evidence to the Minister that it has obtained Development Consent for the Intersection Works;
- (b) if required by the Roads Authority to enter into an Intersection Works Deed:
 - (i) enter into an Intersection Works Deed, on such terms and conditions as are:
 - (A) consistent with the requirements of this deed, including this Schedule 5; and
 - (B) acceptable to the Roads Authority, the Minister and Council (if it is not the Roads Authority); and
 - (ii) provide to the Minister a copy of the executed Intersection Works Deed to carry out the Intersection Works; and
- (c) if a Section 138 Approval is required in relation to the Intersection Works, provide a copy of the Section 138 Approval to the Minister.

1.3 Construction Contract for the Intersection Works

- (a) The Developer must provide written notice to the Minister which confirms that it intends to commence the Intersection Works (**Works Notice**). If the Developer is to engage a third party to carry out the Intersection Works, then clauses 1.3(b) to (f) apply.
- (b) The Developer may only enter into a Construction Contract with a third party contractor who is:
 - (i) appointed under a 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.
- (c) The Developer must undertake a competitive tender process in awarding a Construction Contract for the Intersection Works and provide evidence of such tender process to the Minister within 10 Business Days of awarding the Construction Contract.
- (d) The Works Notice must be accompanied by a copy of each Construction Contract in place for the Intersection Works.
- (e) If further Construction Contract(s) are entered into after the Works 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 clauses 1.3(b) and (c) above. The Developer will provide the Minister with a copy of the further Construction Contract(s).

- (f) Each Construction Contract must:
 - (i) identify a superintendent for the Intersection Works;
 - (ii) provide a reasonable itemisation of works comprising the Intersection Works, which, in relation to construction work, may be by a bill of quantities;
 - (iii) identify the contract value for each item of the Intersection Works; and
 - (iv) identify the terms and conditions applicable to the carrying out of the Intersection Works.

1.4 Timing of Intersection Works

- (a) The Developer must ensure Practical Completion of the Intersection Works in accordance with the Intersection Works Deed prior to the issue of the Subdivision Certificate for the 1st lot (excluding a Super Lot or Residue Lot) in the Development.
- (b) The Developer agrees that the requirement in clause 1.4(a) of this Schedule 5 is a restriction on the issue of a Subdivision Certificate within the meaning of section 6.15(1)(d) of the Act.

1.5 Estimated Cost and Actual Cost of the Intersection Works

- (a) The Minister and the Developer agree that on each PPI Adjustment Date, the Estimated Cost of the Intersection Works is to be adjusted by multiplying that cost by an amount equal to the Current PPI divided by the Base PPI until the Offset Certificate is issued to the Developer that sets out the portion of the Intersection Offset Amount that has been credited for the Intersection Works Contribution.
- (b) The parties agree that if the Actual Cost of the Intersection Works is more than the Estimated Cost of the Intersection Works, the portion of Intersection Offset Amount the Developer may receive by carrying out the Intersection Works is the Estimated Cost of the Intersection 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 Intersection Works, following consultation with the Developer, acting in good faith and having proper regard to all matters put before the Minister by the Developer.

2. Intersection Works Land Contribution

2.1 Provision of Intersection Works Land Contribution

- (a) This clause 2 of Schedule 5 applies to the Developer Intersection Works Land and the Third Party Intersection Works Land.
- (b) The Developer must:
 - (i) dedicate the Developer Intersection Works Land to the Minister or the Roads Authority in accordance with this clause 2; and
 - (ii) cause each Third Party Landowner to dedicate its Third Party Intersection Works Land to the Minister or the Roads Authority in accordance with this clause 2 and the relevant Third Party Landowner Agreement.

2.2 Subdivision and Survey of the Intersection Works Land

The Developer must (at its cost):

- (a) 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 Developer Intersection Works Land or the Third Party Intersection Works Land as a public road in accordance with section 9 of the Roads Act;
- (b) comply with any conditions of Development Consent and other approvals;
- (c) procure a survey of the Developer Intersection Works Land and the Third Party Intersection Works Land by a registered surveyor (**Land Survey**).

2.3 Timing for Provision of the Intersection Works Land Contribution

The Developer must provide the Intersection Works Land Contribution in accordance with this deed by the time specified in clause 3.2(a) of this Schedule 5 (**Developer Intersection Works Land Dedication Date**).

2.4 Dedication of the Intersection Works Land

- (a) In satisfying its obligation under clause 2.3 of this Schedule 5, 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 Developer Intersection Works Land and any Third Party Intersection Works Land as a public road as provided by section 9 of the Roads Act;
 - (ii) deliver to the Minister and the Roads Authority a Contaminated Land Report and Contaminated Land Statement from a Contaminated Land Consultant in respect of the Developer Intersection Works Land and any Third Party Intersection Works Land which:
 - (A) state that the land is suitable or will be suitable for the purposes of a road as at the Developer Intersection 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) deliver to the Minister for approval the Land Survey;
 - (iv) lodge the proposed Plan of Subdivision or other plan that bears a statement of intention to dedicate the Developer Intersection Works Land and any Third Party Intersection Works Land as a public road referred to in clause 2.4(a)(i) of this Schedule 5 at the NSW Land Registry Services for registration, upon receipt of:
 - (A) approval from the Roads Authority to register that proposed Plan of Subdivision or other plan; and
 - (B) approval from the Minister to the Land Survey referred to in clause 2.4(a)(iii) of this Schedule 5;
 - (v) promptly comply, or procure compliance with, any requisitions raised by the Registrar-General in relation to the dedication of the Developer Intersection Works Land and any Third Party Intersection Works Land as a public road; and
 - (vi) take any other necessary action to give effect to the dedication of the Developer Intersection Works Land and any Third Party Intersection 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 2.4(a)(ii), the Minister or Roads Authority may:
 - (i) refuse to accept the dedication of the Developer Intersection Works Land or the Third Party Intersection 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 2.4(a)(ii),

in which case the Developer must comply with the Minister's requirements.
- (c) For avoidance of doubt, clause 2.4(a)(vi) of this Schedule 5 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 could not prevent from affecting the Developer Intersection Works Land or the Third Party Intersection Works, and in respect of which no action can be taken by the Developer.
- (d) Despite clause 2.4(a)(vi) of this Schedule 5, 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 2.4(a)(vi), 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 Intersection 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 Developer Intersection Works Land or the Third Party Intersection Works Land subject to the Agreed Encumbrances for Intersection Works Land, then:
 - (i) the Developer must provide 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 Developer Intersection Works Land or the Third Party Intersection Works Land as a result of the Agreed Encumbrances for the Intersection Works Land (**Intersection Works Land Diminution Amount**); and
 - (ii) the Value of the Intersection Works Land is to be reduced by the Intersection 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 any part of the Developer Intersection Works Land or Third Party Intersection Works Land, but only in relation to Contamination that existed on or

before the date any such land is dedicated as a public road or compulsorily acquired by the Minister, the Roads Authority or Council (as the case may be).

- (g) The Developer will pay all rates and Taxes owing in respect of the Developer Intersection Works Land (or cause them to be paid in respect of Third Party Intersection Land) up to and including the date that the land is dedicated as a public road pursuant to this clause 2.4 of Schedule 5 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 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 2.1 to 2.5 of this Schedule 5.
- (i) The parties agree that this clause 2 of Schedule 5 operates as a deed poll in favour of the Roads Authority (where applicable).
- (j) Despite any other provision of this Schedule 5, the Developer may request the Minister to agree to providing the Intersection 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. If the Minister agrees to the request, the parties may agree to the modification of provisions of this clause 2 of Schedule 5 referring to such a plan to accommodate the alternative manner in which the land is to be provided.

2.5 Compulsory acquisition of the Developer Intersection Works Land

- (a) If the Developer does not dedicate the Developer Intersection Works Land as a public road as required by clause 2.4 of this Schedule 5, by the time specified in clause 3.2(a) of this Schedule 5, the Minister may elect to, and the Developer consents to, the Minister or the Roads Authority compulsorily acquiring the Developer Intersection Works Land in accordance with the Just Terms Act, for the amount of \$1.
- (b) The Developer and the Minister agree that:
 - (i) this clause 2.5 is an agreement between the Developer and the Minister or Roads Authority for the purposes of section 30 of the Just Terms Act; and
 - (ii) in this clause 2.5 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 2.4(d) of this Schedule 5, the Developer must ensure that the Developer Intersection Works Land is free of all encumbrances and affectations (including any charge or liability for rates, Taxes and charges) immediately before the Developer Intersection Works Land is to be acquired by the Minister or the Roads Authority.
- (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 Developer Intersection Works Land under this clause 2.5.
- (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 Developer Intersection Works Land as contemplated by this clause 2.5.

2.6 Valuation of the Intersection Works Land

- (a) Except to the extent provided by clause 3.4 of this Schedule 5, the Minister and the Developer agree that the portion of the Intersection Offset Amount that the Developer may receive through the dedication of the Developer Intersection Works Land and the Third Party Intersection Works Land as a public road is the Value of the Intersection Works Land.
- (b) The Value of the Intersection Works Land is, subject to any diminution in its value calculated under clause 2.4 (e) of this Schedule 5, an amount equal to '\$[X]' in the following formula:

$$\$[X] = (\text{SQM}_1 \times R_1) + (\text{SQM}_2 \times R_2)$$

Where:

SQM₁ is the number of square metres comprised in that part of the Developer Intersection Works Land and the Third Party Intersection Works Land within Zone R1 (General Residential), as shown on the Land Survey approved by the Minister.

SQM₂ is the number of square metres comprised in that part of the Developer Intersection Works Land and the Third Party Intersection Works Land within Zone RU2 (Rural Landscape), as shown on the Land Survey approved by the Minister.

R₁ is the dollar amount of \$155, as adjusted in accordance with clause 2.6(c) of this Schedule 5.

R₂ is the dollar amount of \$52.17, as adjusted in accordance with clause 2.6(c) of this Schedule 5.

- (c) On each PPI Adjustment Date, the values of **R₁** and **R₂** are to be adjusted by multiplying \$155 and \$52.17 respectively by an amount equal to the Current PPI divided by the Base PPI until the Offset Certificate is issued to the Developer that sets out the portion of the Intersection Offset Amount that has been credited for the Intersection Works Land Contribution.

3. Completion of Intersection Works Contribution and Intersection Works Land Contribution

3.1 Completion of Intersection Works Contribution

- (a) If the Developer considers that it has completed the Intersection Works Contribution in accordance with the requirements of the Roads Authority and this deed, the Developer is to provide notice to the Minister stating that the Developer considers that the Intersection Works Contribution has been completed (**Completion Notice**) together with:
 - (i) a certificate from the Roads Authority confirming that Practical Completion of the Intersection Works has occurred;
 - (ii) 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 Intersection 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;
 - (E) provides details of any payment of the Council Works Amount under clause 4 of this Schedule 5; and
- (iii) such other supporting documentation as is necessary for the Minister to determine whether the Intersection Works Contribution has been completed. The Developer must promptly provide any additional information reasonably requested by the Minister.
- (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 Intersection Works Contribution.
- (c) The Minister will, within 45 days of receiving the Completion Notice and all the certificates and information required under clause 3.1(a) determine:
 - (i) whether the Intersection Works Contribution has been completed; and
 - (ii) the Approved Actual Cost which the Minister will recognise as being properly attributable to the Intersection Works Contribution.
- (d) If the Minister, acting reasonably, is satisfied that the Intersection Works Contribution has been provided, the Minister will issue the Offset Certificate to the Developer setting out the portion of the Intersection Offset Amount that has been credited for the Intersection Works Contribution.

3.2 Completion of Intersection Works Land Contribution

- (a) Within 20 Business Days of the Minister issuing an Offset Certificate that sets out the portion of the Intersection Offset Amount that has been credited for the Intersection Works Contribution pursuant to clause 3.1(d) of this Schedule 5, the Developer must provide the Intersection Works Land Contribution in accordance with clause 2 of this Schedule 5. Nothing in this clause 3.2(a) prevents the Developer from providing the Intersection Works Land Contribution at an earlier time.
- (b) If the Developer considers that it has completed the Intersection Works 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 Intersection Works Land Contribution has been completed (**Completion Notice**) together with:
 - (i) a registered Plan of Subdivision or other registered plan that bears a statement of intention to dedicate the Developer Intersection Works Land and the Third Party Intersection Works Land, as a public road in accordance with section 9 of the Roads Act; and
 - (ii) such other supporting documentation as is necessary for the Minister to determine whether the Intersection Works Land Contribution has been completed. The Developer must promptly provide any additional information reasonably requested by the Minister.
- (c) The Minister will, within 45 days of receiving the Completion Notice and all the certificates and information required under clause 3.1(b) determine whether the Intersection Works Land Contribution has been completed.
- (d) If the Minister, acting reasonably, is satisfied that the Intersection Works Land Contribution has been provided, the Minister will issue the Offset Certificate to the Developer setting out the portion of the Offset Amount that has been credited for the Intersection Works Land Contribution.

- (e) The Minister may be satisfied that the Intersection Works Land Contribution (or any part of it) has been completed even if it has been acquired (partly or wholly) by the Roads Authority or Council as long as it has been acquired, at the Developer's cost, in accordance with this deed, except where the land has been compulsorily acquired under clause 2.5 of this Schedule 5.

3.3 Additional work or information

- (a) If the Minister, acting reasonably, is not satisfied the Intersection Works Contribution or the Intersection Works Land Contribution has been provided, the Minister will notify the Developer and provide an explanation as to why he or she considered that the Intersection Works Contribution or the Intersection Works Land Contribution 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 Intersection Works Contribution or the Intersection Works Land Contribution. The Developer may, after taking into account the Minister's explanation and undertaking the work or providing the information or documents required, re-submit a Completion Notice together with any necessary documentation.
- (b) If, despite the actions undertaken under clause 3.3 (a) of this Schedule 5, the parties dispute whether the Intersection Works Contribution or Intersection Works Land Contribution has been provided to the Minister, clause 7 applies to the resolution of the dispute.

3.4 Adjustment to the Intersection Offset Amount

Subject to the other provisions of this Schedule 5, the parties agree that the Minister is to credit to the Developer, as a portion of the Intersection Offset Amount:

- (a) for the provision of the Intersection Works Contribution – the Estimated Cost of the Intersection Works or the Approved Actual Cost (as the case may require) *less* the Council Works Amount; and
- (b) for the provision of the Intersection Works Land Contribution – the Value of the Intersection Works Land *less* the Council Land Amount, as that amount may be adjusted under clause 1.2 of Schedule 4.

The deduction of the Council Works Amount and the Council Land Amount under this clause 3.4 of Schedule 5 is to be made whether or not Council has paid those amounts to the Developer.

4. Council Payment - Council Works Amount and Council Land Amount

- (a) Council must pay \$2,948,205, being part of the Council Works Amount, to the Developer within:
 - (i) 20 Business Days after Practical Completion of the Intersection Works; or
 - (ii) 20 Business Days after the Intersection Works Land is vested in Council or other Roads Authority,
 whichever is the later time.
- (b) Council must pay the remainder of the Council Works Amount to the Developer in instalments of \$250,000 (or part thereof in respect of the final instalment) every three months from:

- (i) the date of Practical Completion of the Intersection Works; or
 - (ii) the date when the Intersection Works Land is vested in Council or other Roads Authority, whichever is the later date.
- (c) Council must pay the Council Land Amount to the Developer, as it may be reduced in accordance with clause 1.2 of Schedule 4 and subject to that clause, within 20 Business Days after the Intersection Works Land is vested in Council or other Roads Authority.

Schedule 6- Development Contribution (Education Land Contribution)

(clause 4)

1. Education Land Contribution

1.1 Provision of the Education Land Contribution

- (a) The Developer must provide the Education Land Contribution to the Minister or the Minister's nominee in accordance with this clause 1 of Schedule 6.
- (b) For the purposes of this Schedule 6, the Minister's nominee is the Minister for Education and Early Learning.

1.2 Subdivision of the Education Land

- (a) The Developer must, at its cost:
 - (i) obtain Development Consent and any other approvals necessary to create one or more separate lot(s) for the Education Land; and
 - (ii) prepare a proposed Plan of Subdivision to create one or more separate lot(s) for the Education Land.
- (b) The Developer must comply with any conditions of Development Consent and other approvals.

1.3 Site requirements of the Education Land

The Developer acknowledges and agrees that:

- (a) while the approximate location of the Education Land is shown on the Indicative Education Land Plan and is generally agreed, the final boundaries of the Education Land are yet to be determined; and
- (b) the Developer must satisfy the Minister or the Minister's nominee that the Education Land satisfies the Education Land Requirements prior to the transfer of the Education Land to the Minister or the Minister's nominee in accordance with this Schedule 6; and
- (c) the Minister's nominee is seeking to purchase the Additional Education Land from the Developer for the purposes of a school.

1.4 Education Land Plan

- (a) The Developer must, not less than 2 months before lodging an application for a Subdivision Certificate for a plan of subdivision to create the 500th lot in the Development, consult the Secretary of the Department of Education in relation to the Education Land Requirements and how the Developer intends to ensure that the Education Land will satisfy those requirements.
- (b) The Developer must, at its cost and before the issue of the Subdivision Certificate for a plan of subdivision to create the 500th lot (other than a Super Lot or Residue Lot) in the Development, prepare and provide the Minister and the Minister's nominee with the following;
 - (i) a detailed survey plan identifying the boundaries and topography of the proposed Education Land (such plan to be generally in accordance with the Indicative Education Land Plan);
 - (ii) a plan and all necessary documents to demonstrate how the Education Land will satisfy the Education Land Requirements,

(together, the **Education Land Plan**)

- (iii) a statement that sets out how the Developer has addressed any comments provided by the Secretary of the Department of Education in response to consultation undertaken in accordance with clause 1.4(a).
- (c) The Minister (and the Minister's nominee) is to give written notice to the developer as to whether the Education Land Plan is approved and satisfies the Education Land Requirements. The Minister agrees to use the Minister's reasonable endeavours to give, or procure the giving of, such a notice within 60 Business Days of receipt of the Education Land Plan (**Education Land Notice**).
- (d) If the Education Land Notice states that:
 - (i) the proposed Education Land satisfies the Education Land Requirements, it is the **Final Education Land Plan** for the purposes of this deed; or
 - (ii) the Education Land Plan is not approved or does not satisfy the Education Land Requirements:
 - (A) the Education Land Notice must set out the changes that are required to the Education Land Plan by the Minister or the Minister's nominee to ensure that the Education Land will satisfy the Education Land Requirements; and
 - (B) the Developer will amend the Education Land Plan in accordance with the Education Land Notice and provide an amended Education Land Plan to the Minister and the Minister's nominee; and
 - (C) the provisions of clause 1.4(c) of this Schedule 5 and this clause 1.4(d) will again apply.
- (e) The Developer agrees that the requirement in clause 1.4(b) of this Schedule 6 is a restriction on the issue of a Subdivision Certificate within the meaning of section 6.15(1)(d) of the Act.

1.5 Requirements on transfer of Education Land

- (a) The Developer must, at its cost, ensure that the Education Land when transferred to the Minister or the Minister's nominee:
 - (i) is consistent with the Final Education Land Plan and satisfies the Education Land Requirements;
 - (ii) is free of all encumbrances and affectations, other than service easements or such other encumbrances as agreed by the Minister's nominee in writing; and
 - (iii) is free from Contamination and suitable for its intended use as a School.
- (b) For the purpose of ensuring that the Education Land is free from Contamination and suitable for its intended use as a School, the Developer must, at its cost, prior to transfer of the Education Land:
 - (i) provide a Detailed Site Investigation Report relating to the Education Land, prepared by a Contaminated Land Consultant (**Consultant**), to the Minister and the Minister's nominee; and
 - (ii) if the Detailed Site Investigation Report advises that Remediation of the Education Land is required to make it suitable for its intended use as a School, ensure that the Education Land is Remediated to the Required Standard by the Land Transfer Date.
- (c) Without limiting its content, a Detailed Site Investigation Report is a report that does the following:

- (i) describes the nature and extent of any Contamination present on or emanating from the Education Land;
 - (ii) assesses the risk to human health and the environment of each Contaminant present on or emanating from the Education Land;
 - (iii) if there is Contamination present on or emanating from the Education Land – concludes that, in the Consultant’s opinion:
 - (A) Remediation of the Education Land is required to make it suitable for its intended use as a School; or
 - (B) no Remediation is required to make the Education Land suitable for its intended use as a School on the Land Transfer Date and there is no significant risk of harm, as determined in accordance with the relevant guidelines published by the Environment Protection Authority, to people using the Education Land for the purposes of a School by reason of any Contamination;
 - (iv) contains sufficient information to enable a Remediation plan to be prepared if Remediation is required in the Consultant’s opinion.
- (d) The Detailed Site Investigation Report, for the purposes of this clause 1.5, must:
- (i) be addressed to the Minister and Minister’s nominee (as well as to the Developer) and expressly authorise them to rely on it; and
 - (ii) be prepared in accordance with a scope of work that has been endorsed, in writing, by the Secretary of the Department of Education.

1.6 Timing for Provision of the Land Contribution

- (a) The Developer must provide the Education Land Contribution in accordance with this deed prior to the issue of the Subdivision Certificate for the 1000th lot (other than a Super Lot or Residue Lot) in the Development (**Land Transfer Date**).
- (b) The Developer agrees that the requirement in clause 1.6(a) of this Schedule 6 is a restriction on the issue of a Subdivision Certificate within the meaning of section 6.15(1)(d) of the Act.

1.7 Transfer of the Education Land

- (a) Prior to the transfer of the Education Land, the Developer must, at its cost:
 - (i) provide evidence to the Minister and the Minister’s nominee that the Education Land meets the Education Land Requirements and is in accordance with the Final Education Land Plan;
 - (ii) deliver to the Minister and the Minister’s nominee for approval a proposed Plan of Subdivision referred to in clause 1.2(a)(ii) of this Schedule 6;
 - (iii) if Remediation is required under clause 1.5 of this Schedule 6, deliver to the Minister and the Minister’s nominee a Site Audit Report and Site Audit Statement in respect of the Education Land, that is addressed to the Minister and the Minister’s nominee;
 - (iv) upon receipt of approval from the Minister and the Minister’s nominee lodge the proposed Plan of Subdivision referred to in clause 1.5(a)(ii) of this Schedule 6 at the NSW Land Registry Services for registration;

- (v) promptly comply, or procure compliance with, any requisitions raised by the Registrar-General in relation to the transfer of the Education Land; and
 - (vi) take any other necessary action to give effect to the transfer of the Education Land free of all encumbrances (including any mortgages, easements, covenants and other 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 Minister's nominee in writing.
- (b) The Developer acknowledges and agrees that the Minister and the Minister's nominee may inspect the proposed Education Land for the purpose of ensuring compliance with this deed. The Developer agrees to grant access to the land to the Minister, the Minister's nominee and their employees, agents and contractors for this purpose on request (subject to any reasonable conditions notified by the Developer).
- (c) If the Developer does not comply with clause 1.7(a)(i) or (iii), the Minister or the Minister's nominee may:
- (i) refuse to accept the transfer of the Education Land; and
 - (ii) require that the Developer undertake works, at the Developer's cost and within a timeframe determined by the Minister or the Minister's nominee (acting reasonably), so as to enable the Developer to comply with clause 1.7(a)(ii) or (iii), as the case may require,
- in which case the Developer must comply with the Minister's (and the Minister's nominee's) requirements.
- (d) For avoidance of doubt, clause 1.7(a)(vi) of this Schedule 6 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 could not prevent from affecting the Education Land and in respect of which no action can be taken by the Developer.
- (e) Despite clause 1.7(a)(vi) of this Schedule 6, if, having used its best endeavours, the Developer cannot ensure that the land to be transferred is free from any relevant encumbrance and affectation which would otherwise be the subject of clause 1.7(a)(vi), then:
- (i) the Developer may request that the Minister or the Minister's nominee 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 school; or
 - (B) is not a charge arising as a result of unpaid taxes or charges,
 the Minister or Minister's nominee may agree to accept the land subject to those encumbrances; and
 - (iii) in other circumstances, the Minister or the Minister's nominee may withhold the Minister's or Minister's nominee's agreement at their absolute discretion.
- (f) The Developer indemnifies and agrees to keep indemnified the Minister and the Minister's nominee against all claims made against the Minister or the Minister's nominee as a result of any Contamination that is required to be Remediated by an Authority over the whole or any part of the Education Land, but only in relation to Contamination that existed on or before the date the Education Land is transferred or compulsorily acquired by the Minister or the Minister's nominee (as the case may be).

- (g) The Developer will pay all rates and Taxes owing in respect of the Education Land up to and including the date that the Developer transfers the Education Land in accordance with this clause 1.7 or the date of acquisition (as applicable), after which time the Minister's nominee will be responsible for any rates and Taxes in relation to the Education Land .
- (h) The Developer indemnifies and keeps indemnified the Minister (or at the Minister's election, the Minister's nominee) in relation to any failure of the Developer to comply with clauses 1.1 to 1.8 of this Schedule 6.
- (i) The parties agree that clause 1 of this Schedule 6 operates as a deed poll in favour of the Minister's nominee (where applicable).
- (j) For the purposes of this clause 1.7 of Schedule 6:

Site Audit Statement means a site audit statement within the meaning of the CLM Act or other written confirmation from a Site Auditor that:

- (i) in the opinion of the Site Auditor the Education Land has been Remediated to the Required Standard and is suitable for use as a School or will be suitable for use as School at the Land Transfer Date; and
- (ii) does not contain any statement that qualifies that opinion by restricting the use of the Education Land for the purposes of a School; and
- (iii) is not subject to any conditions, including any condition requiring the preparation and implementation of an environmental management plan, or is only subject to conditions acceptable to the Minister and the Minister's nominee, acting reasonably; and
- (iv) does not contain any conditions or requirements for further works in respect of Contamination, including in order for the Education Land to be used as a School; and
- (v) is otherwise on terms satisfactory to the Minister and the Minister's nominee (acting reasonably).

1.8 Compulsory acquisition of Education Land

- (a) If the Developer does not transfer the Education Land as required by clause 1.7 of this Schedule 6, the Minister may elect to, and the Developer consents to, the Minister or the Minister's nominee compulsorily acquiring the whole or any part of the Education Land in accordance with the Just Terms Act, for the amount of \$1.
- (b) The Developer and the Minister agree that:
 - (i) this clause 1.8 is an agreement between the Developer and the Minister or the Minister's nominee for the purposes of section 30 of the Just Terms Act; and
 - (ii) in this clause 1.8, the Developer and the Minister or the Minister's nominee have agreed on all relevant matters concerning the compulsory acquisition and the compensation to be paid for the acquisition.
- (c) Subject to clause 1.7 of this Schedule 6, the Developer must ensure that the Education Land is free of all encumbrances and affectations (including any charge or liability for rates, Taxes and charges) immediately before the Education Land is to be acquired by the Minister or the Minister's nominee.
- (d) The Developer indemnifies and keeps indemnified the Minister and the Minister's nominee against any claims made against the Minister or the Minister's nominee as a result of any acquisition by the

Minister or the Minister's nominee of the whole or any part of the Education Land under this clause 1.8.

- (e) The Developer must pay the Minister or the Minister's nominee, promptly on demand, an amount equivalent to all Costs incurred by the Minister or the Minister's nominee in acquiring the whole or any part of the Education Land as contemplated by this clause 1.8.

1.9 Value of the Education Land

- (a) The Value of the Education Land will be an amount equal to "\$[X]" in the following formula:

$$\text{\$}[X] = \text{SQM} \times R$$

Where:

SQM is the number of square metres comprised in the Education Land shown on the proposed Plan of Subdivision approved by the Minister and lodged for registration in accordance with clause 1.7(a)(iv) of this Schedule 6.

R is the amount of \$229.56, as adjusted in accordance with clause 1.9(b) of this Schedule 6.

- (b) On each PPI Adjustment Date, \$229.56 is to be multiplied by an amount equal to the Current PPI divided by the Base PPI until the Offset Certificate is issued to the Developer setting out the Education Land Offset Amount that has been credited for the Education Land Contribution.

2. Completion of Education Land Contribution

2.1 Completion Notice

- (a) If the Developer considers that it has completed the Education Land Contribution in accordance with the requirements of this deed, the Developer will provide notice to the Minister stating that the Developer considers that the Education Land Contribution has been completed (**Completion Notice**) together with:
 - (i) copies of the title search(es) for the Education Land showing the Minister or the Minister's nominee as the registered proprietor of the Education Land; and
 - (ii) such other supporting documentation as is necessary for the Minister to determine whether the Education Land Contribution has been completed. The Developer must promptly provide any additional information reasonably requested by the Minister.
- (b) The Minister will, within 45 days of receiving the Completion Notice and all the certificates and information required under clause 2.1(a) determine whether the Education Land Contribution has been completed.
- (c) If the Minister, acting reasonably, is satisfied that the Education Land Contribution has been provided, the Minister will update and issue to the Developer the Offset Certificate setting out the Education Land Offset Amount that has been credited for the Education Land Contribution.

2.2 Additional work or information

- (a) If the Minister, acting reasonably, is not satisfied the Education Land Contribution has been provided, the Minister will notify the Developer and provide an explanation as to why he or she considered that the Education Land Contribution 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 Education Land Contribution. The Developer may, after taking into account the Minister's explanation and undertaking the work or providing the information or documents required, re-submit a Completion Notice together with any necessary documentation.

- (b) If, despite the actions undertaken under clause 2.2 (a) of this Schedule 6, the parties dispute whether the Education Land Contribution has been provided to the Minister or the Minister's nominee, clause 7 applies to the resolution of the dispute.

Schedule 7 - 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.
- (b) Each Bank Guarantee must:
 - (i) name the "Minister administering the *Environmental Planning and Assessment Act 1979*" and the "Department of Planning, Housing and Infrastructure ABN 20 770 707 468" as the relevant beneficiaries;
 - (ii) be in the amount as set out in the table below;
 - (iii) be 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 (Initial Security)	All obligations imposed on the Developer under this deed.
\$12,658,696 (Intersection Works Security)	The obligation to make the Intersection Works Contribution pursuant to clause 1.4 of Schedule 5.
Additional Contribution Amount for a DA Development	The obligation to pay an Additional Contribution Amount for a DA Development under clause 1.5 of Schedule 4

2. Initial and Base Security

- (a) On the commencement of this deed, the Developer must provide the Initial Security to the Minister in order to secure the performance of all obligations of the Developer under this deed when it is executed by the Minister.
- (b) From the date the Developer executes this deed until the date that the Developer has performed all its obligations under this deed, the Minister is entitled to retain the Initial Security and call upon it in the circumstances set out in clause 5 of this Schedule 7.
- (c) Despite clause 2(b) of this Schedule 7, if:
 - (i) the Minister is satisfied that the Education Land Contribution has been made and has issued the Offset Certificate crediting the Education Land Offset Amount for the contribution to the Developer; and
 - (ii) the Developer provides the Minister with Security having a face value of \$20,000 (**Base Security**),

the Minister agrees to accept the Base Security as security for the performance of the Developer's outstanding obligations under this Deed (**Secured Obligation**) and return the Initial Security less any Costs, charges, duties and taxes payable, or the remainder of the monies secured by the Initial Security, to the Developer.

- (d) To avoid doubt:
 - (i) the Minister is not required to accept the Base Security where the Developer is in breach of its obligations under this deed; and
 - (ii) the provisions of clauses 1, 2(b), 5 and 6 of this Schedule 7 apply to the Base Security.

3. Intersection Works Security

- (a) Subject to clause 3 (b) and (c) of this Schedule 7, the Developer must provide the Intersection Works Security to the Minister, on the commencement of this deed, in order to secure the provision of the Intersection Works Contribution under this deed when it is executed by the Minister.
- (b) If the Developer has provided security to the Roads Authority in relation to the Intersection Works before it executes this deed, the Intersection Works Security is not required under this deed if:
 - (i) the total amount of the security provided to the Roads Authority for the Intersection Works equals or exceeds \$12,658,696;
 - (ii) the Roads Authority has advised the Minister in writing that it is satisfied as to the adequacy of the security and terms on which it is provided; and
 - (iii) the Minister has advised the Developer in writing that the Intersection Works Security is not required under this deed.
- (c) If the Developer has entered into one or more Intersection Works Deeds with the Roads Authority, before it executes this deed, under which the Developer has agreed to provide security equal to or exceeding \$12,658,969 to the Roads Authority, the Minister may, in the Minister's absolute discretion, agree, in writing, to a request by the Developer to waive the requirement for the provision of the Intersection Works Security under this deed, subject to conditions or unconditionally.
- (d) If, following the execution of this deed, the Developer:
 - (i) enters into one or more Intersection Works Deeds in relation to the Intersection Works;
 - (ii) provides security to the Roads Authority so that the total amount of the security provided to the Roads Authority equals or exceeds \$12,658,696; 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 Intersection 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 Intersection Works, and will provide written notification to the Developer of the Minister's position under this clause 3(c) within 20 Business Days of receiving all required information from the Developer regarding the security provided to the Roads Authority.
- (e) Where clause 3(d) of this Schedule 7 applies, the Minister will return the Intersection 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.

- (f) If the Developer does not satisfy the Minister as to the adequacy of the security provided for the Intersection Works to the Roads Authority in accordance with clause 3(b) or 3(d) of this Schedule 7, 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 one or more Intersection Works Deeds to the Roads Authority and the Intersection Works Security;
 - (ii) upon receipt of the Bank Guarantee required by the Minister under clause 3(f)(i) of this Schedule 7, 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 Intersection Works; and
 - (iii) the Minister will return the Intersection Works Security within 10 Business Days of receiving the Bank Guarantee under clause 3(f)(i) of this Schedule 7.

4. Security for Additional Monetary Contribution

- (a) The Developer may provide Security to the Minister instead of paying in full an Additional Contribution Amount for a DA Development as required by clause 1.5 of Schedule 4.
- (b) To avoid doubt, the Security must be for the full value of that part of the Additional Contribution Amount for the DA Development that is outstanding and be provided to the Minister before the time at which it would have been required to be paid.
- (c) The Minister is entitled to retain the Security provided under this clause until such time as the obligation to pay the Additional Contribution Amount for the DA Development is fulfilled, either by payment of the Additional Contribution Amount in full or by application of the Credit Balance.
- (d) For the purpose of clause 5(a) of this Schedule 7, the obligation to pay any Additional Contribution Amount for a DA Development secured by a Security provided to the Minister under this deed must be satisfied by the time no portion of the Offset Amount remains to be credited to the Developer on the Offset Certificate.

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 7,

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 7, 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 7.

6. Release of Security

If the whole of a Security has not been expended and the Developer has paid or satisfied all of its obligations under this deed that are secured by the Security, then the Minister will promptly return that security (less any costs, charges, duties and taxes payable) to the Developer.

Schedule 8 - Offset Certificate

1 Keeping of Offset Certificate

- (a) To avoid doubt, the Minister must maintain and keep up to date an Offset Certificate that includes the following information:
 - (i) the amount of any Intersection Monetary Contribution paid to Council under clause 1.2 of Schedule 4;
 - (ii) any portion of the Intersection Offset Amount credited to the Developer under Schedule 5 in relation to the Intersection Works Contribution or Intersection Works Land Contribution;
 - (iii) the Education Land Offset Amount credited to the Developer under Schedule 6 in relation to the Education Land Contribution;
 - (iv) the Credit Balance from time to time determined in accordance with this clause 1.
- (b) For the purposes of determining the amount of the Credit Balance to be shown on the Offset Certificate, each amount that is credited to the Developer on the Offset Certificate is also to be added to the Credit Balance on the certificate.
- (c) Immediately following each calculation of the Adjusted Notional Monetary Contribution for a DA Development under clause 1.4 of Schedule 4, the Credit Balance is to be reduced by:
 - (i) if no Additional Monetary Contribution for the DA Development is required to be made under that clause - the amount of the Adjusted Notional Monetary Contribution; and
 - (ii) if an Additional Monetary Contribution for the DA Development is required to be made under that clause - the amount of the Adjusted Notional Monetary Contribution less the amount of that Additional Monetary Contribution.

Note. The Credit Balance is not to be reduced until there is a determination as to whether an Additional Monetary Contribution is required.

- (d) The Credit Balance must be indexed in accordance with clause 3 of this Schedule 8.
- (e) The Minister must issue, or re-issue, the Offset Certificate to the Developer as soon as practicable after entering a portion of the Offset Amount credited to the Developer or making any change to it.
- (f) The Minister may correct any errors made in keeping the Offset Certificate in the Minister's absolute discretion.

2 Application of Credit Balance to Development

- (a) If the Developer wishes to apply part or all of the Credit Balance to offset an Additional Monetary Contribution for a DA Development under Schedule 4, the Developer will notify the Minister, in writing, of:
 - (i) details of the Additional Monetary Contribution that it seeks to offset or partially offset; and

- (ii) the amount of Credit Balance which the Developer seeks to apply to offset that contribution.
- (b) If the amount of the Credit Balance is equal to or greater than the amount that the Developer notifies the Minister it wishes to offset, the Additional Monetary Contribution for the DA Development is taken to be offset to the extent sought by the Developer and the Minister is to adjust the Credit Balance accordingly.
- (c) If the amount of the Credit Balance is less than the amount that the Developer notifies the Minister it wishes to offset, the Additional Monetary Contribution in relation to the DA Development is taken to be offset only to the extent of the Credit Balance. The Minister is to amend the Offset Certificate to show a Credit Balance of nil.

3 Indexation of Credit Balance

The Minister must adjust the Credit Balance on the first day of each Quarter by multiplying it by the following fraction:

$$\frac{\text{latest PPI number for a Quarter}}{\text{PPI number for preceding Quarter}}$$

where:

latest PPI number for a Quarter is the most recently published PPI number for a quarter (**Recent Quarter**), and

PPI number for preceding Quarter is the PPI number for the Quarter immediately preceding the Recent Quarter.

4 Application of Credit Balance to other development

- (a) The Developer may request the Minister to allow it to apply part or all of the Credit Balance to satisfy an obligation to make a contribution towards the provision of State or regional infrastructure, including a housing and productivity contribution, for:
 - (i) development on the Land, even though it is not part of the Development to which this deed applies; and
 - (ii) development on other land within the local government area of Maitland.
- (b) Without limiting clause 4(c) of this Schedule 8, the Minister may refuse the Developer's request under clause 4(a)(ii) in relation to development on land other than the Land to which this deed applies if the Minister is of the opinion that the full development potential of the Land, under applicable environmental planning instruments, has not yet been fulfilled.
- (c) The Minister is to refuse the Developer's request under clause 4(a) of this Schedule 8 if the Minister is of the opinion that allowing the Credit Balance to be applied to satisfy an obligation to make a housing and productivity contribution in relation to development would be contrary to the Act or any Ministerial planning order under Subdivision 4 of Division 7.1 of the Act that applies to the development.
- (d) The Minister may not unreasonably refuse a request by the Developer under this clause 4 of Schedule 8.

- (e) Clause 2 (b) and (c) of this Schedule 8 apply to the adjustment of the Credit Balance under this clause 4 in the same way as they apply to an adjustment under that clause.

5 Surrender of Offset Amount

If the Credit Balance is reduced in accordance with this Schedule 8, the amount by which it is reduced is taken to represent the portion of the Offset Amount surrendered to the Minister.

Schedule 9 – Education Land Requirements

Matter	Requirements
Services	The Education Land must, to the Minister’s or the Minister’s nominee’s reasonable satisfaction, be serviced with: • kerb, • gutters, • footpaths, • sewer, • water, • telecommunications, • electricity, and • roads, to a level appropriate and suitable for the use of the Education Land as a school.
Access/Transport	The Education Land must: • be serviced by road infrastructure that is capable of travel by bus, • have at least 2 road frontages, • not be traversed by a road, • be connected (or planned to be connected including by others) by pedestrian pathways from residential areas in the vicinity of the site, • be accessible (by footpaths and roads) at a boundary to the Education Land for pedestrians and vehicles (in particular, emergency vehicles during a bushfire event or in the event of a flood affecting the area in which the Education Land is located). The Developer must ensure that, prior to the transfer of the Education Land, the road perimeter to the Education Land is capable of accommodating bus stop(s) and kiss and drop locations. The Developer may, with the agreement of the Minister’s nominee, meet these requirements by treating the Additional Education Land and the Education Land as a single site for which these requirements need to be met.
Gradient	The Education Land must have a gradient that is no greater than 1 in 10. The Developer must level the land to the extent necessary to comply with this requirement.

Execution page

Executed as a deed

Signed, sealed and delivered by the **Minister administering the *Environmental Planning and Assessment Act 1979*** (ABN 20 770 707 468), in the presence of:

.....
Signature of witness

.....
Signature of delegate of the Minister administering the *Environmental Planning and Assessment Act 1979*

.....
Name of witness in full

.....
Name of delegate of the Minister administering the *Environmental Planning and Assessment Act 1979*

.....
Address of witness

*I have signed a counterpart of the deed, having witnessed the signing of the deed over audio visual link in accordance with section 14G of the *Electronic Transactions Act 2000*.

Signed, sealed and delivered by **DB20 Pty Limited** (ACN 637 243 844) in accordance with section 127 of the *Corporations Act 2001* (Cth) by:

Signed by:

OF22499F9106456.....

Signature of Director

Dominic Roche

.....
Name of Director in full

Signed by:

DEF8B45644A040D.....

Signature of Director/Secretary

Ian Craighill

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

The Common Seal of Maitland City Council was hereunto affixed this day of , in pursuance of a resolution of Council dated the day of

.....
Mayor

.....
Name of Mayor in full

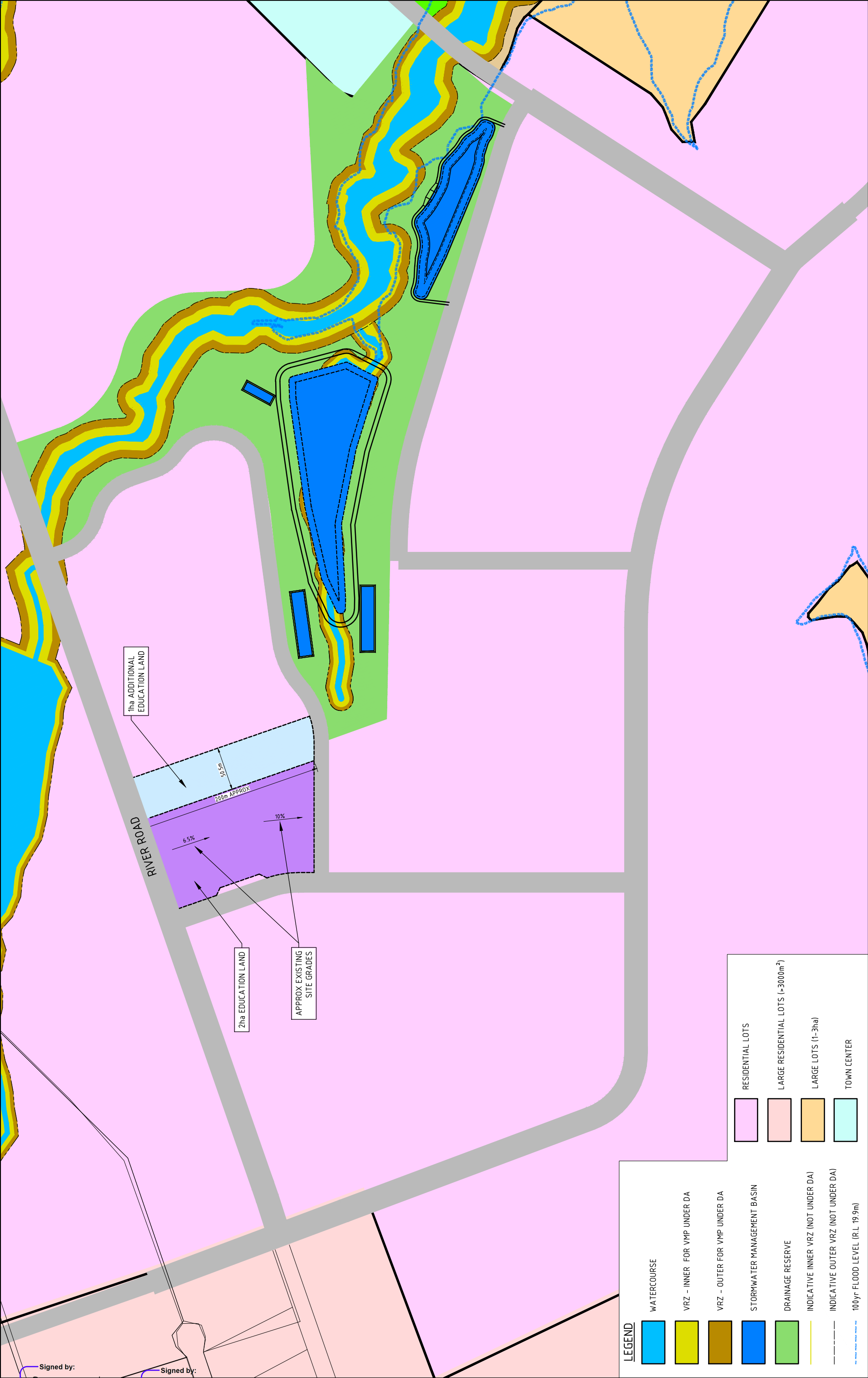
.....
General Manager

.....
Name of General Manager

Annexure A – Education Land Plan

Signed by:
Dominic Roche
0F22499F9106456...

Signed by:
Ian Craighill
DEF8B45644A040D...



Signed by:

Dominic Roche
0F22499F9106456...

Signed by:

Ian Craighill
DEF8B45644A040D...

LEGEND

- WATERCOURSE
- VRZ - INNER FOR VMP UNDER DA
- VRZ - OUTER FOR VMP UNDER DA
- STORMWATER MANAGEMENT BASIN
- DRAINAGE RESERVE
- INDICATIVE INNER VRZ (NOT UNDER DA)
- INDICATIVE OUTER VRZ (NOT UNDER DA)
- 100yr FLOOD LEVEL (R.L. 19.9m)
- RESIDENTIAL LOTS
- LARGE RESIDENTIAL LOTS (>3000m²)
- LARGE LOTS (1-3ha)
- TOWN CENTER

Project No		22311LD		ANAMBAH URBAN RELEASE AREA		ANAMBAH ROAD		ANAMBAH		EDUCATION PLAN		Drawing No		LD1066		Revision		3		A1 SHEET					
GCA ENGINEERING SOLUTIONS ABN 92 086 017 745 1 HARTLEY DRIVE, THORNTON NSW 2322 PO BOX 3337, THORNTON NSW 2322 PHONE (02) 4364 1811																									
COPYRIGHT										Client		Designed		Scale		Copyright in the drawings, information and data recorded hereon is the property of Geoff Craig & Associates Pty Ltd and may not be used, copied or reproduced in whole or part for any purpose other than that for which it is supplied without the prior consent of Geoff Craig & Associates Pty Ltd.									
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														Consulting Civil Engineer											
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										DB		IH		23.06.25		Date									
										DB		IH		22.05.25		Date									
REVISION		Description		Drawn		App'd		Date																	
3 CLIENT COMMENTS 2 REVISED SCHOOL LAYOUT 1 ORIGINAL ISSUE																									
Plot Date: Thu Jun 26 10:08:26 2025 Cad File: Q:\22\22311 Anambah Urban Release Area DA\02_CAD\AutoCAD\LD1000 series DA1\22311LD LD1066 r3.dwg																									

Annexure B – Intersection Works Plan

Signed by:
Dominic Roche
0F22499F9106456...

Signed by:
Ian Craighill
DEF8B45644A040D...



PRELIMINARY ISSUE
NOT FOR CONSTRUCTION

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